

Mohammad Tarik @ Mohd. Tarik vs State Of U.P. Thru. Prin. Secy. Deptt. ... on 3 March, 2025

Author: Rajesh Singh Chauhan

Bench: Rajesh Singh Chauhan

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:12676

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 353 of 2025

Applicant :- Mohammad Tarik @ Mohd. Tarik

Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Home Lko. And Another

Counsel for Applicant :- Aditya Tiwari

Counsel for Opposite Party :- G.A.,Ankit Upadhyay,Ashwani Pandey,Giriraj Prajapati

Hon'ble Rajesh Singh Chauhan,J.

1. Heard learned counsel for the parties.
2. Sri Giriraj Prajapati, Advocate has filed short counter affidavit of the prosecutrix, same is taken on record.
3. This Court has passed the order dated 27.01.2025, which reads as under:-

"Heard.

This court has passed the order dated 17.01.2025, which reads as under:-

"1. Heard Ms. Shivalika Mishra, learned counsel for the applicant, Sri Ashok Kumar

Singh, learned Additional Government Advocate for the State and Sri Ankit Upadhyay, learned counsel, who has filed Vakalatnama on behalf of the complainant/ prosecutrix/ opposite party No.2, the same is taken on record.

2. As per learned counsel for the applicant, the present applicant (Mohammad Tarik @ Mohd. Tarik) is languishing in jail since 04.12.2024 in Case Crime No.564 of 2024, under Sections 376, 504 & 506 I.P.C. and Section 67 of I.T. Act, Police Station-Krishna Nagar, District-Lucknow.

3. Learned counsel for the parties have stated that the parties have entered into compromise outside the Court.

4. Learned counsel for the prosecutrix has stated that he would be filing the short counter affidavit.

5. List this case on 27.01.2025. On that date, the prosecutrix shall appear in person before the Court to apprise as to what are the terms and conditions of the compromise, if any.

6. When the case is next listed, name of Sri Ankit Upadhyay, learned Advocate be printed in the cause list as counsel for the opposite parties. "

The prosecutrix(X) is present in person along with her Advocate, Sri Ankit Upadhyay.

The prosecutrix has stated that on account of ill advice, she lodged an FIR, recorded her statement under Sections 180 and 183 BNSS. She does not want to prosecute the applicant.

On being asked as to whether she entered into compromise with the applicant, she stated that they have entered into oral compromise as the written compromise can only be entered into when the present applicant comes out from jail.

Learned counsel for the prosecutrix has stated that he wants to file a counter affidavit on behalf of the prosecutrix, indicating therein that the prosecutrix does not want to prosecute the applicant and the FIR etc. has been lodged on ill advice.

Learned AGA has also stated that he has received instruction and may likely to file counter affidavit at the earliest.

Let counter affidavit by the learned AGA, as well as the learned counsel for the prosecutrix be filed within a period of 10 days and no more.

List in the week commencing 10.02.2025, as fresh.

This matter may be taken up after fresh.

The prosecutrix need not appear again on the next date."

4. In the aforesaid affidavit, the prosecutrix has stated that she was in cordial relation with the applicant and due to misunderstanding and mutual discard, the impugned FIR has been lodged. She has no grievance against the present applicant.

5. Learned counsel for the applicant has further submitted that the present applicant is having no prior criminal history of any kind whatsoever. Charge sheet has been filed. He has given an undertaking on behalf of applicant that the applicant shall not misuse the liberty of bail and shall cooperate with the trial proceedings and shall abide by all terms and conditions of bail, if granted.

6. Learned Additional Government Advocate has, however, opposed the prayer for bail but he has not disputed the aforesaid submission of learned counsel for the applicant.

7. Therefore, without entering into the merits of the case and considering the arguments of learned counsel for the parties, contents of affidavit of the prosecutrix that she was in cordial relation with the applicant and due to misunderstanding and mutual discard, the impugned FIR has been lodged. She has no grievance against the present applicant; the present applicant is having no prior criminal history of any kind whatsoever; charge-sheet has been filed and 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 he shall cooperate in the trial proceedings properly, without expressing any opinion on merits of the case, I am of the view that the present applicant may be enlarged on bail.

8. Accordingly, the instant bail application is allowed.

9. Let the applicant (Mohammad Tarik @ Mohd. Tarik), involved in aforesaid 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 with the following conditions which are being imposed in the interest of justice:-

(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 of the Indian Penal Code.

(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. may be issued and if 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 of the Indian Penal Code.

(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. 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.

(v) The applicant shall not leave the country without permission of the Court concerned.

Order Date :- 3.3.2025 Reena/-

(Rajesh Singh Chauhan,J.)