

**IN THE COURT OF ADDL. DISTRICT & SESSIONS JUDGE, COURT NO.
15, PRAYAGRAJ.**

Anticipatory Bail Application No. 3925/2024

Sarkar Vs Meraj Aalam & ors.

Crime No. : 268/2022

Sections : 308, 323, 504 I.P.C.

PS: Phoolpur, District Prayagraj

Date- 24.09.2024

Accused Meraj Aalam, Aftab Aalam, Rizwan Aalam have filed bail application under Crime No. - 268/2022 u/s – 308, 323, 504 I.P.C. PS- Phoolpur, District Prayagraj.

In bail application, applicants have asserted that the accused are innocent and have not committed any offence. Applicants have filed affidavit in support of bail application. As per the prosecution side, on 18.03.2022, accused have beaten the complainant in the matter of construction of house. Complainant got injured and filed the report u/s 323, 504 IPC against the accused. On 28.06.2022 for the same matter, an F.I.R. was lodged u/s 308, 323, 504 I.P.C. in Case Crime No. 268/2022 against the accused on the basis of written statement of plaintiff Shahin Begam. Medical checkup of Kitabun Nisha, Mahi Uddin and Shahin Bano has been done on 18.03.2022. Kitabun Nisha did not get any injury and Mohiuddin is said to have been got a fracture in left parietal bone. No N.C.R. number and Section is recorded in X-Ray report and injury report. On receiving the X-Ray report of Mohiuddin on postal pad on 28.06.2024, Section 308 IPC was added to Section 323, 504 and NCR No. 68/2022, and after registering the Case Crime No. 268/2022 Section 308, 323, 504 I.P.C., investigation was started. In the map prepared by the investigating officer, it was shown that the fight took place from the the house of applicant Meraj Aalam to the terrace of the applicant itself. In fact, applicant was getting his house constructed. Accused Muhiuddin Ansari, Abu Jaid Ansari, Sakiv Ansari, Aakib Ansari came to the applicant's house, abused and beat him. Applicant filed the complaint of the said incident in N.C.R. No. 69/2022 u/s 323, 504 I.P.C., PS Phoolpur, Prayagraj. During investigation, Section 325, 452 I.P.C was added and Case Crime No. 248/2022 was filed against Md. Salib, Abu Jaid Ansari, Aakib Ansari, Muhiuddin Ansari, which is pending before the Court of J.M – IV, Allahabad. Learned counsel for accused has submitted that accused have been flasey implicated in the present case. There is no legal and credible evidence against accused. Applicants have always been co-operated with the investigation and will co-operate fully in the trial of the case. There is no independent witness of the said incident. Applicants filed case law *Satender Kumar Antil Vs Central Bureau of Investigation & anr. (2021) 10 SCC 773* of the Hon'ble Supreme Court. According to this, all the offences imposed upon applicants come under Catagory "A", hence, it is prayed to dispose of the anticipatory bail application as per the directions passed by the Hon'ble Supreme Court. No other bail application is pending either before any other Court or Hon'ble High Court. Accused has got no criminal antecedents. On the basis of above assertions, learned counsel for the accused has prayed to enlarge him on anticipatory bail.

Learned Addl. District Government Counsel (Criminal) has opposed the bail application.

Perused the case diary.

From perusal of case diary, it is found that named F.I.R. against accused has been lodged by complainant Smt. Shaheen Begam. As per averments made in complaint, the prosecution story is that accused had beaten the complainant who happens to be the woman as well as her husband and her sister-in-law (female). From

perusal of medical papers, it is evident that injured Mohiuddin had suffered fracture in the left side of parietal bone in his skull. Concerning doctor has submitted in his supplementary report dated 10.08.2022 that injury of injured Mohiuddin is grievous in nature as fracture was found in his skull. So, clearly considering the injuries caused by the accused, this Court is of considered opinion that accused has committed a very heinous offence. The Hon'ble Apex Court in *Srikant Upadhyaya vs. State of Bihar, crime appeal no. 1552/2024 decided on dated 14.03.2024 (SLP No. 7940/2024)* has held that "grant of anticipatory bail shall be restricted to exceptional circumstances. Power to grant anticipatory bail is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. The principal that bail is said to be the rule is not applicable in case of anticipatory bail"

In view of above settled law of the Hon'ble Apex Court, considering the gravity of the offence, this Court is of considered opinion that accused is not entitled for anticipatory bail. Accordingly anticipatory bail is liable to be rejected.

ORDER

Anticipatory Bail application no. 3925/2024 filed by accused Meraj Aalam, Aftab Aalam, Rizwan Aalam u/s 308, 323, 504 I.P.C. PS- Phoolpur, District Prayagraj, is hereby rejected.

(NIRBHAY PRAKASH)
Addl. District & Session Judge,
Court No.-15, Prayagraj.