

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2719 of 2023

Applicant :- Gulfam

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Civil
Secrt. Lko. And Another

Counsel for Applicant :- Sikandar Zulqarnain Khan

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Sikandar Zulqarnain Khan, the learned counsel for the applicant, Ms. Charu Singh, learned Additional Government Advocate 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. 0051 of 2023, under Sections 307/ 452/ 147/ 148/ 149/ 323/ 427 I.P.C., registered at Police Station Kohandaur, District Pratapgarh.

3. The aforesaid case has been registered on the basis of a F.I.R. lodged on 26.04.2023 at 18:47 hours against 13 named accused persons, including the applicant, alleging that at about 11:30 am on the aforesaid date, all the accused persons damaged a motorcycle and fired shots with an illegal firearm causing injuries to the informant and two other persons.

4. In the affidavit filed in support of the anticipatory bail-application it has been contended that the applicant is innocent and he has falsely been implicated in the present case. The applicant's criminal history of three cases has been mentioned in para 10 of the affidavit and para 4 of the supplementary affidavit filed on behalf of the applicant, in one of which he has been granted bail and in rest of the cases he has not been summoned.

5. An F.I.R of the same incident was lodged from the side of the applicant on 30.04.2023 against 16 persons, including the informant of the present case, stating that they had fired with illegal pistols and had entered the applicant's house and beaten up the ladies present in the house.

6. Injury reports of Zaibun Nisha and co-accused Mohd.

Muheed have been annexed with the affidavit. X-ray of Zaibun Nisha shows presence of foreign body in soft tissue of forearm due to a shot of firearm and Mohd. Muheed has suffered fractures in the bone of left hand.

7. The learned counsel for the applicant has also submitted that 3 co-accused persons, namely, Mohd. Muheed and Gulzaar and Rizwan have been granted anticipatory bail by this Court.

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

9. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the F.I.R has been lodged against 13 persons and no specific allegation has been levelled against the applicant; that the F.I.R has been lodged from the side of the applicant also; that two persons from side of the applicant have also suffered fractures and other injuries in the incident and that 3 co-accused persons have already been granted anticipatory bail, I am of the view that the aforesaid facts are sufficient for making out a case for granting anticipatory bail to the applicant.

10. In view of the above, the anticipatory bail application of the applicants is **allowed**. In the event of arrest/ appearance of applicant-**Gulfam** 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.

Order Date :- 28.11.2023

Pradeep/-