

Suraj Kumar vs State Of U.P. on 2 January, 2025

Author: Krishan Pahal

Bench: Krishan Pahal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:577

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 23823 of 2024

Applicant :- Suraj Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Prabha Shanker Mishra, Shyam Shankar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Shyam Shankar Mishra, learned counsel for the applicant, Sri Sunil Kumar, learned A.G.A. for the State and perused the record.
3. Applicant seeks bail in Case Crime No.174 of 2023, under Sections 498A, 304B I.P.C. and 3/4 D.P. Act, Police Station Saraimamrej, District Prayagraj, during the pendency of trial.

PROSECUTION STORY:

4. The marriage of the applicant was solemnized with the daughter of the informant as per Hindu Rites on 24.05.2021. The applicant and other family members are stated to have subjected her to cruelty for demand of dowry, leading her to death subsequently.

ARGUMENTS ON BEHALF OF APPLICANT:

5. The applicant is absolutely innocent and has been falsely implicated in the present case. He has nothing to do with the said offence.

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

7. The brother of the deceased person was panch witness in the inquest proceedings and has not whispered a single word against the applicant.

8. The victim was suffering from depression and had committed suicide, which is but evident from the fact that the door was broke open as it was locked from inside. The said fact stands mentioned in the statements of the witnesses.

9. 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.

10. There is no criminal history of the applicant. The applicant is languishing in jail since 24.06.2023 and is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

ARGUMENTS ON BEHALF OF STATE/INFORMANT:

11. The bail application has been opposed but the submissions raised by the learned counsel for the applicant could not be disputed.

CONCLUSION:

12. ?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.

13. ?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 recapitulated by the Supreme Court in Satender Kumar Antil vs. Central Bureau of Investigation and Ors., 2022 INSC 690.

14. ?Reiterating the aforesaid view the Supreme Court in the case of Manish Sisodia vs. Directorate of Enforcement, 2024 INSC 595 has again emphasised 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".

15. ?Learned A.G.A. could not bring forth any exceptional circumstances which would warrant denial of bail to the applicant.

16. ?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 A.G.A.

17. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, and 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.

18. Let the applicant-Suraj Kumar involved in aforementioned case crime number be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

(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/351 B.N.S.S. 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.

19. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

20. 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 :- 2.1.2025 Ravi/-

(Justice Krishan Pahal)