

Rahul Kumar vs State Of U.P. on 30 April, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:68228

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8324 of 2025

Applicant :- Rahul Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Mewa Lal Shukla

Counsel for Opposite Party :- Rajiv Lochan Shukla, Shashank Pandey, Siddharth Shukla,G.A

Hon'ble Sameer Jain,J.

- 1.Rejoinder affidavits filed by applicants are taken on record.
2. Sub Inspector Deepak Rajpoot, Investigating Officer of the case is present in person before this Court pursuant to the order dated 17.4.2025 passed by this Court.
3. On query, with regard to the investigation of the case, however, Sri Deepak Rajpoot Investigating Officer of the case, could not satisfactorily replied but considering the fact that he is a trainee officer and joined the service about a year before and he has also sought apology, this Court does not propose to pass any order against him but this Court hopes, in future he will discharge his duties diligently.
4. Heard Sri Mewa Lal Shukla, learned counsel for the applicant; Sri K.K. Pandey Advocate holding brief of Sri Rajiv Lochan Shukla and Sri Shashank Pandey and Sri Siddharth Shukla, learned counsel for the informant and Sri Ashutosh Singh, learned AGA for the State-respondent.

5. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 337 of 2024, under Sections 115(2), 351(2), 105, 190, 191(3) BNS, Police Station Koraon, District Prayagraj, during pendency of the trial in the court below.
6. FIR of the present case was lodged on 26.11.2024 at 20:36 hours against the applicant and two others and according to the FIR on 26.11.2024 at about 4:15 p.m. in the evening applicant and other two accused made assault upon the son of the informant through wooden stick due to which he sustained serious injuries.
7. Learned counsel for the applicant submitted that initially FIR of the present case was lodged under sections 115(2), 352, 351(2) BNS but after the death of the injured i.e. son of the informant, case was converted under section 105 BNS.
8. He further submitted that from the FIR it reflects that informant of the case was not the eye witness.
9. He further submitted that after two days, Seshmani Shukla the brother of the deceased moved an application on 28.11.2024 and stated that he was alongwith the deceased at the time of incident and he claimed himself to be an eye witness and he also stated that applicant alongwith four others made assault.
10. He next submits, above named Sheshmani Shukla is the sole eye witness as per the prosecution and this fact was first time surfaced through his application but he moved application after two days even after the death of the deceased and informant also did not disclose in the FIR that he was alongwith the deceased at the time of incident, therefore, it appears he was also not the eye witness.
11. He further submitted that even from the post mortem report it reflects that deceased sustained two injuries and as per the allegation made by alleged eye witness Seshmani Shukla in his application dated 28.11.2024 five persons made assault and this fact again falsifies the prosecution case.
12. He further submitted that even on the basis of injuries sustained by deceased at this stage it can not be said that accused persons were having any intention to cause death of the deceased.
13. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 30.11.2024.
14. Per contra, learned counsel for the informant vehemently opposed the prayer for bail and submitted that applicant is very influential and entire investigation is tainted one and Investigating Officer is dancing on the tune of applicant side.
15. He further submitted that from the FIR it reflects that it was lodged on 26.11.2024 at 20:36 hours in the late evening but from the medical report of the deceased dated 26.11.2024 which was prepared at 5:35 p.m. in the evening which has been annexed alongwith the counter affidavit filed by

the informant it reflects that in the medical report even details of the case crime number and sections are mentioned and it is quite surprising that even before lodgement of the FIR how these details find place in the medical report which was prepared earlier than lodgement of the FIR.

16. He further submitted that from the x-ray report of the deceased which he was procured through whatsapp message, it reflects that as many as 8 fractures were found but surprisingly in the post mortem only two injuries were noted by the autopsy surgeon and therefore, all these facts clearly suggests that the investigation of the case could not be conducted properly and only with intention to extent benefit to the applicant and other accused, a tainted investigation was conducted.

17. Learned counsel for the informant, however, could not dispute that only Sheshmani Shukla was the sole eye witness and this fact could only be revealed first time through his application which was moved by him after two days after the death of the deceased.

18. Learned AGA also opposed the prayer for bail and submitted that it appears that investigation of the case could not be properly conducted but it could not be reflected that due to influence of applicant's side it is tainted. He also could not dispute that Sheshmani Shukla is the sole eye witness and this fact could only be revealed when he moved application after two days after the death of deceased.

19. I have heard learned counsel for the parties and perused the record of the case.

20. However, from the entire material available on record it reflects Investigating Officer of the case conducted investigation of the case in most cursory and tainted manner but as far as merit of the present case is concerned, admittedly, even as per counsel for the informant only Sheshmani Shukla, the brother of the deceased was the eye witness who allegedly was alongwith the deceased at the time of incident but this fact could only be revealed when he moved an application to the police station concerned on 28.11.2024 i.e. after two days and from the FIR which was lodged on 26.11.2024 it could not be revealed that he was alongwith the deceased, therefore, prima facie his presence at spot appears to be doubtful.

21. Further, except, Sheshmani Shukla, there is no eye witness account.

22. Further, applicant is having no criminal history and he is in jail in the present matter since 30.11.2024.

23. Therefore, considering the facts and circumstances of the case, discussed above, in my view, applicant is entitled to be released on bail.

24. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is allowed.

25. Let the applicant-Rahul Kumar, be released on bail in the aforesaid case on 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 appear before the trial court on the dates fixed, unless his personal presence is exempted.
- (ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.
- (iii) The applicant shall not indulge in any criminal and anti-social activity.

26. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

27. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 30.4.2025 Ankita