

Dharmver Singh vs State Of U.P. on 4 February, 2025

Author: Krishan Pahal

Bench: Krishan Pahal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:15581

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44715 of 2024

Applicant :- Dharmver Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajiv Kumar Mishra,Sandeep Singh

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Ms. Manisha Chaturvedi, learned counsel for the applicant, Sri Pranshu Kumar, learned A.G.A. for the State and perused the record.
3. Applicant seeks bail in Case Crime No.125 of 2024, under Sections 64(1), 352, 351(3) BNS and Section 67 I.T. Act, Police Station Nagla Khangar, District Firozabad, during the pendency of trial.

PROSECUTION STORY:

4. The applicant is stated to have spiked the cold-drink of the victim and committed rape with her in the year 2022. The applicant is even stated to have posted certain indecent photographs and video on Face-book by generating a Face-book I.D. in the name of the victim in the year 2023.

ARGUMENTS ON BEHALF OF APPLICANT:

5. The applicant is absolutely innocent and has been falsely implicated in the present case.

6. The FIR is delayed by about two years and there is no explanation of the said delay caused.

7. The victim in her statement recorded under Section 183 B.N.S.S. has categorically stated that she had instituted the FIR out of misconception and expressed her willingness to get the case terminated.

8. After delving deep, the Investigating Officer found that the said indecent photographs and video have been uploaded from a mobile no.9410037182 by using internet and the said phone number was found in the name of one Awadhesh Kumar.

9. The applicant has nothing to do with uploading the said photographs, although in the said confessional statement of the said Awadhesh Kumar, it has come up that the applicant had provided those indecent photographs and video to him.

10. The said statement is not admissible in India Evidence Act as there is no other proof that the applicant had transferred any photographs or video digitally to the said co-accused person Awadhesh Kumar.

11. 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.

12. There is no criminal history of the applicant. The applicant is languishing in jail since 26.10.2024 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:

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

CONCLUSION:

14. ?The Supreme Court in the case of Niranjana Singh and another vs. Prabhakar Rajaram Kharote and Others, AIR 1980 SC 785 has avoided detailed examination of the evidence and elaborate documentation of the merits of the case as no party should have the impression that his case has

been prejudiced. A prima facie satisfaction of case is needed but it is not the same as an exhaustive exploration of the merits in the order itself.

15. 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.

16. ?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.

17. ?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".

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

19. ?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.

20. 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.

21. Let the applicant-Dharmver Singh 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.

22. 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.

23. 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 :- 4.2.2025 (Ravi Kant) (Justice Krishan Pahal)