

Anubhav Mishra Alias Golu vs State Of U.P. And 3 Others on 28 February, 2025

Author: Krishan Pahal

Bench: Krishan Pahal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:28200

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43757 of 2024

Applicant :- Anubhav Mishra Alias Golu

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Satya Prakash Mishra

Counsel for Opposite Party :- Avinash Kumar Sharma,G.A.,Yash Pratap Singh

Hon'ble Krishan Pahal,J.

1. List has been revised.

2. Heard Sri Harish Chandra Mishra holding brief of Sri Satya Prakash Mishra, learned counsel for the applicant and Sri Mohd. Junaid Khan holding brief of Sri Yash Pratap Singh, learned counsel for the informant as well as Sri Jay Kishan Chaurasiya, learned State Law Officer and also perused the material available on record.

3. Applicant seeks bail in Case Crime No. 182 of 2022, under Sections 363, 366, 376, 323, 504, 506 of I.P.C. and Sections 5/6 of POCSO Act, Police Station - Manda, District - Prayagraj, during the

pendency of trial.

PROSECUTION STORY:

4. The applicant is stated to be the colleague of the victim and had enticed her away on 28.06.2022 at about 01:00 am.

ARGUMENTS ON BEHALF OF APPLICANT:

5. 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.

6. The FIR is delayed by about two days and there is no explanation of the said delay caused.

7. The timing of the victim leaving her house indicates consent.

8. The consent of the victim can be drawn from the fact that she had gone with the applicant all the way to Pune Maharashtra and has not raised any alarm during the said sojourn. The victim had stayed there for about 11 months although it is true that she got impregnated but the said pregnancy has been terminated at the behest of the informant.

9. The victim by her physical appearance seems to be major as per ossification test report, her age comes out to be 17 years.

10. 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.

11. The applicant is languishing in jail since 07.10.2024, 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 BY STATE LAW OFFICER:

12. The bail application has been opposed but the submissions raised by the learned counsel for the applicant could not be disputed and also the fact that the applicant has no criminal history.

CONCLUSION:

13. 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.

14. 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.

15. 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".

16. Learned State Law Officer could not bring forth any exceptional circumstances which would warrant denial of bail to the applicant.

17. 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 State Law Officer.

18. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, pending trial and considering the complicity of accused, severity of punishment, 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.

19. Let the applicant- Anubhav Mishra @ Golu , 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 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.

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

21. 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 :- 28.2.2025 Priya (Justice Krishan Pahal)