

Arfan 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:31

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45943 of 2024

Applicant :- Arfan

Opposite Party :- State of U.P.

Counsel for Applicant :- Jitendra Kumar, Keshav Hari Dixit, Purushottam Dixit

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Purushottam Dixit, learned counsel for the applicant, Sri Deepak Kumar Singh, learned A.G.A. for the State and perused the record.
3. Applicant seeks bail in Case Crime No.104 of 2024, under Sections 85/80(2) B.N.S. and Section 3/4 D.P. Act, Police Station Chaubia, District Etawah, during the pendency of trial.

PROSECUTION STORY:

4. The marriage of the sister of the informant was solemnized with the applicant as per Muslim Rites on 10.12.2017 and the applicant used to demand Rs.5 lakhs from her to purchase a plot. The applicant and other family members are stated to have caused her dowry death on 14.09.2024 at about 5:00 p.m. 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 days and there is no explanation of the said delay caused.

7. The ingredients of Section 85 of B.N.S. do not stand fulfilled as there is no particular demand of dowry. It is plainly stated in the FIR that the applicant used to demand Rs.5 lakhs for purchasing a plot, which does not fall within the category of demand of dowry.

8. The brother of the deceased person had given an application before the police station one day before the FIR and has not whispered a single word against the applicant or any other person, rather he has stated that his sister had committed suicide by hanging herself.

9. The cause of death has been found to be asphyxia as a result of ante-mortem hanging.

10. 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.

11. There is no criminal history of the applicant. The applicant is languishing in jail since 18.09.2024 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:

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

CONCLUSION:

13. ?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.

14. ?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.

15. ?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".

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

17. ?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.

18. 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.

19. Let the applicant-Arfan 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.

20. 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.

21. 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)