

Abhay Singh vs State Of U.P. Thru. Prin. Secy. Home Lko. on 27 March, 2025

Author: Manish Mathur

Bench: Manish Mathur

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:17663

Court No. - 13

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 695 of 2025

Applicant :- Abhay Singh

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.

Counsel for Applicant :- Azizullah Khan,Mohammad Alishah Faruqi,Najmussaquib

Counsel for Opposite Party :- G.A.,Nalin Arora,Rishabh Pandey,Rishabh Singh,Satendra Kum

Hon'ble Manish Mathur,J.

1. Heard learned counsel for applicant, learned A.G.A. for State as well as learned counsel for informant. Rejoinder affidavit filed today is taken on record.
2. First bail application has been filed with regard to F.I.R. No. 0142/2024, under Section 66 D, I.T. (Amendment), Act, 2008 & under Section 318(2) 319(2), 338, 336 (2), 340, 61(2) A BNS, 2023, Police Station -Cyber Crime, District- Lucknow.
3. As per contents of F.I.R., the incident is said to have taken place on 21. 08.2024 when the informant was placed under digital arrest for one and half days and was defrauded of an amount of

rupees forty eight lacs due to impersonation of certain persons as police authorities.

4. Learned counsel for applicant submits that the applicant has been falsely implicated in the allegations levelled against him and that even in the investigation, there is neither any recovery from the applicant nor any statement of any credible witness against him. It is further submitted that it is only on the basis of information given by Police informant. It is also submitted that although charge sheet in the matter has already been filed but as per the evidence collected, there is no direct involvement of applicant in the charges levelled against him. He has also adverted to orders passed by this Court in the cases of Criminal Misc. Bail Application No. 69 of 2025 (Pankaj Surela versus State of U.P.), Criminal Misc. Bail Application No. 741 of 2025 (Anshul Mahor versus State of U.P.) and Criminal Misc. Bail Application No. 2233 of 2025 (Sagar Singh versus State of U.P.) whereby two co-accused have been enlarged on bail on the same allegations and evidence. It is also submitted that in case the applicant is granted bail, he undertakes not to misuse the same and cooperate in trial proceedings.

5. Learned counsel for opposite parties have refuted submissions advanced by learned counsel for applicant with the submission that charge-sheet has already been filed against applicant who has been arrested on the basis of information supplied by police informer. His role is that of providing Bank details to the main accused. It is also submitted that the order cited by learned counsel for applicant do not indicate any parity with him.

6. Hon'ble the Supreme Court in Sanjay Chandra v. Central Bureau of Investigation, reported in (2012) 1 SCC 40 has specifically held that bail is to be a norm and an under-trial is not required to be in jail for ever pending trial. Relevant paragraphs of the judgment are as under :-

"21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty."

"27. This Court, time and again, has stated that bail is the rule and committal to jail an exception. It has also observed that refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution."

7. Considering submissions advanced by learned counsel for parties and perusal of material on record, prima facie, subject to evidence it appears that co-accused in the F.I.R. as indicated herein above have already been enlarged on bail by Co-ordinate Benches of this Court. As now the only evidence against the applicant tip off supplied by police informer. It is noticeable that F.I.R. has been filed against unknown persons.

8. In the counter affidavit also it appears that main accused is said Nagendra Kumar Abhinandan Pathak and therefore the role of the applicant appears to be distinguishable from that of main accused but it appears to be in parity with the other persons who have already enlarged on bail. This Court finds that the applicant is entitled to be released on bail in this case.

9. Accordingly, the bail application is allowed.

10. Let applicant, Abhay Singh, involved in the aforesaid 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 with the following conditions which are being imposed in the interest of justice:-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 269 BNS of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 84 BNS is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 209 BNS of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 351 BNS. 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.

Order Date :- 27.3.2025 Subodh/-