

Ram Achal Yadav vs State Of U.P. Thru. Prin. Secy (Home) ... on 28 February, 2025

Author: Rajesh Singh Chauhan

Bench: Rajesh Singh Chauhan

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:12100

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1653 of 2025

Applicant :- Ram Achal Yadav

Opposite Party :- State Of U.P. Thru. Prin. Secy (Home) Lko.

Counsel for Applicant :- Sukh Deo Singh, Paritosh Shukla, S M Singh Royekwar

Counsel for Opposite Party :- G.A., Anurag Singh, Ashwani Kumar Singh

Hon'ble Rajesh Singh Chauhan, J.

1. Supplementary affidavit filed today by learned counsel for the applicant is taken on record.
2. Heard Shri S.M. Singh Royekwar, learned counsel for the applicant, Shri Bhanu Pratap Singh, learned Additional Government Advocate for the State and Shri Ashwani Kumar Singh, learned counsel for the informant.
3. As per learned counsel for the applicant, the present applicant (Ram Achal Yadav) is languishing in jail since 10.10.2024 in Case Crime No.269 of 2024, under Sections 191 (2), 191 (3), 190 & 103 (2) of Bharatiya Nyaya Sanhita, 2023 (in short B.N.S.) as well as in added Sections 103 (1), 61 (2)

B.N.S., Police Station-Baldirai, District-Sultanpur.

4. Learned counsel for the applicant has submitted that the present applicant has been falsely implicated in this case as he has not committed any offence as alleged in the prosecution story.

5. Attention has been drawn towards the impugned First Information Report (in short F.I.R.) wherein the allegations have been levelled against three accused persons including the present applicant. Further attention has been drawn towards Annexure No.9 of the bail application, which is a report of the Investigating Officer of Police Station-Baldirai, District-Sultanpur submitted before the Chief Judicial Magistrate, Sultanpur indicating therein that after thorough investigation the complicity of the present applicant has not been found in the incident in question as no credible evidence or material could be received, therefore, final report under Section 189 B.N.S.S. has been filed in favour of the present applicant. The Chief Judicial Magistrate, Sultanpur passed an order dated 11.11.2024 referring one document i.e. C.D. No.20 saying that on perusal of the aforesaid document the complicity of the present applicant is seen, therefore, the final report dated 05.11.2024, so far as it relates to the present applicant, is rejected.

6. Shri Royakwar has shown such document which has been enclosed with the bail application as Annexure No.10, showing that even if that document is taken on its face value the implication of the present applicant in the present case appears to be a case of false implication. He further submitted that co-accused namely Arjun Yadav, having identical role, has already been granted bail by this Court vide order dated 04.02.2025 passed in Criminal Misc. Bail Application No.35 of 2025, as such, the applicant is also entitled to be released on bail on the ground of parity.

7. Though, learned counsel for the complainant/ informant has disputed the aforesaid submission of Shri Royekwar, learned counsel for the applicant by submitting that the present applicant is very much involved in the offence in question. Learned counsel for the complainant/ informant has further submitted that if the present applicant is released on bail, he may influence the witnesses. Learned counsel for the informant has vehemently submitted that the Investigating Officer has acted in a manner as if he is with the present accused persons. He has further submitted that the statements of Smt. Shailesh Kumari wife of Manoj Kumar, Smt. Sanju Yadav wife of Umashankar as well as informant have been incorrectly noted by the Investigating Officer inasmuch as those persons had apprised the another story, but the Investigating Officer has indicated the story in favour of the present applicant. Those persons have tried to file the affidavits to that effect before the Investigating Officer, but that affidavits were not taken on record and were not made as a part of case diary. He has also submitted that co-accused - Arjun Yadav and present applicant are influential persons and if they are released on bail they shall influence the chance witnesses.

8. Shri Royekwar has further submitted that since the charge-sheet has been filed, therefore, the present applicant may not influence any witnesses. He has further submitted that the present applicant is having criminal history of one case, i.e. FIR No.0018 of 2024, under Sections 323, 504, 506, 34 I.P.C. in which he has been granted bail by the court below, copy of which is annexed as Annexure No.15 to the bail application. He has undertaken on behalf of the present applicant that the applicant shall not misuse the liberty of bail, if so granted by this Court, and shall abide by all

terms and conditions of the bail order and shall cooperate in the trial proceedings properly.

9. Learned Additional Government Advocate has also opposed the prayer for bail of the present applicant by submitting that the Investigating Officer had filed the final report in favour of the present applicant in a cursory manner and those facts and material may be tested during the course of trial, therefore, any appropriate order may be passed protecting the interest of the prosecution.

10. Having heard learned counsel for the parties and having perused the material available on record; considering the fact that after thorough investigation the complicity of the present applicant has not been found in the incident in question as no credible evidence or material could be received, therefore, final report under Section 189 B.N.S.S. has been filed in favour of the present applicant; the present applicant is having criminal history of one case in which he has been granted bail by the lower court; co-accused -Arjun Yadav, having identical role, has already been granted bail by this Court vide order dated 04.02.2025 passed in CrI. Misc. Bail Application No.35 of 2025, the undertaking that the applicant shall not misuse the liberty of bail and shall abide by all terms and conditions of the bail order and shall cooperate in the trial proceedings properly, without expressing any opinion on merits of the case, I find it appropriate that the present applicant may be enlarged on bail in this case.

11. Accordingly, the instant bail application is allowed.

12. Let the applicant (Ram Achal Yadav) be released on bail in the aforesaid case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

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

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A IPC/269 of the B.N.S., 2023.

(iii) 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./84 of B.N.S.S., 2023 is issued and the 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 IPC/208 of the B.N.S., 2023.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C./351 of B.N.S.S., 2023. 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. The present applicant shall not leave the country without prior permission of the Court.

[Rajesh Singh Chauhan, J.] Order Date :- 28.2.2025 Anand/-