



2026:AHC:18124

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 4551 of 2024

Sancham Yadav

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Ajitabh Choubey, Kalp Dev Mishra,
Pradeep Kumar, Raghuvansh Misra,
Rajrshi Gupta, Virat Vaibhav

Counsel for Opposite Party(s) : Devendra Yadav, G.A.

Court No. - 66

HON'BLE KRISHAN PAHAL, J.

1. List has been revised. Supplementary affidavit filed today is taken on record.

2. Heard Sri Raghuvansh Misra, learned counsel for the applicant and Sri Devendra Yadav, learned counsel for the informant as well as Sri Shyam Dhar Maurya, learned A.G.A. for the State and perused the record.

3. Applicant seeks bail in Case Crime No.350 of 2022, under Sections 302, 307, 504, 34 I.P.C. and Section 3/25 Arms Act, Police Station Tarawa, District Azamgarh, during the pendency of trial.

PROSECUTION STORY:

4. The applicant is stated to have committed the murder of brother of the informant Ravi Shesh Yadav by firing at him and had also injured the informant, thereby causing gunshot injury to his foot.

5. The FIR was instituted on 18.12.2022 at 06:28 a.m.

ARGUMENTS ON BEHALF OF APPLICANT:

6. The applicant is absolutely innocent and has been falsely implicated in the present case.

7. No date and time of offence is mentioned in the FIR, as such, it is delayed.

8. In the supplementary statement of the informant, the time of offence has come out to be 17.12.2022, 08:40 p.m. If the said statement is considered correct, then also the FIR is delayed by about ten hours and there is no explanation of the said delay caused either.

9. The doctor conducting the medical examination of the injured person observed the following injuries on the body of the injured:-

"(i) A circular laceration wound (entry wound) 0.5 x 0.5 c.m. over left foot great toe, 1 c.m. distal to MCP Ist joint (Dorsal Aspect.

(ii) A circular laceration wound (exit wound) over left palmar aspect 2 c.m. proximal to 1st MCP joint (Palmar aspect)"

10. In the said injury report, the margins have nowhere been mentioned or observed by the doctor concerned. Even the dimensions of exit wound have not been mentioned by the doctor conducting the medical examination of the injured.

11. The opinion was kept pending till the arrival of supplementary report, but the supplementary report is not on record. There is no opinion about the nature and the duration of the injuries whatsoever.

12. The doctor conducting the medical examination report has written the word 'palmar aspect', which is in the palm and not on the foot, as such, the complete medical report of the injured person is farce and the original report has been suppressed or withheld. Thus, the said injury report which is filled with overwriting cannot be believed.

13. It has come up in the cross-examination of witness that the injuries sustained by the injured person are on the front side of his body. The said fire is stated to have been made from his back i.e. from the south side. The said contradiction speaks volume of false implication. It also implies that the applicant is not the accused.

14. It is mentioned in the said injury report that the injured person was brought by Uma Kant Yadav (cousin) and the medical examination was conducted on 17.12.2022 at about 11:15 p.m.

15. The inquest report of the deceased was prepared on 18.12.2022 and it was started at 8:15 a.m and completed at 11:30 p.m.

16. The said witness, who is stated to have taken the informant for his medical examination, is panch witness no.2 in the inquest proceedings.

17. During examination, the informant in his statement has admitted that the said Uma Kant Yadav was not present at the place of occurrence or in the village, as such, the said documents have been prepared ante-time just to cover up the case.

18. The criminal history assigned to the applicant stands explained. The applicant is languishing in jail since 22.12.2022, as such, the period of incarceration is more than three years. Only one witness has been examined to date, as such, there is no likelihood of conclusion of trial in near future. The applicant is ready to cooperate with trial. In case, he is released on bail, he will not misuse the liberty of bail.

ARGUMENTS ON BEHALF OF STATE/INFORMANT:

19. The applicant has a long criminal history of ten cases and all the cases are of serious in nature, as such, he is not entitled for bail.

CONCLUSION:

20. The Supreme Court in ***Prabhakar Tewari vs. State of U.P. And Another, (2020) 11 SCC 648*** has observed that pendency of several criminal cases against an accused itself cannot be a basis for refusal of bail, if otherwise his case for bail is made out.

21. The well-known principle of "*Presumption of Innocence Unless Proven Guilty*," gives rise to the concept of bail as a rule and imprisonment as an exception.

22. A person's right to life and liberty, guaranteed by Article 21 of the Indian Constitution, cannot be taken away simply because the person is accused of committing an offence until the guilt is established beyond a reasonable doubt. Article 21 of the Indian Constitution states that no one's life or personal liberty may be taken away unless the procedure established by law

is followed, and the procedure must be just and reasonable. The said principle has been recapitulated by the Supreme Court in ***Satender Kumar Antil Vs. Central Bureau of Investigation and Ors., 2022 INSC 690.***

23. Reiterating the aforesaid view the Supreme Court in the case of ***Manish Sisodia Vs. Directorate of Enforcement 2024 INSC 595*** has again emphasised that the very well-settled principle of law that bail is not to be withheld as a punishment is not to be forgotten. It is high time that the Courts should recognize the principle that “*bail is a rule and jail is an exception*”.

24. Learned A.G.A./State Law Officer could not bring forth any exceptional circumstances which would warrant denial of bail to the applicant.

25. It is settled principle of law that the object of bail is to secure the attendance of the accused at the trial. No material particulars or circumstances suggestive of the applicant 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 A.G.A./State Law Officer.

26. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, taking into consideration the period of incarceration of the applicant and it is an admitted fact that only one witness has been examined to date, and without expressing any opinion on the merits of the case, *prima-facie* the Court is of the view that the applicant has made out a case for bail. The bail application is **allowed**.

27. Let the applicant- **Sancham Yadav** involved in aforementioned case crime number be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

- (i) The applicant shall not tamper with evidence during trial.
- (ii) The applicant shall not pressurise/intimidate with the prosecution witnesses.
- (iii) The applicant shall appear before the trial court on the date fixed.

28. In case of breach of any of the above conditions, it shall be a ground for

cancellation of bail. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

29. However, it is directed that the aforesaid case pending before the trial court be decided expeditiously as early as possible in view of the principle as has been laid down in the recent judgments of the Supreme Court in the cases of *Vinod Kumar vs. State of Punjab; 2015 (3) SCC 220* and *Hussain and Another vs. Union of India; (2017) 5 SCC 702*, if there is no legal impediment.

30. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Krishan Pahal,J.)

January 27, 2026
(Ravi Kant)