

Vishal Jaiswal vs State Of U.P. And Another on 28 February, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:28869

Court No. - 77

Case :- APPLICATION U/S 482 No. - 33871 of 2024

Applicant :- Vishal Jaiswal

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Pawan Giri

Counsel for Opposite Party :- G.A.

Hon'ble Arun Kumar Singh Deshwal, J.

1. Heard Sri Pawan Giri, learned counsel for the applicant, Sri Ramesh Kumar, learned A.G.A for the State and perused the record.
2. The instant application under Section 482 Cr.P.C. has been filed for quashing the entire proceeding as well as summoning order dated 12.03.2024 passed by Additional Chief Judicial Magistrate, Court No.3, Varanasi in Complaint Case No.114609 of 2023, under Section 138 N.I. Act, Police Station- Lanka, District Varanasi pending in the court of Additional Chief Judicial Magistrate-III, Varanasi.
3. At the very outset, learned counsel for the applicant submits that the applicant does not want to press the prayer for quashing of the proceedings. He wants to surrender before the court below and applies for bail. He further submits that this Court may be pleased to direct the court concerned to

consider the bail application of the applicant expeditiously within stipulated period of time as may be fixed by this Court.

4. In view of the aforesaid submissions, the present application is disposed of with the direction that in case, the applicant surrenders before the Court concerned and applies for bail within three weeks from today, his bail application shall be considered and decided expeditiously by the court below, in view of law laid down by the Apex Court in the case of Satender Kumar Antil vs Central Bureau of Investigation and another, (2022) 10 SCC 51.

5. For reference paras 100 to 100.11 of Satender Kumar Antil (supra) are being quoted as under;

"100. In conclusion, we would like to issue certain directions. These directions are meant for the investigating agencies and also for the courts. Accordingly, we deem it appropriate to issue the following directions, which may be subject to State amendments:

100.1. The Government of India may consider the introduction of a separate enactment in the nature of a Bail Act so as to streamline the grant of bails.

100.2. The investigating agencies and their officers are duty-bound to comply with the mandate of Sections 41 and 41-A of the Code and the directions issued by this Court in Arnesh Kumar [Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449]. Any dereliction on their part has to be brought to the notice of the higher authorities by the court followed by appropriate action.

100.3. The courts will have to satisfy themselves on the compliance of Sections 41 and 41-A of the Code. Any non-compliance would entitle the accused for grant of bail.

100.4. All the State Governments and the Union Territories are directed to facilitate Standing Orders for the procedure to be followed under Section 41 and 41-A of the Code while taking note of the order of the High Court of Delhi dated 7-2-2018 in Amandeep Singh Johar v. State (NCT of Delhi) [Amandeep Singh Johar v. State (NCT of Delhi), 2018 SCC OnLine Del 13448] and the Standing Order issued by Delhi Police i.e. Standing Order 109 of 2020, to comply with the mandate of Section 41-A of the Code.

100.5. There need not be any insistence of a bail application while considering the application under Sections 88, 170, 204 and 209 of the Code.

100.6. There needs to be a strict compliance of the mandate laid down in the judgment of this Court in Siddharth [Siddharth v. State of U.P., (2022) 1 SCC 676 : (2022) 1 SCC (Cri) 423].

100.7. The State and Central Governments will have to comply with the directions issued by this Court from time to time with respect to constitution of special courts. The High Court in consultation with the State Governments will have to undertake an exercise on the need for the special courts. The vacancies in the position of Presiding Officers of the special courts will have to be filled up expeditiously.

100.8. The High Courts are directed to undertake the exercise of finding out the undertrial prisoners who are not able to comply with the bail conditions. After doing so, appropriate action will have to be taken in light of Section 440 of the Code, facilitating the release.

100.9. While insisting upon sureties the mandate of Section 440 of the Code has to be kept in mind.

100.10. An exercise will have to be done in a similar manner to comply with the mandate of Section 436-A of the Code both at the district judiciary level and the High Court as earlier directed by this Court in Bhim Singh [Bhim Singh v. Union of India, (2015) 13 SCC 605 : (2016) 1 SCC (Cri) 663] , followed by appropriate orders.

100.11. Bail applications ought to be disposed of within a period of two weeks except if the provisions mandate otherwise, with the exception being an intervening application. Applications for anticipatory bail are expected to be disposed of within a period of six weeks with the exception of any intervening application.

6. It is needless to mention that the Apex Court in Satender Kumar Antil vs Central Bureau of Investigation and another; (2021) 10 SCC 773 has also approved for grant of interim bail till disposal of bail application. Para 6 of the Satender Kumar Antil (supra) decided on 07.10.2021 is being quoted as under;

"6. We may also notice an aspect submitted by Mr Luthra that while issuing notice to consider bail, the trial court is not precluded from granting interim bail taking into consideration the conduct of the accused during the investigation which has not warranted arrest. On this aspect also we would give our imprimatur and naturally the bail application to be ultimately considered, would be guided by the statutory provisions."

7. For a period of three weeks from today or till disposal of bail application of applicant, whichever is earlier, no coercive action shall be taken against the applicant in the aforesaid case.

Order Date :- 28.2.2025 A.Kr.