

Aman Yadav vs State Of U.P. on 3 March, 2025

Author: Krishan Pahal

Bench: Krishan Pahal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:29295

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3455 of 2025

Applicant :- Aman Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Raksha Chauhan,Upendra Kumar Singh

Counsel for Opposite Party :- G.A.,Padmaker Pandey,Pardeep Narayan Pandey,Ramanand Pande

Hon'ble Krishan Pahal,J.

1. List has been revised.

2. Heard Sri Upendra Kumar Singh, learned counsel for the applicant and Sri Ramanand Pandey and Sri Pardeep Narayan Pandey, learned counsel for the informant as well as Sri Sunil Kumar, learned A.G.A. for the State and perused the material available on record.

3. Applicant seeks bail in Case Crime No. 0369 of 2024, under Sections 123, 316(2), 351(2), 64, 308(2) of B.N.S., Police Station - Naubasta, District - Kanpur Nagar, during the pendency of trial.

PROSECUTION STORY:

4. The applicant is stated to be the private driver of a taxi by which victim used to go up and down to Unnao to attend her duty as a teacher in a college from Kanpur daily.
5. The applicant is stated to have fleeced and fooled her and had taken Rs.50,000/- from her on the pretext that he shall keep on returning her Rs.5000/- per month to settle the said loan. Subsequently, the applicant is stated to have spiked her eatable bhel puri and rendered her unconscious thereby committed rape with her and there are allegations that applicant had taken certain indecent photographs and video of her and kept on blackmailing her and established corporeal relationship with her subsequently.
6. The applicant started blackmailing her and had taken certain amount from her and had even forced her to buy a swift dzire car, in which, the applicant was appointed as nominee showing himself as her husband in the insurance papers.
7. The applicant had even hacked the social media account of the victim and posted certain indecent pictures and remarks on it.
8. There are allegations that applicant had even posted certain indecent posts on his own instagram account.
9. Applicant established corporeal relationship with the victim on 19.07.2024 also, as such, the instant FIR was instituted by the informant on 02.08.2024.

ARGUMENTS ON BEHALF OF APPLICANT:

10. The applicant has been falsely implicated in the present case due to ulterior motive. He has nothing to do with the said offence as alleged in the FIR.
11. The FIR is delayed by about fourteen days and there is no explanation of the said delay caused.
12. The victim is the consenting party as is but evident from the circumstances as there is no recovery of any indecent photographs or video whatsoever.
13. The victim is 43 year old lady and applicant is 21 year old youth.
14. It is not a case of sexual molestation by the applicant rather the case is otherwise.
15. Learned counsel has placed reliance on certain bank statements which have been filed as Annexure 7 to the affidavit whereby, it is indicated that the applicant had transferred an amount of Rs.20,000/- in the account of the informant/victim on 10.06.2024 and Rs.40,000/- on 14.06.2024.
16. Learned counsel has also stated that the matter of taking the car jointly stands fortified from an application which was given to the incharge police station Naubasta, Kanpur Nagar whereby, it was settled that the matter regarding the said swift dzire car bearing No.UP78 HU 2576 stands settled

and the victim shall pay Rs.40,000/- to the applicant.

17. Learned counsel has further stated that other bank statements indicate that in the month of February, 2024, the applicant had transferred an amount of Rs.10,000/- and Rs.1500/- respectively in the account of the victim.

18. The statement of the victim recorded u/s 183 B.N.S.S. itself indicates of false implication as it does not mention about the date and time of offence committed with her.

19. The ingredients of Sections 316(2), 351(2) are not fulfilled.

20. There is no medical corroboration of the incident.

21. 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.

22. The applicant is languishing in jail since 10.08.2024, having no criminal history to his credit, deserves to be released on bail. In case, the applicant is released on bail, he will not misuse the liberty of bail and shall cooperate with trial.

ARGUMENTS ON BEHALF OF INFORMANT/ STATE:

23. The bail application has been opposed on the ground that the bail rejection order passed by the Additional District and Sessions Court No.3, Kanpur Nagar is self explanatory and it is mentioned in it that the victim got CCTV installed at her house after the incident. It is also mentioned that the applicant had bribed the police to the tune of Rs.2 lacs and got the said compromise entered between the parties.

24. Learned counsel has stated that there is a judgment of the Hon'ble Ex-CJI Sri R.C. Lahoti whereby it is stated that the bail rejection or allowing order of the trial court are to be considered at the time of deciding it by the superior Courts in hierarchy.

25. Learned counsel has further stated that character of the applicant stands vilified from the fact that he has posted certain indecent posts on the instagram ID whereby, he has stated that the ladies can be bought by money, you have to earn it only. The screen shots of the instagram had been provided to this Court by the learned counsel whereby, the applicant is seen waving a money towards the public at large and had mentioned the said fact in the caption that "woman can be bought by spending money on them."

26. Learned counsel has further stated that the character of the applicant stands vilified from another fact also as from jail he had tried to get the son of the applicant abducted from school and an application was given by the informant to the Police commissioner, whereby, the same has ordered the police authorities to register the case and investigate on 03.02.2025. The applicant is a

person who brands power in the society and despite being behind the bars and incarcerated he had attempted to get the said offence committed regarding the abduction of the son of the informant, as such, applicant is not entitled for bail.

CONCLUSION:

27. 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.

28. 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 reiterated by the Supreme Court in *Satender Kumar Antil Vs. Central Bureau of Investigation and Ors.*, 2022 INSC 690.

29. Reiterating the aforesaid view, the Supreme Court in the case of *Manish Sisodia Vs. Directorate of Enforcement*, 2024 INSC 595, has again emphasized 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".

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

31. 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.

32. Considering the facts and circumstances of the case, the evidence on record, pending trial and considering the complicity of accused, severity of punishment, taking into consideration the rival submissions and the fact that the FIR is delayed by 14 days and also the fact that learned counsel has mentioned some case law regarding the Hon'ble Ex-CJI R.C. Lahoti but could not produce the said judgment and also the fact that the said instagram posts may show disrespect expressed by the applicant towards woman but it does not indicate that he has committed any offence with the informant, at this stage, 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.

33. Let the applicant- Aman Yadav, who is involved in aforementioned 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 subject to following conditions. Further, before issuing the release order, the sureties be verified.

(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 351 B.N.S.S. 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.

34. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

35. 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 :- 3.3.2025 Priya (Justice Krishan Pahal)