

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 2533 of 2023

Applicant :- Hasib

Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home U.P. Lko.

Counsel for Applicant :- Srees Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Srees Kumar Srivastava, the learned counsel for the applicant as well as Sri Anant Pratap Singh, the learned Additional Government Advocate-I appearing on behalf of the State and perused the records.

2. The instant application has been filed by the applicant seeking anticipatory bail in F.I.R. bearing Case Crime No.193 of 2021, under Sections 143, 147, 148, 307, 323, 325, 506 I.P.C., registered at Police Station Fatehpur Chaurasi, District Unnao.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 10.06.2021 against 17 persons, including the applicant, alleging that at about 6.00 p.m. on 27.04.2021 all the accused persons armed with illegal weapon and sticks entered the informant's house and started firing gun shots causing a gun shot injury to one Tariq. The F.I.R. alleges that the accused persons had beaten the informant with sticks causing fracture in his left leg.

4. During investigation the statements of injured persons have been recorded and they have supported the F.I.R. allegations. The statements of a Sub Inspector and two Head Constables have been recorded who have stated that they were posted on a PRV and on receipt of a call they had gone to the place of incident and had found that because of an old political animosity a quarrel had taken place between the family members of Moharram Ali and Shakir. Moharram Ali and his two sons had entered the house of Shakir and had beaten some persons and had fired shots with illegal pistol causing injuries to some persons. They categorically stated that the informant Husnain had suffered injuries because of a fall in the stampede and no incident took place in the house of the informant. Initially the Investigating Officer had submitted final report but upon a protest petition being filed the matter is being investigated and the charge sheet has been filed.

5. In the affidavit filed in support of the anticipatory bail-application, it has been contended that the applicant is innocent, he has falsely been implicated in the present case and he has no criminal history. It has also been submitted that the co-accused Rafeeq, Shakeel and Nafeesh have already been granted anticipatory bail by this court by means of orders dated 11.07.2023, 25.07.2023 and 17.10.2023 passed in Criminal Misc. Anticipatory Bail Application U/s 438 Cr.P.C. No.1545 of 2023, 1649 of 2023 and 2260 of 2023 respectively. Another co-accused Vasad @ Bhole has also been granted anticipatory bail by means of an order dated 18.10.2023, passed by this court in Criminal Misc. Anticipatory Bail Application No.2270 of 2023.Co-accused Mohd Latif Ali has been granted bail by this Court by means of the order dated 19.10.2023 passed in CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 2365 of 2023.

6. The learned A.G.A. has opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.

7. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that 17 persons have been named in the F.I.R. and there is no specific allegation that the injury in the informant's leg was caused by the applicant; that all the police persons had stated that no incident took place in the informant's house; that two co-accused persons have already been granted anticipatory bail by this court coupled with the fact that the applicant has no criminal history and without making any observations which may affect the outcome of the case, I am of the view that the aforesaid facts are sufficient for making out a case for granting anticipatory bail to the applicant.

8. In view of the above, the anticipatory bail application of the applicant is allowed. In the event of arrest/ appearance of applicant-Hasib before the learned Trial Court in the aforesaid case crime, he shall be released on anticipatory bail on his furnishing personal bond and two solvent sureties, each in the like amount, to the satisfaction of S.H.O./Court concerned on the following conditions and subject to any other conditions that may be fixed by the Trial Court:

(i). That the applicant shall appear before the trial court on each date fixed, unless personal presence is exempted;

(ii). That the applicant shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer or tamper with the evidence;

(iii). That the applicant shall not pressurize/ intimidate the prosecution witness;

(Subhash Vidyarthi, J.)

Order Date :- 9.11.2023

prateek