



2026:AHC:8915

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 1573 of 2025

Mahipal Alias Allu

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Anjani Kumar Raghuvanshi, Sujan Singh
Counsel for Opposite Party(s) : G.A., Kapil Tyagi

Court No. - 66

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Heard Sri Sujan Singh, learned counsel for applicant, Sri Kapil Tyagi, learned counsel for the informant, Sri V.K.S. Parmar, learned A.G.A. for the State and perused the material placed on record.
3. The present bail application has been filed by the applicant in S.T. No.565 of 2022, arising out of Case Crime No.36 of 2021, under Sections 147, 148, 149, 302, 307, 504 I.P.C. read with Section 7 of Criminal Law Amendment Act, Police Station Badalpur, Gautam Buddh Nagar, District Gautam Buddh Nagar with the prayer to enlarge him on bail.
4. This is the second bail application on behalf of the applicant. The first bail application of the applicant was allowed by the Co-ordinate Bench of this Court vide order dated 13.7.2022 passed in Criminal Misc. Bail Application No.25180 of 2022.
5. The informant challenged the said order dated 13.7.2022 and filed an SLP before the Supreme Court, whereby the said SLP (Crl.) No.7947 of 2022 was allowed by the Supreme Court vide its order dated 5.1.2023 stating that name of applicant has come up subsequently, as such, the High Court ought not have to granted bail to the applicant and the following order was passed:-

"Leave granted.

Heard learned counsel appearing for the appellant, the accused-respondent and the State.

The appellant is the informant of an offence resulting in murder of two individuals, that took place on 9th February 2021. Respondent No. 2 is an accused in the same case along with certain other individuals and was arrested on 11th February 2021. At the time of arrest, there are allegations that the members of the group arraigned as accused had opened fire at the police party. An independent F.I.R. has been registered in that regard. The appellant assails an order of the High Court granting bail to the aforesaid accused on 13th July 2022. One of the main reasons for granting him bail was that he was not named in the F.I.R. The other ground which appears to have weighed with the High Court in enlarging the said accused on bail is that the injured witness had not named him. Subsequent to the murder of said two individuals, an injured witness, after his statement was recorded, was also killed on 16th December 2021.

Chargesheet has been submitted arraigning the respondent No. 2 as an accused, along with seven other persons. In a case of this nature, on the ground that the respondent-accused was not named in the F.I.R and he was not named by an injured witness, in our opinion, bail ought not to have been granted. The respondent-accused was enlarged on bail within 1 year and 5 months of his arrest before the trial has formally commenced. The offence is of grave and serious nature. The manner of commission of offence and subsequent events which we have narrated above warrant that the said accused remains in custody.

In such circumstances, we set aside the order of the High Court assailed in this appeal except that part in which direction has been given for concluding the trial as expeditiously as possible, preferably within a period of two years. We direct the respondent No.2 to surrender before the Trial Court within seven days. On such surrender, he shall be forthwith taken into custody. If he fails to do so, the investigating agency shall arrest him and produce him before the jurisdictional Court.

So far as the direction of the High Court for concluding the trial is concerned, we retain that part of the order and further direct that the trial may be conducted on day-to-day basis following stipulations of Section 309 of the Code of Criminal Procedure, 1973.

The appeal is allowed in the above terms.

Pending application(s), if any, shall stand disposed of."

ARGUMENTS ON BEHALF OF APPLICANT:

6. As a new ground, learned counsel for the applicant has stated that already the prosecution evidence is complete and the case is fixed for statement of

accused U/s 313 Cr.P.C., as such, there is no likelihood of him tampering with evidence.

7. The applicant is not a flight risk as he was earlier on also on bail and did not misuse the said opportunity.

8. The main dispute was with one Narendra, who was examined as PW-3 but the applicant or any of the accused persons did not commit the murder or even did not assault him at all in the said dispute, which implies it to be a case of false implication.

9. The doctor conducting autopsy of the deceased person has stated that the deceased person was only wearing underwear on his body, which indicates that he was subjected to some treatment, but their bloodstained clothes were not taken into possession by the Investigating Officer.

10. Even the arrest of the applicant is disputed, which is under mysterious circumstances.

11. The applicant was not nominated in the FIR rather "brother of Bhopal" was simply mentioned in the FIR. There are four brothers of Bhopal and the applicant is one of them, but he has been falsely implicated in this case.

12. There is no test identification parade conducted as per Section 9 of Indian Evidence Act.

13. There is no criminal history of the applicant. The applicant is in jail since 11.1.2021 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

ARGUMENTS ON BEHALF OF STATE/OPPOSITE PARTY:

14. The bail application has been vehemently opposed on the ground that the bail order of the applicant dated 13.7.2022 was on merits as it was reserved on 28.6.2022 and the order was passed on 13.7.2022 and it ran into 08 pages, whereby each and every aspects were discussed in the said order, which was set-aside by the Supreme Court.

15. Out of the three injured persons two persons succumbed to the injuries immediately within a short span of time and one person survived, but he was also put to death by the other accused persons during trial.

16. The trial is at its conclusive end, as such, the applicant is not entitled to bail.

CONCLUSION:

17. The Supreme Court in case of *X vs. State of Rajasthan & Anr.* reported in **2024 INSC 909**, has held that once the trial has commenced, it should be allowed to reach to its final conclusion, which may either result in conviction or acquittal of the accused. The bail should not be normally granted to the accused after the charge has been framed. It should also not be granted by looking into the discrepancies here or there in the deposition.

18. After hearing learned counsel for the parties and taking into consideration the fact that the trial is at its conclusive end, I do not find it a fit case for grant of bail to the applicant.

19. The bail application is found devoid of merits and is, accordingly, **rejected.**

20. However, it is directed that the aforesaid case pending before the trial court be decided expeditiously 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.

21. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

(Krishan Pahal,J.)

January 13, 2026

Vikas Verma