

Court No. - 69

Case :- CRIMINAL MISC. ANTICIPATORY BAIL
APPLICATION U/S 482 BNSS No. - 3464 of 2025

Applicant :- Bali Alias Balveer And 3 Others

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Mehul Khare, Saurabh Kesarwani

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Learned A.G.A. on the basis of instructions submits that notice of the instant application has been served upon the informant-opposite party no. 2 and the Child Welfare Committee, Bulandshahr- opposite party no. 4 on 24.04.2024. The receiving endorsements as produced by the learned A.G.A. are taken on record. However, no one appears on behalf of the opposite party nos. 2 and 4 nor any counter affidavit has been filed on their behalf.
2. Heard learned counsel for the applicants and Sri V.P. Tripathi, learned AGA for the State, and perused the material available on record.
3. The instant application has been filed with the prayer to grant anticipatory bail to the applicants in Case Crime No. 31 of 2024, under Sections 147, 323, 354, 504, 506 I.P.C. and 7/8 POCSO Act, Police Station Shikarpur, District Bulandshahr.
4. Learned counsel for the applicants submits that the applicants have been falsely implicated in the instant case. The applicants did not act inappropriately with the sisters of the informant. There are inconsistencies in the statements of both the victims under Sections 161 and 164 Cr.P.C.. It is contended that aggravated version has been stated in the statements of the victim only to save the failing prosecution case. At this stage there is no credible evidence to link the applicant with the offence. Reliance has also been placed on the statements of the independent witnesses namely Pappu @ Raj Kumar Singh, Ravindra Singh, Raju Singh, Sunil Kumar, Bittu, Ashok Kumar, Vijay Pal and Rishi Pal Singh to contend that a trivial incident between the parties has been blown out of proportion. In the alleged incident the injuries sustained by the three injured were found simple in nature. During the course of

investigation, the applicants were granted benefit of Section 41-A Cr.P.C. The investigation has been completed. The applicants had cooperated in the investigation. The applicants have been summoned by the court concerned. He further contends that the maximum sentence provided for the alleged offences is upto seven years. He submits that in view of the judgment of Hon'ble Supreme Court in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation and another, (2021) 10 SCC 773**, the applicants are entitled to be enlarged on anticipatory bail. The applicants have no criminal antecedents. The applicants have apprehension of their arrest in the above mentioned case. In case the applicants are released on anticipatory bail, they will not misuse the said liberty.

5. Learned A.G.A. for the State could not dispute the fact that the offences against the applicants are punishable upto seven years. He does not dispute the law laid down by Hon'ble Supreme Court in the case of **Satender Kumar Antil (supra)**.

6. The Supreme Court in the case of **Satender Kumar Antil (supra)** has laid down the guidelines with regard to enlargement of an accused on bail. The guidelines provided category/type of offences. One of the categories being Category-A is offences punishable with imprisonment of seven years or less. The Supreme Court in paragraph-3 of the aforesaid judgment has laid down the guidelines that after filing of the charge sheet/cognizance ordinarily the summons are required to be issued permitting the appearance of the accused through lawyer and the bail applications of the accused persons on appearance are to be decided without the accused being taken into custody or by granting interim bail. A perusal of the aforesaid guidelines would demonstrate that the liberty of an individual has been recognized by the Hon'ble Supreme Court in the aforesaid judgment in terms of Article 21 of the Constitution of India.

7. It is further to be noted that as per Section 41 of the Code of Criminal Procedure also, during investigation the liberty of an individual is protected in respect of an offence where the maximum punishment provided is upto seven years.

8. It is not the case of the opposite party that the applicant was arrested for the alleged offences during investigation and it is also not the case of the opposite party that the applicants had not cooperated in the investigation. Once no apprehension has been raised with regard to the conduct of the applicants and the applicants have been charge-sheeted and summoned in respect of

offence in which punishment provided is upto seven years, then in view of the judgment of the Supreme Court in **Satender Kumar Antil (supra)** the liberty of the individual is required to be protected.

9. It is not shown by learned AGA that the nature and gravity of allegations are such that the same would disentitle the applicants for relief of anticipatory bail. No material, facts, circumstances or concern has been shown by learned AGA for the State that the accused may tamper with the evidence or witnesses or accused is of such character that their mere presence at large would intimidate the witnesses or that accused will use their liberty to subvert justice or tamper with the evidence.

10. It is settled principle of law that the object of bail is to secure the attendance of the accused. No material particulars or circumstances suggestive of the applicants fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like have been shown by learned AGA for the State.

11. Having regard to the submissions made by counsel for the applicants, considering the nature of accusations, antecedents of the applicants and the fact that there are inconsistencies in the statements of both the victims under Sections 161 and 164 Cr.P.C.; in the alleged incident the injuries sustained by the three injured were found simple in nature; at this stage there is no substantive evidence to link the applicants with the offence; the applicants had cooperated in the investigation, charge-sheet has been submitted and the applicants have been summoned by the concerned court, the offences against the applicants are punishable up to seven years and adhering to the guidelines provided in the judgment of the Supreme Court in **Satender Kumar Antil (supra)**, without commenting on merits of the case, I am of the opinion that the applicants are entitled to be enlarged on anticipatory bail.

12. In the event of arrest, the applicants- Bali @ Balveer, Jagveer, Kumri @ Kuwarpal and Pintu @ Shivraj, involved in the aforesaid case, be released on anticipatory bail during pendency of trial, on furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) the applicants shall make themselves available on each date fixed in the matter by the court concerned;

(ii) the applicants 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 from disclosing such facts to the Court;

(iii) the applicants shall not leave India without the previous permission of the Court and if they have passport the same shall be deposited by them before the concerned court.

13. In default of any of the conditions, the court concerned is at liberty to pass appropriate orders for enforcing and compelling the same.

14. The application stands disposed of.

Order Date :- 5.5.2025

SKT/-