

Court No. - 69

Case :- CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482
BNSS No. - 4001 of 2025

Applicant :- Prem Milan And 3 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Jay Bharat Pratap,Rupendra Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Sri Ratnesh Kumar Jaiswal, Advocate has filed his vakalatnama on behalf of the informant. The same is taken on record.
2. Supplementary affidavit, filed by the counsel for the applicants, is also taken on record.
3. Heard counsel for the applicants, Sri Neeraj Kumar Sharma, learned AGA for the State, Sri Ratnesh Kumar Jaiswal, counsel for the informant and perused the material available on record.
4. The present application has been filed with the prayer to grant anticipatory bail to the applicants in Case Crime No. 64 of 2024, under Sections 323, 504, 506, 325, 452, 308, 147 of I.P.C., Police Station- Kachhwa, District- Mirzapur.
5. Counsel for the applicants submits that the applicants have been falsely implicated in the present case. As per the allegations in the first information report, the applicants along with seven accused are alleged to have assaulted the informant and his family members. In the alleged incident, eight persons received injuries. The injuries sustained by the injured were found simple in nature except the injury no. 1 of Shyam Sundar and Rajeshwar Singh. As per the N.C.C.T. head of the Shyam Sundar, fracture of right parietal bone was found and as per the x-ray report of Rajeshwar Singh, fracture of right leg was found. It is contended that a vague and general role has been assigned to the applicants. The applicants have not been nominated as the principal offenders who caused the injury no. 1 to Shyam Sundar and Rajeshwar Singh. Further, during the course of investigation, the applicants were granted benefit of Section 41A of Cr.P.C. Investigation has been completed. Charge-sheet has been filed. The applicants had cooperated in the investigation. No custodial interrogation is required. The applicants have been summoned by the concerned

court. Counsel for applicants 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 criminal history of applicant nos. 1 and 2 has been explained in para 2 and 3 of the supplementary affidavit. However, the applicant nos. 3 and 4 have no criminal antecedents. The applicants have apprehension of their arrest in the above mentioned case. In case, the applicants are granted anticipatory bail, they will not misuse the said liberty.

6. Learned A.G.A. and counsel for the informant have opposed the prayer for anticipatory bail but could not satisfactorily dispute the aforesaid submissions from the record.

7. 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 category being Category-A are 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 the filing of the charge sheet/cognizance ordinary 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 term of Article 21 of the Constitution of India.

8. 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.

9. It is not the case of the opposite party that applicants were arrested for the alleged offences during investigation and it is also not the case of the opposite party that the applicants had not co-operated 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.

10. It is not shown by learned AGA that the nature and gravity of allegations are such that the same would dis-entitle the applicants for relief of anticipatory bail. No material, facts, circumstances or concern 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 his mere presence at large would intimidate the witnesses or that accused will use his liberty to subvert justice or tamper with the evidence.

11. 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.

12. Having regard to the submissions made by counsel for the applicants, considering the nature of accusations, antecedents of the applicants and the fact that a vague and general role has been assigned to the applicants, the fact that the applicants have not been nominated as the principal offenders who caused the injury no. 1 to Shyam Sundar and Rajeshwar Singh, the fact that during the course of investigation, the applicants were granted benefit of Section 41A of Cr.P.C., the fact that 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)*, charge-sheet has been filed, the applicants had cooperated in the investigation and no custodial interrogation is required, without commenting on merits of the case, I am of the opinion that the applicants are entitled to be enlarged on anticipatory bail.

13. In the event of arrest, the applicants Prem Milan, Vijay Milan, Hari Milan, Dharmraj 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.

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

15. The application stands disposed of.

Order Date :- 21.5.2025

S.S.