

# Taufiq 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:319

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 34393 of 2023

Applicant :- Taufiq

Opposite Party :- State of U.P.

Counsel for Applicant :- Atul Kumar Kushwaha, Marjeet Mishra, Shamsheer Singh

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Kalpdev Mishra, holding brief of Sri Atul Kumar Kushwaha, learned counsel for the applicant and Sri Anit Kumar Shukla, learned A.G.A. for the State and perused the record.
3. Applicant seeks bail in Case Crime No. 380 of 2022, under Sections 376, 384, 506 I.P.C. and Section 67A of I.T. Act, Police Station Kotwali Shamli, District Shamli, during the pendency of trial.

PROSECUTION STORY:

4. The applicant is stated to be involved in the profession of exorcism and as such in duress had committed rape with the informant and had even taken ransom of Rs.4.5 lacs and the said demand persisted subsequently also.

5. The applicant is stated to have video recorded the said act and even had taken certain indecent photographs and made it viral on social media, as such the FIR was instituted on 13.08.2024.

**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 FIR is delayed and there is no explanation of the said delay caused.

8. The video has been recorded from the mobile of the victim herself which has been given to the police by her son.

9. There is no evidence whatsoever of the applicant having sent the said video to any person lest on social media.

10. The said prosecution story stands falsified.

11. Only statement of PW-1 has been recorded and she has reiterated the allegations made in the FIR.

12. The Fundamental Rights of the applicant enshrined under Article 21 of the Constitution of India stands violated.

13. 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.

14. There is no criminal history of the applicant. The applicant is languishing in jail since 14.09.2022. 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 STATE :**

15. The bail application has been opposed but the submissions raised by the learned counsel for the applicant could not be disputed.

**CONCLUSION:**

16. In the judgement passed by the Supreme Court in the case of Union of India vs. K.A. Najeeb, AIR 2021 SC 712, it has been held as follows:-

"We are conscious of the fact that the charges levelled against the respondent are grave and a serious threat to societal harmony. Had it been a case at the threshold, we would have outrightly turned down the respondent's prayer. However, keeping in mind the length of the period spent by him in custody and the unlikelihood of the trial being completed anytime soon, the High Court appears to have been left with no other option except to grant bail."

17. 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.

18. 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.

19. 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".

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

21. 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.

22. 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.

23. Let the applicant-Taufiq 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.

24. 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.

25. 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)