

Leelu @ Amit vs State Of U.P. on 4 February, 2025

Author: Samit Gopal

Bench: Samit Gopal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:15919

Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11785 of 2023

Applicant :- Leelu @ Amit

Opposite Party :- State of U.P.

Counsel for Applicant :- Ayush Mishra,Prabha Shanker Mishra,Pradeep Kumar Sharma,Santosh

Counsel for Opposite Party :- G.A.

Connected with

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48436 of 2022

Applicant :- Sachin @ Monu

Opposite Party :- State of U.P.

Counsel for Applicant :- Anshul Tiwari,Atul Tej Kulshrestha

Counsel for Opposite Party :- G.A.

Connected with

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8279 of 2021

Applicant :- Mohit

Opposite Party :- State of U.P.

Counsel for Applicant :- Amit Daga, Birendra Singh Khokher, Deeksha Gupta, Rahul Singh Tomar

Counsel for Opposite Party :- G.A., Gaurav Kakkar

Hon'ble Samit Gopal, J.

1. These three bail applications are connected together as they arise out of same case crime and are of co-accused persons and, as such, are being decided by a common order.

2. These three bail applications under Section 439 of Code of Criminal Procedure have been filed by the applicants Leelu @ Amit, Sachin @ Monu and Mohit, seeking enlargement on bail during trial in connection with S.T. No.496 of 2022 arising out of Case Crime No. 212 of 2020, under Sections 147, 148, 149, 120-B, 34, 307, 506, 302 I.P.C., registered at Police Station Chaprauli, District Baghpat.

Facts common in all cases

3. A first information report was lodged on 22.06.2020 by Surendra Singh as Case Crime No.0212 of 2020 under Sections 147, 148, 149, 120-B, 34, 307, 506 IPC against Leelu, Chatar Singh, Pravendra, Robin, Sachin @ Monu, Naresh and 5-7 unknown persons alleging therein that on 22.06.2020, at about 07:30 pm, near Syndicate Bank on Tanda Chhaprauli road in village Kurdi, he with his younger brother Pramveer, Nitin s/o Lokendra, Gaurav, Yogendra s/o Maluk and Yogendra s/o Bakhtawar were talking wherein on a vehicle and a motorcycle about 10-12 persons came, in which, Leelu, Chatar Singh, Pravendra, Robin, Sachin @ Monu were known to him since earlier, who came and were armed with pistols and on the first informant, Pramveer, Nitin, Gaurav, Yogendra and Yogendra they resorted to indiscriminate firing due to which Nitin, Pramveer, Gaurav, Yogendra and Yogendra received serious injuries. He and other persons ran inside the nearby house and saved themselves. Naresh was also involved in conspiracy in the matter. Naresh was having enmity with his family. He can identify the 5-7 unknown persons involved in the incident if they come before him. The assailants while running away threatened them that whosoever has been saved today would be murdered later on. His report be lodged and strict action be taken and further his life and property be protected.

4. Pramveer is the deceased in the matter. His postmortem was conducted on 29.06.2020, he was found to have received four injuries being two gun shot entry lacerated wounds, one surgical amputation of right leg from just above knee joint and three stitched wounds over left lateral part of chest. The cause of death was opined as shock and septicemia due to ante-mortem gun shot injury. Four persons namely, Yogendra s/o Maluk, Yogendra s/o Bakhtawar, Gaurav and Nitin Kumar received injuries and are the injured persons.

Bail Application No.11785 of 2023

5. Heard Sri Prabha Shankar Mishra, learned counsel for the appellant and Sri Ajay Singh, learned AGA-I for the State and perused the records.

6. Learned counsel for the applicant submitted that although the applicant is named in the first information report but general role has been assigned to him of firing with other co-accused persons on the deceased and injured. It is submitted that there is no specification of any specific role on the applicant. Further, learned counsel for the applicant has placed before the Court paragraph no.15 of the affidavit and has submitted that the applicant has a criminal history of 16 cases apart from the present matter and in all the cases, he has been falsely implicated. It is submitted that looking to the general nature of involvement and the fact that from the possession of the applicant only Rs.6800/- has been recovered without any recovery of any incriminating article for which paragraph no. 14 has been placed, he be granted bail. The applicant is in jail since 07.06.2022.

7. Per contra, learned AGA for the State opposed the prayer for bail vehemently. It is submitted that the applicant is named in the first information report and there are allegations of his firing upon the deceased and injured and the injuries as received by the deceased and injured are corroborated by the medical evidence. It is submitted that the applicant is a hardened criminal and apart from the present case, he is involved in 16 other cases and even there are cases of serious nature being under Section 302 IPC, which are 5 in numbers and go to show repetition of such serious offence. It is submitted that the applicant was also challaned under the Gangsters Act, Gundas Act and was also externed. It is submitted that the prayer for bail be thus rejected.

8. After having heard learned counsel for the parties and perusing the records, it is evident that the applicant is named in the first information report and has been assigned the role of firing upon the deceased and injured with fire arms. The injuries of the deceased and the injured corroborate with the prosecution story. There is one person dead and four injured in the present matter and, as such, there are eye witnesses account in it. The applicant apart from the present case, has been involved in 16 other cases, in which, there have been 5 cases under Section 302 IPC, which go to show repetition of the incident of murder and misuse of bail. 16 cases of his implication are as under :

"(i) Case Crime No. 129 of 2004 under section 147, 148, 307, 149, 323/34, 427, 504 I.P.C., Police Station Saroorpur, District Meerut,

(ii) Case Crime No. 129 of 2004 under section 3(2) of the National Security Act, 1980,

(iii) Case Crime No. 77 of 2005 giving rise to S.T. No. 269 of 2009 (State Vs. Amit @ Lilu)

(iv) Case Crime No. 147 of 2004, (Case No. 163 of 2005) under section 3/4 Gundas the order of externment for six months has been passed, (V) Case Crime No. 165 of 2006 under section 147, 148, 149, 302, 452, 120- B I.P.C.

(vi) Case Crime No. 186 of 2006 under section 25 Arms Act, giving rise to S.T. No. 345 of 2007,

(vii) Case Crime No. 165 of 2006 the proceeding under section 3/4 Gundas Act (case No. 485 of 2009) the order of externment for six months passed,

(viii) Proceeding under section 110 Cr.P.C. (Case Crime No. 419 of 2009),

(ix) Case Crime No. 58 of 2010 giving rise to S.T. No. 965 of 2010 (State Vs. Lilu @ Amit) under section 363, 366 I.P.C.,

(x) Case Crime No. 420 of 2012 under section 307 I.P.C.,

(xi) Case Crime No. 769 of 2012 under section 147, 148, 149, 302 I.P.C.,

(xii) Case Crime No. 370 of 2012 under 147, 148, 149, 302 I.P.C.,

(xiii) Proceeding under section 3/4 Gundas Act (case crime No. 413 of 2012) the order of externment for six months passed,

(xiv) Case Crime No. 120/421 of 2012 under section 302 I.P.C.,

(xv) Case Crime No. 148 of 2017 under Sections 147, 148, 149, 302, I.P.C., (xvi) Case Crime No. 132 of 2018 under section 2/3 Gangster Act, (xvi) Case Crime No. 161 of 2020 under section 3/25 (6)/35 Arms Act,

9. No ground for bail is made out. The bail application is rejected.

Bail Application No.48436 of 2022

10. Heard Sri V.P. Srivastava, learned Senior Advocate assisted by Sri Anshul Tiwari, learned counsel for the applicant and Sri Ajay Singh, learned AGA-I for the State and perused the records.

11. Learned counsel for the applicant submitted that although the applicant is named in the first information report but he has been falsely implicated in the present matter. While placing paragraph no.19 of the affidavit, it is submitted that the present incident is said to have taken place on 22.06.2020 at 07:30 pm near Syndicate Bank but on the same day at about 7 pm there is a CCTV footage showing the applicant coming to his house by a car along with his family and thereafter he entered in the house and went to upper floor after meeting his father and relatives who are talking at that time. At about 07:15 pm Naresh Kumar came to meet him and then he came outside the house at 08:00 pm thereafter returned to his house.

12. It is submitted that the applicant came outside his house at about 08:00 pm. The photographs of the CCTV footage have been placed before the Court as Annexure 9 to the affidavit. It is submitted

that general and omnibus allegations have been levelled against the applicant and other co-accused persons of firing upon the deceased and injured persons. It is submitted that the trial in the present matter is going on, in which, till date only the testimony of PW1 has been recorded and, as such, the trial will take time. Further, while placing paragraph no.15 of the affidavit, it is submitted that the applicant is stated to be involved in 9 criminal cases, in which, in all the cases he has been released on bail. It is submitted that, as such, the applicant, who is in jail since 30.06.2020 be released on bail.

13. Per contra, learned AGA for the State opposed the prayer for bail vehemently. It is submitted that the applicant is named in the first information report and there are allegations of his firing upon the deceased and injured and the injuries as received by the deceased and injured are corroborated by the medical evidence. It is submitted that the applicant is a hardened criminal and apart from the present case, he is involved in 9 other cases and even there are cases of serious nature being under Section 302 IPC, which are 2 in numbers and go to show repetition of such serious offence. It is submitted that the prayer for bail be thus rejected.

14. After having heard learned counsel for the parties and perusing the records, it is evident that the trial in the present matter is going on in which one prosecution witness has been examined. Applicant is named in the first information report and has been assigned the role of firing upon the deceased and injured with fire arm. The injuries of the deceased and the injured corroborate with the prosecution story. There is one person dead and four injured in the present matter and, as such, there are eye witnesses account in it. The applicant apart from the present case, has been involved in 9 other cases, in which, there have been 2 cases under Section 302 IPC, which go to show repetition of the incident of murder and misuse of bail. 9 cases of his implication are as under :

"(i) Case Crime No. 245 of 2008, under Section 452, 323, 325, 308, 504, 506 I.P.C., Police Station-Chhaprauli, District- Baghpat (U.P.).

(ii) Case Crime No. 228 of 2011, under Section 147, 148, 149, 302, 120-B I.P.C., Police Station-Kotwali Roorkee, District-Hardwar (Uttarakhand)

(iii) Case Crime No. 243 of 2014, under Section 147, 148, 149, 307, 302, 120-B, 34 I.P.C., Police Station- Kotwali Gangnahar Roorkee, District- Hardwar (Uttarakhand).

(iv) Case Crime No. 289 of 2014, under Section 2/3 Gangster Act, Police Station-Kotwali Gangnahar Roorkee, District-Hardwar (Uttarakhand).

(v) Case Crime No. 1078 of 2014, under Section 395, 397, 412, 332, 353, 223, 224, 120-B, 34 I.P.C., Police Station- Kotwali Baghpat, District-Baghpat (U.P.).

(vi) Case Crime No. 41 of 2015, under Section 420, 465, 467, 471, 120-B I.P.C., Police Station City S.B.S. Nagar, District- Nava Shahar (Punjab).

(vii) Case Crime No. 62 of 2015, under Section 307, 353, 186, 465, 460, 468, 471, 473, 474 I.P.C. and 25/54/59 Arms Act, Police Station- Sadar Patiala, District- Patiala (Punjab).

(viii) Case Crime No. 617 of 2015, under Section 2/3 Gangster Act, Police Station- Kotwali Baghpat, District- Baghpat (U.P.).

(ix) Case Crime No. 216 of 2016, under Section 386, 201, 120-B I.P.C., Police Station- Kotwali Gangnahar (Uttarakhand). Roorkee, District-Hardwar"

15. No ground for bail is made out. Bail application is rejected.

Criminal Misc. Bail Application No.8279 of 2021

16. List revised.

17. Heard Sri V.P. Srivastava, learned Senior Advocate assisted by Sri R.S. Tomar, learned counsel for the applicant, Sri Ajay Singh, learned AGA-I for the State and perused the record. Sri Gaurav Kakkar, learned counsel for the informant is not present even in the revised list.

18. Learned counsel for the applicant argued that the applicant is not named in the first information report. It is submitted that Sachin @ Monu s/o Naresh named as an accused disclosed the name of the applicant as a person to be involved in the present matter after which he was arrested on 10.07.2020 and his confessional statement was recorded by the police. It is submitted that from the possession of the applicant a Creta vehicle has been recovered. Further, while placing paragraph no.2 of the supplementary affidavit dated 17.02.2021, it is submitted that the applicant is involved in 8 cases but his involvement in all the cases are false, explanation of the same has been given therein, in which, in one case, he has been acquitted, one case has ended, in one case, final report has been submitted and in five cases, he has been released on bail by the competent court.

19. It is submitted that the said cases are false implication by the police. It is further submitted that the applicant is not named in the first information report. It is submitted that co-accused Sachin s/o Yashpal, who was also not named in the first information report and his implication surfaced in the matter in the confessional statement of the applicant Mohit has been granted bail by this Court vide order dated 30.11.2021 passed in Criminal Misc. Bail Application No.29654 of 2021 (Sachin vs. State of UP). The copy of the order has been produced before the Court which is taken on record. It is submitted that, as such, the bail of the applicant be allowed. The applicant is in jail since 10.07.2020.

20. Per contra, learned counsel for the State vehemently opposed the prayer for bail and submitted that the applicant is involved in the matter as has been disclosed by co-accused Sachin @ Monu s/o Naresh. The other facts that the applicant is not named in the FIR and his name has surfaced in the confessional statement of co-accused has not been disputed by the learned AGA. It is submitted that the present case is such, in which, a distinction needs to be drawn with regards to the accused

persons named in the FIR and with those who are not named.

21. After having heard learned counsel for the parties and perusing the record, it is evident that applicant is not named in the first information report. His implication in the matter has surfaced in the statement of co-accused Sachin @ Monu s/o Naresh. Co-accused Sachin s/o Yashpal has been granted bail by this Court. The case of the applicant is distinguishable with those who are named in the first information report. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

22. Let the applicant Mohit, be released on bail in the aforesaid case crime number on 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 will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date 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.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 82 Cr.P.C., may be issued and if 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 174-A I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for 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 and the trial court may proceed against him under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

23. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel

the bail and send the applicant to prison.

Order Date :- 4.2.2025 Priya (Samit Gopal, J.)