

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2837 of 2023

Applicant :- Shakil Ahmad

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home
U.P. Lko.

Counsel for Applicant :- Nalin Arora, Anubhav Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Nalin Arora, the learned counsel for the applicant as well as Sri Anurag Verma, 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. 145 of 2021, under Sections 323, 504, 308 IPC, Police Station Hargaon, District Sitapur.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 01.03.2021 against four persons, including the applicant, alleging that because of an old animosity all the accused persons had abused and beaten up the informant. It is alleged that the co-accused Irfan had assaulted on the head of the informant with a banka causing serious injury on his head.

4. Medico legal examination report of the victim mentions a solitary injury on the back of head, which is opined to have been caused by a blunt object. No abnormality has been detected in the x-ray examination of the victim.

5. In the statement of the victim recorded under Section 161 Cr.P.C., he stated that all the accused persons had assaulted him with kicks, fists and sticks and he did not level the allegation of assault by banka against the applicant.

6. The investigation already stands completed and a charge sheet has been submitted on 04.04.2021.

7. In the affidavit filed in support of the application it has been contended that the applicant is innocent and he has falsely been implicated in the present case. The applicant's involvement in two other cases has been disclosed in paras 27 and 28 of the affidavit filed in support of application, in one of which he has been granted bail and the other case was under Sections 107/116 Cr.P.C. which stands closed upon expiry of the

stipulated period. It has also been submitted on behalf of the applicant that the co-accused Irfan has already been granted anticipatory bail by this court by means of an order dated 06.12.2023, passed in Criminal Misc. Anticipatory Bail Application No.2797 of 2023.

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 FIR alleges assault made by the co-accused with a banka, which allegation is not supported by the medico legal examination report of the victim and which allegation has already been retracted by the informant in his statement and that the co-accused against whom the allegation of assault with banka was levelled, has already been granted anticipatory bail that the applicant has cooperated during investigation and investigation stands completed and he was not arrested during investigation 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 during pendency of the trial.

10. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of **applicant-Shakil Ahmad** before the learned Trial Court in the aforesaid case crime, he shall be released on anticipatory bail during pendency of the trial 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 :- 11.12.2023

Ram.