

**Court No. - 87**

**1. Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 4602 of 2023

**Applicant :-** Ramakant Yadav

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Somya Chaturvedi, Sr. Advocate

**Counsel for Opposite Party :-** G.A.

**2. Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 4605 of 2023

**Applicant :-** Ramakant Yadav

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Somya Chaturvedi, Sr. Advocate

**Counsel for Opposite Party :-** G.A.

**Hon'ble Dinesh Kumar Singh, J.**

1. Heard Mr. Gopal S. Chaturvedi, learned Senior Advocate, assisted by Ms. Somya Chaturvedi, Advocate, representing the accused-applicant, and Mr. Mahesh Chandra Chaturvedi, learned Senior Advocate/Additional Advocate General, assisted by Mr. Sanjay Singh, learned Additional Government Advocate, representing the respondent – State.

2. These two bail applications under Section 439 CrPC seeks bail in the following cases:-

*“i. Crime/FIR No.060 of 2022, under Section 60A Excise Act read with Sections 272,273 and 34 IPC lodged at Police Station Phoolpur, District Azamgarh; and*

*ii. Crime/FIR No.039 of 2022, under Sections 272, 273, 34, 420, 467, 468, 471 and 60-A Excise Act lodged at Police Station Ahraula, District Azamgarh.”*

3. The FIRs came to be registered by the family of the victims, who had died after consuming country-made liquor allegedly purchased from the liquor shop of co-accused, Rangesh Yadav, a licensee, who is grand-son of sister of the accused-applicant, his close relative. Though co-accused, Rangesh Yadav is resident of District Jaunpur, but he has been issued license for country-made liquor shop at Town Mahul, District Azamgarh. It is alleged that though the licensee is co-accused, Rangesh Yadav, but real control of the shop is under the present

accused-applicant.

4. It is alleged that nine persons had died by consuming spurious liquor purchased from the licensed shop in the name of co-accused, Rangesh Yadav. It is further alleged in the FIRs that co-accused, Rangesh Yadav with other accused, Suryabhan, Punit Kumar Yadav, Rambhoj and Ashok Yadav are manufacturing and selling spurious country-made liquor from the licensed shop which has resulted into death of nine persons. In the forensic examination of the VISCERA of the deceased, who had died after consuming liquor purchased from the shop allegedly under the control of the accused-applicant, methyl alcohol/ethyl alcohol poisonous substance was found. Viscera reports have been placed on record along with the bail applications.

5. The name of the accused-applicant has come into light in commission of the offence during investigation, however, he was not initially named in the FIRs.

6. After completing investigation, charge-sheets have been filed against the accused-applicant and co-accused under Sections 272, 273, 34, 420, 467, 468 and 471 IPC read with Section 60-A of the Excise Act. It is important to mention here that an offence under Section 272 IPC entails imprisonment upto life as per Uttar Pradesh Amendment.

7. The accused-applicant had been four times Member of Parliament from Azamgarh Parliamentary Constituency and was elected five times as Member of Legislative Assembly from Phoolpur-Pawai Legislative Assembly Constituency. At present also, he represents the said Constituency in Uttar Pradesh Legislative Assembly.

8. The accused-applicant is another *Bahubali*, a dreaded criminal and *mafia don* of Eastern Uttar Pradesh where *Bahubali* and *Mafia* culture is prevalent. This part of the Uttar Pradesh is adjacent to Bihar and to some extent political discourse and culture is similar to that of Bihar. This region is dominated by *Mafias* Dons. These *Mafias* Dons have accumulated mind-boggling wealth and properties from proceeds of crimes. They have been enjoying patronage and shield from law by

the Ruling Elite of the State. After entering into world of crime, these *Mafias Dons* and criminals have been exercising influence, terror and fear over the poor, law abiding citizens and have acquired forcibly/illegally properties worth thousand of crores of rupees. They have been successful in going scot-free, despite committing hundreds of heinous offences. They also get elected and become law-maker. It is a slur on Indian Democratic Policy.

9. The inglorious criminal history of the accused-applicant would suggest that he had been involved in as many as 48 other criminal cases and heinous offences, which would include eight cases of murder, registered under Section 302 IPC, besides cases of murder, the cases include offence under Section 307, 364 and 376 IPC, Gangsters Act, Goonda Act and SC/ST Act etc. Such a rich criminal background of the accused-applicant, which has been placed on record by means of Annexure-11 to the bail application, is extracted herein-below:-

- i. Crime/FIR No.043 of 1977, Police Station Didarganj, Azamgarh;*
- ii. Crime/FIR No. 049 of 1983, Police Station Didarganj, Azamgarh;*
- iii. Crime/FIR No.94-A of 1983, Police Station Didarganj, Azamgarh;*
- iv. Crime/FIR No.0111 of 1983, Police Station Phoolpur, Azamgarh;*
- v. Crime/FIR No.0200 of 1983, Police Station Phoolpur, Azamgarh;*
- vi. Crime/FIR No.074 of 1985, Police Station Shahganj, Jaunpur;*
- vii. Crime/FIR No.062 of 1986, Police Station Didarganj, Azamgarh;*
- 8. Crime/FIR No.094 of 1986, Police Station Phoolpur, Azamgarh;*
- 9. NCR No. 075 of 1983, Police Station Didarganj, Azamgarh;*
- 10. NCR No.0118 of 1984, Police Station Didarganj, Azamgarh;*

11. NCR No.0123 of 1984, Police Station Didarganj, Azamgarh;
12. NCR No.0104 of 1985, Police Station Didarganj, Azamgarh;
13. NCR No.0105 of 1985, Police Station Didarganj, Azamgarh;
14. NCR No.0188 of 1985, Police Station Didarganj, Azamgarh;
15. NCR No.0168 of 1986, Police Station Didarganj, Azamgarh;
16. NCR No.028 of 1987, Police Station Didarganj, Azamgarh;
17. Crime/FIR No.083 of 1987, Police Station Ahraula; Azamgarh;
18. Crime/FIR No 087 of 1987, Police Station Ahraula, Azamgarh;
19. Crime/FIR No.099 of 1987, Police Station Shahganj, Azamgarh;
20. Crime/FIR No.36 of 1990, Police Station Shahganj, Azamgarh;
21. Crime/FIR No.0108 of 1991, Police Station Didarganj, Azamgarh;
22. Crime/FIR No. 06 of 1993, Police Station Didarganj, Azamgarh;
23. Crime/FIR No. 0425 of 1995, Police Station Hazratganj, Lucknow;
24. Crime/FIR No. 062 of 1995, Police Station Phoolpur, Azamgarh;
25. Crime/FIR No.0120 of 1997, Police Station Didarganj, Azamgarh;
26. Crime/FIR No. 036 of 1998, Police Station Phoolpur, Azamgarh;
27. Crime/FIR No. 0300 of 2000, Police Station Phoolpur, Azamgarh;
28. Crime/FIR No. 0198 of 2001, Police Station Phoolpur, Azamgarh;
29. Crime/FIR No. 0256 of 2002, Police Station Ahraula, Azamgarh;
30. Crime/FIR No. 0407 of 2004, Police Station Didarganj, Azamgarh;

31. *Crime/FIR No. 0123 of 2004, Police Station Saraimeer, Azamgarh;*
32. *Crime/FIR No.049 of 2004, Police Station Ahraula, Azamgarh;*
33. *Crime/FIR No. 0412 of 2005, Police Station Phoolpur, Azamgarh;*
34. *Crime/FIR No. 0512 of 2005, Police Station Phoolpur, Azamgarh;*
35. *Crime/FIR No. 0156 of 2006, Police Station Didarganj, Azamgarh;*
36. *Crime/FIR No.067 of 2008, Police Station Pawai, Azamgarh;*
37. *Crime/FIR No. 0622 of 2009, Police Station Phoolpur, Azamgarh;*
- 38.*Crime/FIR No. 0241 of 2009, Police Station Didarganj, Azamgarh;*
39. *Crime/FIR No. 0960 of 2010, Police Station Phoolpur, Azamgarh;*
40. *Crime/FIR No. 056 of 2011, Police Station Kotwali, Azamgarh;*
41. *Crime/FIR No. 012 of 2016, Police Station Pawai, Azamgarh;*
- 42.*Crime/FIR No.015 of 2016, Police Station Pawai, Azamgarh;*
- 43.*Crime/FIR No. 024 of 2016, Police Station Phoolpur, Azamgarh;*
44. *Crime/FIR No.088 of 2017, Police Station Phoolpur, Azamgarh;*
45. *Crime/FIR No.058 of 2020, Police Station Sidhari, Azamgarh;*
46. *Crime/FIR No. 063 of 2020, Police Station Sidhari, Azamgarh;*
47. *Crime/FIR No. 060 of 2022, Police Station Phoolpur, Azamgarh; and*
48. *Crime/FIR No. 039 of 2022, Police Station Ahraula, Azamgarh.”*

10. The aforesaid detail of the criminal cases would disclose that the first offence, which the accused-applicant committed, relates to the year 1977 and first murder, in which he was accused, relates to the year 1983. Such a dreaded criminal, gangster, *bahubali* and *mafia* got

elected time & again as a Member of Lok Sabha and Member of Legislative Assembly. This shows that something is seriously wrong and amiss with the electoral system of the largest democracy of the world where criminals, like the present accused-applicant, get elected time & again as a Member of Lok Sabha/ Legislative Assembly and become law-makers.

11. This Court, while rejecting the bail application of another *Bahubali*, Sitting Member of Parliament, Atul Kumar Singh, vide order dated 07.06.2022 passed in Criminal Misc. Bail Application No.5473 of 2022 had noted the increasing trend of criminals entering into politics and Parliament. It has been reported that 43% of the present Member of the Lok Sabha who got elected in 2019 General Elections are having criminal background, including the case of heinous offences. Some of the relevant paragraphs of the order passed in Criminal Misc. Bail Application No.5473 of 2020 are extracted hereunder:-

*“ 14. A constitution Bench of the Supreme Court in the case of Public Interest Foundation & Ors vs Union of India & Anr : (2019) 3 SCC 224 has taken note of 244th Law Commission report in which it was said that 30 per cent or 152 sitting M.P.s were having criminal cases pending against them, of which about half i.e. 76 were having serious criminal cases. This phenomenon has increased with every general election. In 2004, 24 per cent of Lok Sabha M.Ps. had criminal cases pending, which increased to 30 per cent in 2009 elections. In 2014, it went up to 34 per cent and in 2019 as mentioned above, 43 per cent Members of Parliament who got elected for Lok Sabha are having criminal cases pending against them. The Supreme Court has taken judicial notice of criminalization of politics and imperative needs of electoral reforms. There have been several instances of persons charged with serious and heinous offences like murder, rape, kidnapping and dacoity got tickets to contest election from political parties and even got elected in large number of cases.*

*15. The Supreme Court has said that this leads to a very undesirous and embarrassing situation of law breakers becoming law makers and moving around police protection. The Supreme Court in the said case has*

directed the Election Commission of India to take appropriate measures to curb criminalization in politics but unfortunately collective will of the Parliament has not moved in the said direction to protect the Indian Democracy going in the hands of criminals, thugs and law breakers. If the politicians are law breakers, citizens cannot expect accountable and transparent governance and the society governed by the rule of law be an utopian idea. After independence with every election, role of identities such as caste, community, ethnicity, gender, religion etc, has been becoming more and more prominent in giving tickets to winnable candidates. These identities coupled with money and muscle power has made entry of criminals in politics easy and every political party without exception (may be with some difference in degree and extent) uses these criminals to win elections. Giving tickets to candidates with serious criminal charges would break the confidence and trust of the civil society, law abiding citizens of this country in the electoral politics and elections.

16. No one can dispute that the present day politics is caught in crime, identity, patronage, muscle and money network. Nexus between crime and politics is serious threat to democratic values and governance based on rule of law. Elections of Parliament and State Legislature and even for local bodies and panchayats are very expensive affairs. The record would show that the elected members of Lok Sabha with criminal records are extremely wealthier candidates. For example, in 2014 Lok Sabha election 16 out of 23 winners having criminal charges in their credit related to murder were multi-millionaire. After candidates get re-elected, their wealth and income grows manyfold which is evident from the fact that in 2014, 165 M.Ps. who got re-elected, their average wealth growth was Rs.7.5 Crores in 5 years.

17. Earlier, 'Bahubalis' and other criminals used to provide support to candidates on various considerations including caste, religion and political shelter but now criminals themselves are entering into politics and getting elected as the political parties do not have any inhibition in giving tickets to candidates with criminal background including those having heinous offence(s) registered against them. Confirmed criminal history sheeters and even those who are behind bars are given tickets by different political parties and surprisingly some of them get elected as well.

18. It is the responsibility of the Parliament to show its collective will to restrain the criminals from entering into

*the politics, Parliament or legislature to save democracy and the country governed on democratic principles and rule of law.*

*19. There is responsibility of civil society as well to rise above the parochial and narrow considerations of caste, community etc and to ensure that a candidate with criminal background does not get elected. Criminalization of politics and corruption in public life have become the biggest threats to idea of India, its democratic polity and world's largest democracy. There is an unholy alliance between organized crime, the politicians and the bureaucrats and this nexus between them have become pervasive reality. This phenomenon has eroded the credibility, effectiveness, and impartiality of the law enforcement agencies and administration. This has resulted into lack of trust and confidence in administration and justice delivery system of the country as the accused such as the present accused-applicant win over the witnesses, influence investigation and tamper with the evidence by using their money, muscle and political power. Alarming number of criminals reaching Parliament and State Assembly is a wake up call for all. Parliament and Election Commission of India are required to take effective measures to wean away criminals from politics and break unholy nexus between criminal politicians and bureaucrats.*

*20. This unholy nexus and unmindfulness of political establishment is the result of reaching person like the accused-applicant, a gangster, hardened criminal and 'Bahubali' to the Parliament and becoming a law maker. This Court, looking at the heinousness of offence, might of the accused, evidence available on record, impact on society, possibility of accused tampering with the evidence and influencing/ winning over the witnesses by using his muscle and money power does not find that there is a ground to enlarge the accused-applicant on bail at this stage. This bail application is thus, rejected.”*

12. In another case i.e. *Criminal Misc. Bail Application No.46494 of 2021 vide order dated 13.06.2022*, in respect of another *Bahubali, mafia don* and the most dreaded criminal, a Coordinate Bench of this Court has mentioned that the said *mafia* had managed his affairs in such a way that he has not received any conviction against him, which, in fact, is a challenge to the judicial system that such a dreaded and white colour criminal had remained undefeated and unabated.

13. This Court, in its judgment and Order dated 21.02.2023 passed in Criminal Misc. Bail Application No.22865 of 2020, after noting the criminal history of more than 80 cases of the brother of the accused-applicant, who had also been got elected several times as Member of Lok Sabha and Member of Legislative Assembly, has said that the phenomena of hard-core criminals and *mafia dons* going scot-free in heinous offences and then getting elected and becoming law-makers, does not augur well for democracy, rule of law and society, which is to be governed by rule of law. Paragraph-9 of the order dated 21.02.2023 passed in Criminal Misc. Bail Application No.22865 of 2020 filed by brother of the accused-applicant would read as under:-

*“9. The accused applicant had allegedly committed the first offence of murder in the year 1974 and in 48 years of his long and heinous journey in world of crime, he could be convicted only in two cases recently in the year 2022. This phenomena is very perturbing and does not auger well for a democratic polity and a society which is governed by rule of law. All wings of the government i.e. executive, legislative and judiciary, must share the blame for allowing such a dreaded criminal to go scot-free in several heinous offences which have been noted hereinabove. Such a criminal should not have any place in the society.”*

14. Mr. Gopal S. Chaturvedi, learned Senior Advocate, representing the accused-applicant, submits that the accused-applicant has been falsely implicated in the present cases as he has nothing-to-do with the business of liquor shop of his relative. It is further submitted that five and half months, after lodging of the FIRs, statements of families of the deceased got recorded, which are stereotype, alleging therein that the accused-applicant is the real person behind the liquor shop and, under his umbrella, co-accused, Rangesh Yadav runs the liquor shop. The accused-applicant has overall control over manufacturing and selling of spurious liquor. It is submitted that these statements have no evidentiary value and, they are hear-say evidence, without there being anything on record to corroborate and suggest the involvement of the accused-applicant in running the liquor shop, manufacturing and

selling the spurious liquor, as alleged, or otherwise. It is further submitted that though the accused-applicant has criminal history of several cases, however, he cannot be denied bail, as a long criminal history cannot be the sole ground to deny an accused bail, if there is no evidence to suggest his involvement in commission of offence, for which he seeks bail. It is, therefore, submitted that the accused-applicant, who has been languishing in jail since 27.07.2022, should be enlarged on bail.

15. On the other hand, on behalf of the respondent – State, Mr. Mahesh Chandra Chaturvedi, learned Additional Advocate General, vehemently opposes the bail application and submits that co-accused, Rangesh Yadav is resident of district Jaunpur and, he is only a mask and, real face, behind liquor shop, manufacturing and selling of spurious liquor, is of the accused-applicant. It is further submitted that the accused-applicant whenever had been enlarged on bail in a case, had committed one after another offence and, had misused the liberty of bail granted to him. It is further submitted that after committing a heinous offence, he could secure acquittal as the witness for his terror, fear and influence turned hostile. It is, therefore, submitted that there is every likelihood of the accused-applicant influencing the witnesses or terrorizing them, if enlarged on bail, and such a criminal is not entitled to be enlarged on bail.

16. It is further submitted by Mr. Mahesh Chandra Chaturvedi, learned Additional Advocate General, that the accused-applicant could secure acquittal in several heinous offences as no witness would dare to depose against such a dreaded criminal, gangster and *mafia don*. He strikes unparalleled terror and fear in the hearts and minds of the people of district Azamgarh, and nearby districts. The witnesses would turn hostile or the trial would be dragged so that the witnesses get tired or eliminated.

17. I have considered the submissions advanced on behalf of the accused-applicant and the respondent – State.

18. Though the charge-sheets would disclose that the statements of the witnesses, who have taken name of the accused-applicant, could be recorded after five and a half months from the date of incident, but it appears to be true that opening mouth against such a dreaded criminal, *mafia don* and gangster could be to be peril of life and liberty of the witnesses and their families. Only when the witnesses could have been assured of their well-being, safety and security, they would have come forward to make statements against the accused-applicant.

- In the FIRs, it has specifically been mentioned that for the shop of co-accused, Rangesh Yadav, from-where the liquor was purchased by the deceased and, after its consumption, they became seriously ill and ultimately died. The witnesses have specifically said that shop in question is under the control of the accused-applicant and Rangesh is only a front-man but real person behind the scene is the accused-applicant. It was the accused-applicant who could secure the license for liquor shop in the name of Rangesh Yadav, who is grand-son of sister of the accused-applicant. Nine innocent persons had died by consuming poisonous liquor purchased from the shop allegedly under the control of the accused-applicant. The accused-applicant has a long criminal history and, no one could have any sympathy for such a dreaded criminal of heinous offences. This Court should not take a lenient view in such a heinous offence. Nine persons had died because of greed and inhuman act of the accused. The criminals like present accused-applicant have accumulated mind-boggling wealth and properties by committing offences. Liquor is profitable business and is mostly controlled by *mafias*. Though, co-accused, Rangesh Yadav has been granted bail by a Coordinate Bench of this Court vide order dated 07.09.2022 passed in Criminal Misc. Bail Application No.26822 of 2022, however, in the said order merit, heinousness of the offence and its societal impact have not been considered, which reads as under:-

*“Heard Ms. Tanisha Jahangir Monir, the learned counsel for the applicant, Sri Shashi Shekhar Tiwari,*

*the learned A.G.A. for the State and perused the record.*

*2.The present bail application has been filed by the applicant with the prayer to enlarge him on bail in Case Crime No. 0039 of 2022, under Sections 272, 273, 34, 420, 467, 468, 471 I.P.C. and Section 60-A of Excise Act, P.S. Ahraula, District Azamgarh.*

*3.The aforesaid case has been registered on the basis of an F.I.R. dated 21.02.2022 lodged against the applicant Rangesh Yadav and four other named accused persons, alleging that on 20th February, 2022, the informant's father had purchased country liquor from the shop of the applicant, after consuming which the informant's father died. The other accused persons implicated in this case are said to be salesmen employed by the applicant.*

*4.In the affidavit filed in support of the bail application, it has been stated that the applicant is innocent and has been falsely implicated in the present case.*

*5.Learned counsel for the applicant has submitted that on the basis of similar allegations, Case Crime No. 60 of 2022, under Sections 272, 273, 302, 34 IPC and Section 60(A) of UP Excise Act and Case Crime No. 40 of 2022, under Section 272, 273 IPC and Section 60(A) of UP Excise Act were lodged against the applicant and in both the aforesaid cases, the applicant has been granted bail by means of orders dated 29.06.2022 and 25.07.2022 passed by this Court in Criminal Misc. Bail Application Nos. 26819 of 2022 and 31534 of 2022, respectively. She has further submitted that besides the applicant all the other accused persons have been granted bail in the present case.*

*6.The learned A.G.A. has opposed the prayer for grant of bail to the applicant, but could not dispute the aforesaid facts.*

*7.Having considered the aforesaid facts and submissions and keeping in view the fact that applicant has been granted bail in two other cases involving similar allegations as also the fact that all the other co-accused have been granted bail, whereas the applicant is languishing in jail since 23.02.2022, I am of the view that the applicant is entitled to be released on bail on the ground of parity. The bail application is accordingly allowed.*

*8.Let the applicant - Rangesh Yadav be released on bail in Case Crime No. 0039 of 2022, under Sections 272, 273, 34, 420, 467, 468, 471 I.P.C. and Section 60-A of Excise Act, P.S. Ahraula, District Azamgarh on his*

*furnishing a personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-*

*(i) The applicant will not tamper with the evidence during the trial.*

*(ii) The applicant will not influence any witness.*

*(iii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.*

*(iv) The applicant shall not directly or indirectly make 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 to any police officer or tamper with the evidence.*

*9. In case of breach of any of the above condition, the prosecution shall be at liberty to move an application bail before this Court seeking cancellation of bail.”*

19. Considering the aforesaid facts, this Court finds that the accused-applicant is not entitled to be enlarged on bail. Thus, these applications are hereby ***rejected at this stage.***

***[D.K. SINGH, J.]***

**Order Date:** 28.02.2023

MVS/-