

Vijay Kumar Maurya vs State Of U.P. on 31 January, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:14860

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 663 of 2025

Applicant :- Vijay Kumar Maurya

Opposite Party :- State of U.P.

Counsel for Applicant :- Birendra Kumar Pandey,Vijay Kumar Ojha

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Counter affidavit filed by the State-respondent in the Court is taken on record.
2. Heard Shri Vijay Kumar Ojha, learned counsel for the appellant and Shri Ashutosh Singh, learned A.G.A. for the State-respondent.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No.0378 of 2014, under Sections 103(1), 140(1), 238-A of B.N.S., 2023, Police Station Karchhana, District Prayagraj, during pendency of the trial in the court below.
4. FIR of the present case was lodged on 13.11.2024 against applicant and his associates and according to the FIR on 08.11.2024 at about 5 p.m. in the evening, son of the informant informed him that he is going to drop the applicant at Prayagraj Railway Station as there is his examination in Delhi and on 08.11.2024 at about 7 p.m., son of the informant left his house on his motorcycle and at about 8 p.m. in the evening younger son of the informant witnessed both of them at bazar but son of informant did not return. It is further mentioned in the FIR that Rs.2,98,000/- of the son of the

informant were due upon the applicant, therefore, he committed his murder and concealed his dead-body.

5. Learned counsel for the applicant submits that on the basis of false allegation, applicant has been made accused in the present matter.

6. He further submits that as per the prosecution, on 08.11.2024 at about 8 p.m. in the evening, deceased had gone along with the applicant on the motorcycle and thereafter he did not return but inspite of that FIR of the present case was lodged on 13.11.2024 i.e. after five days and it reflects, after five days a false story has been cooked up by the informant and implicated the applicant in the present matter.

7. He further submits that on 09.11.2024 informant himself lodged a missing report of his son and therefore, till 09.11.2024, he was not having any doubt that applicant had committed some offence against his son and only on 13.11.2024 i.e. after four days, he lodged the FIR of the present case and this fact again suggests that FIR is based on false and frivolous facts.

8. He further submits that actually applicant and deceased were friends and on the request of the applicant, deceased dropped him at Naini Railway Station and thereafter he had gone and subsequently what happened with the deceased, applicant is not aware.

9. He further submits that applicant has explained the evidence of last seen in para 33 and para 3 of the bail application and supplementary affidavit, respectively filed in support of the instant bail application.

10. He further submits that however as per allegation, on 19.11.2024 when applicant was arrested then he confessed his guilt and motorcycle of the deceased was also recovered from his possession but entire recovery is false and planted one and as applicant appeared in the examination at Delhi on 09.11.2024, therefore, there was no occasion for him after committing the murder of the deceased to keep his motorcycle and it appears, after the recovery of the motorcycle of the deceased, it has been shown that it was recovered from the possession of the applicant. He further submits, the fact that applicant appeared in the examination on 09.11.2024 in Delhi has been specifically averred in para-3 of the supplementary affidavit dated 08.01.2025.

11. He further submits that except the last seen evidence and recovery of the motorcycle of the deceased, there is no cogent evidence against the applicant on record.

12. He further submits that applicant is having no criminal history and he is in jail in the present matter since 20.11.2024.

13. Per contra, learned AGA opposed the prayer for bail and submits that there is evidence of last seen against the applicant and from his possession, motorcycle of the deceased was also recovered.

14. He further submits that except the above evidences, there is also evidence that applicant confessed his guilt before Village Pradhan and therefore, at this stage, it cannot be said that there is no evidence against the applicant on record.

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

16. From the record, it reflects that it is a case of circumstantial evidence and according to the prosecution, following circumstances are against the applicant :-

"(i) Applicant was last seen along with the deceased on 08.11.2024 at about 08.00 p.m. in the evening on the motorcycle of the deceased;

(ii) On 19.11.2024, from the possession of the applicant, motorcycle of the deceased was recovered;

(iii) There is extra-judicial confession of the applicant before Village Pradhan."

17. As far as circumstance no.1 is concerned, in this regard, in para-3 of the supplementary affidavit dated 08.01.2025, applicant made a specific averment that on 08.11.2024 however he was alongwith deceased on the motorcycle of the deceased but deceased dropped him at Naini Railway Station and thereafter, he went away and subsequently, what happened with him, he is not aware, therefore, the evidence of last seen has been explained by the applicant.

18. Further, as far as second circumstance that from the possession of the applicant, motorcycle of the deceased was recovered is concerned, considering the fact that there was examination of the applicant on 09.11.2024 in Delhi and he made an averment in this regard in supplementary affidavit dated 08.1.2025 that he appeared in the examination in Delhi on 09.11.2024 and the averment made by the applicant has not been controverted by the learned A.G.A., the argument advanced by learned counsel for the applicant that false and planted recovery of motorcycle of the deceased has been shown against the applicant, cannot be ruled out.

19. Further, as far as third circumstance that there is extra-judicial confession of the applicant before the Village Pradhan is concerned, it is settled that evidence of extra-judicial confession is a weak piece of evidence.

20. Further, applicant is having no criminal history and he is in jail in the present matter since 20.11.2024.

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

22. Accordingly, without expressing any opinion on the merits of the case, the instant criminal appeal is allowed.

23. Let the appellant- Vijay Kumar Maurya, 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 appellant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The appellant 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 appellant shall not indulge in any criminal and anti-social activity.

24. 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 appellant.

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

Order Date :- 31.1.2025 Zafar