

Court No. - 14

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Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S
438 CR.P.C. No. - 5161 of 2021

Applicant :- Shujaat Ullah

Opposite Party :- State Of U.P.Thru.Prin.Secy. Home Lko. & Anr.

Counsel for Applicant :- Umesh Chandra,Akhilesh Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Abdul Moin,J.

Heard learned counsel for the applicant and Sri Anurag Verma, learned AGA through Video Conferencing in terms of order of Hon'ble Chief Justice taking into consideration COVID-19 situation.

Present anticipatory bail application has been filed by the accused-applicant in case Crime No. 120 of 2021, under Section 395, 397,332,336,353,504, 506, 34 I.P.C, 7 of Criminal Law Amendment Act, 1939 and Section 131, 132 (3), 135- A of Representation of People Act relating to Police Station Kandhai, District Pratapgarh.

This Court vide order dated 24.05.2021 had required the learned AGA to seek instructions in the matter. Sri Verma has informed that the instructions have been received.

From a perusal of the FIR it comes out that the applicant along with several others had a fight with the presiding officer and others after the election had got over. In the said incident, it is alleged that the applicant along with others had attacked the officers and had also beaten up a home guard consequent to which he had fainted. Subsequent thereto, the FIR was lodged.

Learned counsel for the applicant has contended that the said FIR is an outcome of a political rivalry which is prevailing in the area. He also contends that even if all the averments made in the FIR are taken at their face value there cannot be any occasion for the police authorities who are making raids to arrest the applicant to indulge in the incident as has been detailed in paragraph 9 of the bail application wherein during the course of raid, the police personnel have abused, misbehaved and assaulted the family member of the applicant with intent to outrage the modesty of the applicant's wife and have also destroyed the house hold articles. The photographs in this regard have been annexed as annexure 3 to the bail application.

Upon a pointed query being put to the learned AGA as to the instructions which he has received particularly pertaining to paragraph 9, learned AGA has read out the instructions which have been received under the signature of Sri Neeraj Walia, In-charge, Inspector, Police Station- Kandhai District-Pratapgarh wherein the said averments have not been specifically denied.

Having heard the learned counsel appearing for the contesting parties and having perused the records apart from the ground of political rivalry which has been taken, the fact of the matter remains that even if a citizen has carried out the activities as have been detailed in the FIR, there cannot be any justification or excuse to the police personnel to indulge in the

behaviour as have been detailed in paragraph 9 of the bail application. Incidentally, the said averments have not been denied in the instructions which have been made available to the learned AGA.

Considering the aforesaid, let a counter affidavit be filed within a week. Rejoinder affidavit, if any, may be filed within a week thereafter.

In the meanwhile, no coercive action shall be taken against the applicant in pursuance to the aforesaid Case Crime No. 120 of 2021.

Order Date :- 10.6.2021

Pachhere/-