

# Nareshpal 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:75

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 36178 of 2023

Applicant :- Nareshpal

Opposite Party :- State of U.P.

Counsel for Applicant :- Abhilasha Singh,Ashutosh Yadav,Lal Prabhakar Singh,Mahendra Sin

Counsel for Opposite Party :- Arun Kumar,G.A.,Satendra Singh

Hon'ble Krishan Pahal,J.

1. List has been revised.

2. Heard Ms. Abhilasha Singh and Sri Mahendra Singh, learned counsels for the applicant and Sri Satendra Singh, learned counsel for the informant as well as Ms. Ifrah Islam, learned State Law Officer and perused the record.

3. First and second supplementary affidavits filed by the learned counsel for the applicant today is taken on record.

4. Applicant seeks bail in Case Crime No. 243 of 2023, under Sections 302 I.P.C. and Section 3/25 of the Arms Act, Police Station Junawai, District Sambhal, during the pendency of trial.

**PROSECUTION STORY:**

5. The FIR was instituted by the informant stating that his father had gone to take care of the corn crop at his field on 09.07.2023 and has been shot dead by some unknown person in the night at about 9 p.m. ARGUMENTS ON BEHALF OF APPLICANT :

6. The applicant has been falsely implicated in the present case and he has nothing to do with the said offence.

7. The applicant is not named in the FIR. The son of the informant is the scribe of the FIR and the name of the applicant has subsequently come up stating that he was present at the time of offence at the place of occurrence.

8. The said allegations are vague as it was pitch dark at the place of occurrence.

9. The applicant has been made an accused on the basis of suspicion only in the statement of other witnesses who have been roped in later on during the investigation the same day after institution of the FIR.

10. No person has seen the applicant committing the said crime.

11. False recovery of country made pistol and an empty cartridge has been foisted on the applicant.

12. 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.

13. There is no criminal history of the applicant. The applicant is languishing in jail since 11.07.2023. The applicant 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 INFORMANT :

14. The bail application has been opposed on the ground that it was the applicant only who was at the place of occurrence at the time of offence, as such it was the duty of the applicant to explain the circumstances of the murder of the deceased person and the burden of proof lies on him in the light of Section 106 of the Indian Evidence Act. The recovery of country made pistol along with an empty cartridge has been made at the pointing out of the applicant, as such he is not entitled for bail.

#### CONCLUSION:

15. 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.

16. 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.

17. 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".

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

19. 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 State Law Officer.

20. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, and 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.

21. Let the applicant- Nareshpal 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.

(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 313 Cr.P.C. 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.

22. 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.

23. 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 Sumit S (Justice Krishan Pahal)