

Krishna Kumar vs State Of U.P. on 2 January, 2025

Author: Krishan Pahal

Bench: Krishan Pahal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:658

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39138 of 2024

Applicant :- Krishna Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjay Singh

Counsel for Opposite Party :- G.A., Sudist Kumar

Hon'ble Krishan Pahal, J.

1. List has been revised.

2. Heard Sri Sanjay Singh, learned counsel for the applicant and Sri Sudist Kumar, learned counsel for the informant as well as Sri Sunil Kumar, learned A.G.A. for the State and perused the material available on record.

3. Applicant seeks bail in Case Crime No. 172 of 2024, under Sections 85, 80(2) of B.N.S. and Sections 3/4 of Dowry Prohibition Act, Police Station - Shamshabad, District - Agra, during the pendency of trial.

PROSECUTION STORY:

4. The marriage of the sister of the informant was solemnized with the applicant as per Hindu Rites on 13.12.2018 and out of the said wedlock, she had given birth to a baby boy. The applicant and other family members are stated to have subjected her to cruelty for a demand of dowry, leading to her death on 16.07.2024.

ARGUMENTS ON BEHALF OF APPLICANT:

5. The applicant has been falsely implicated in the present case due to ulterior motive. He has nothing to do with the said offence as alleged in the FIR.

6. The FIR is delayed by about one day and there is no explanation of the said delay caused.

7. The applicant has strong alibi as he was serving in Indian Army at Assam and after getting the news of sad demise of his wife, he has taken earned leave from 18.07.2024 to 16.08.2024. The said fact of taking earned leave stands fortified from Annexure-8 to the affidavit filed along with bail application.

8. It is argued that there was no occasion for the applicant to commit the dowry death of his wife as he was serving in Indian Army that too far away at Assam.

9. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length.

10. The applicant is languishing in jail since 17.08.2024, having no criminal history to his credit, deserves to be released on bail. In case, the applicant is released on bail, he will not misuse the liberty of bail and shall cooperate with trial.

ARGUMENTS ON BEHALF OF INFORMANT/ STATE:

11. The bail application has been opposed but the submissions raised by the learned counsel for the applicant could not be disputed and also the fact that the applicant has no criminal history.

CONCLUSION:

12. 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.

13. 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 reiterated by the Supreme Court in *Satender Kumar Antil Vs. Central Bureau of Investigation and Ors.*, 2022 INSC 690.

14. Reiterating the aforesaid view, the Supreme Court in the case of Manish Sisodia Vs. Directorate of Enforcement, 2024 INSC 595, has again emphasized 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".

15. Learned AGA could not bring forth any exceptional circumstances which would warrant denial of bail to the applicant.

16. 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 AGA.

17. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, pending trial and considering the complicity of accused, severity of punishment, at this stage, without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

18. Let the applicant- Krishna Kumar, who is involved in aforementioned case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with evidence.

(ii) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 351BNSS If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

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

20. 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.

Order Date:- 2.1.2025 Siddhant (Justice Krishan Pahal)