

Chunnu Soni @ Raja Soni @ Kamta vs State Of U.P. on 2 January, 2025

Author: Ajay Bhanot

Bench: Ajay Bhanot

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:74

Court No. - 5

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6977 of 2024

Applicant :- Chunnu Soni @ Raja Soni @ Kamta

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashok Kumar Mishra, Krishna Kant Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot, J.

Matter is taken up in the revised call.

This is the first bail application.

By means of this bail application the applicant has prayed to be enlarged on bail in Case Crime No. 157 of 2021 at Police Station-Ghazipur, District-Fatehpur under Sections 379, 411, 413, 419, 420, 467, 471 IPC. The applicant is in jail since 01.04.2022.

The bail application of the applicant was rejected by the learned trial court on 24.01.2024.

The following arguments made by Shri Krishna Kant Tiwari, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Chandan Agarwal, learned AGA from the record, entitle the applicant for grant of interim bail:

1. The applicant has been falsely implicated in the instant case.
2. Three motorcycles were planted on the applicant by the police authorities to frame him in the instant case to burnish their credentials. There is no independent witness to the recovery.
3. The recovered items cannot be connected with the offence.
4. The applicant claims congruency in role and seeks parity in relief granted to the co-accused person who has been granted bail by this Court on 03.12.2021 in Criminal Misc. Bail Application No.38944 of 2021.
5. The applicant has explained his criminal history. It is also contended that the applicant has become a soft target and a convenient scapegoat for the police authorities who nominated him in a number of false cases to burnish their professional credentials. The said cases do not have any bearing on the instant bail application.
6. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to join the trial proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant-Chunnu Soni @ Raja Soni @ Kamta be released on interim 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 below. The following conditions be imposed in the interest of justice:-

- (i) The applicant will not tamper with the evidence or influence any witness during the trial.
- (ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

The learned trial court is directed to fix the sureties after due application of mind in light of the judgement rendered by this Court in Arvind Singh v. State of U.P. Thru. Prin. Secy. Home Deptt. (Application U/S 482 No.2613 of 2023).

The learned trial court shall ensure that the right of bail of the applicant granted by this Court is not frustrated by arbitrary demands of sureties or onerous conditions which are unrelated to the socioeconomic status of the applicant.

Before parting submissions of Shri Krishna Kant Tiwari, learned counsel on behalf of the applicant as regards the plight of the applicant and his failure to access legal aid need to be recorded.

It is contended that the applicant has been in jail since 01.04.2022. The applicant is a financially destitute person who belongs to a marginalized section of the society. The applicant was abandoned by his family and friends alike after his imprisonment. This is the first bail application. The applicant was able to file the first bail application before this Court only on 19.02.2024 i.e. almost three years after his imprisonment. The applicant could not approach this Court at an earlier point in time to seek his remedy of bail as he did not have access to legal aid nor was given legal advice to approach this Court earlier and also did not possess resources to file the instant bail application.

It is also contended that the directions of this Court in *Anil Gaur @ Sonu @ Sonu Tomar v. State of U.P.* reported at 2022 SCC Online All 623 and *Ramu Vs. State of U.P.*, reported at 2024 SCC OnLine All 4618 have been violated.

The denial of legal aid was caused by failure to implement the directions of this Court in *Anil Gaur (supra)* and *Ramu (supra)*.

This Court is also noticing that the directions of this Court in *Anil Gaur (supra)* and *Ramu (supra)* are not being implemented in letter and spirit by various DLSAs.

This Court in *Anil Gaur (supra)* and *Ramu (supra)* had taken cognizance of a large number of prisoners who were incarcerated for long periods of time. The said prisoners were unable to file bail applications in a reasonable time frame on account of financial penury, social marginalization and lack of access to legal aid.

This Court in *Ramu (supra)* had issued various directions to Magistrates/trial courts/DLSAs and Jail authorities for providing legal aid to such category of prisoners so that the bail applications could be filed on their behalf in a reasonable time frame.

Broadly there are two categories of directions in *Ramu (supra)*. The first set of directions entailed creation of infrastructure to provide auto generated information to the concerned courts/authorities to enable them to expedite the process of grant of legal aid for such prisoners. This process may take some time. The second set of directions contemplated the utilization of existing resources in the Judgeships and taking the assistance of para legal volunteers for gathering the requisite information to facilitate expeditious grant of legal aid to the said prisoners.

For the latter purpose this Court had directed that the judgement of *Ramu (supra)* be circulated amongst all trial judges in the State of U.P. The said judgement has not been circulated in all the judgeships. Non circulation of the said judgement despite the aforesaid orders is leading to non

compliance of the same by the trial courts and causing repeated miscarriages of justice. There can be no persuasive reason for non circulation of the judgement of Ramu (supra) amongst the trial judges in State of U.P. as directed therein. The Court will say no further at this stage. However, in the interest of justice the Court deems it appropriate to reiterate the direction to circulate the copy of the said judgement rendered in Ramu (supra) so that justice is done to the aforesaid category of prisoners.

Learned District Judge, trial judge, DLSA and the Jail Superintendent of district Fatehpur shall send separate reports regarding the steps taken to comply with the directions of this Court in Anil Gaur (supra) and Ramu (supra). The report shall also disclose the impediments and causes for delay in the compliance of the aforesaid judgements and also forward the same to Secretary, High Court Legal Services Committee for remedial action and better coordination.

List this case on 28.01.2025.

Order Date :- 2.1.2025 Dhananjai