

# Suresh Chand vs State Of U.P. And 3 Others on 4 February, 2025

**Author: Krishan Pahal**

**Bench: Krishan Pahal**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:15831

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43220 of 2024

Applicant :- Suresh Chand

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Om Prakash

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Arvind Prabodh Dubey, Advocate holding brief of Sri Om Prakash, learned counsel for the applicant as well as Sri Shyam Dhar Maurya, learned A.G.A. for the State and perused the record.
3. Applicant seeks bail in Case Crime No.99 of 2021, under Sections 376, 323 I.P.C. and Section 3/4 POCSO Act, Police Station- Beta-2, District- Gautam Budh Nagar, during the pendency of trial.

**PROSECUTION STORY:**

4. The applicant, who happens to be step-father of the victim, is stated to have committed rape with her, thereby break the said pious relationship between a father and daughter.

**ARGUMENTS ON BEHALF OF APPLICANT:**

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

6. The allegations are per se false. The applicant had married a widow who had five children from her earlier marriage and one offspring was born out of the said marriage with the applicant.

7. The affidavit has been sworn by the elder sister of the victim herself born out of the marriage of her mother.

8. The victim had not turned up after institution of FIR to date. The applicant is languishing in jail since 25.2.2021, as such, the fundamental rights of the applicant enshrined under Article 21 of the Constitution of India stand violated as there is no likelihood of early conclusion of trial in near future.

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 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 status report of the trial was called from the trial court concerned by this Court and the said report dated 18.12.2024 is on record. A bare perusal of the said report says as follows:-

(a) The final report (charge-sheet) was submitted in the instant case on 22.4.2021.

(b) The charge was framed on 20.9.2021.

(c) No prosecution witness of fact has been examined to date. Only PW-2 L/C 2559 Sadhana Singh has been examined on 21.2.2024.

(d) The said report also indicates that the victim has not appeared before the court to date and coercive measures have been undertaken for her presence but to the best

efforts of the court concerned, she did not turn up for evidence.

13. ?The Supreme Court while granting bail to former Tamil Nadu Minister in V. Senthil Balaji v. Enforcement Directorate, 2024 SCC OnLine SC 2626 held that higher thresholds for granting bail in stringent penal statutes like the PMLA, UAPA, and NDPS Act cannot be a tool to keep an accused incarcerated without trial. It emphasized the incompatibility of stringent bail provisions with prolonged delays in trial.

14. While granting bail to ex-West Bengal Minister in Partha Chatterjee v. Enforcement Directorate, 2024 SCC OnLine SC 3729, the Supreme Court reiterated the principle that "a suspect cannot be held in custody indefinitely and that undertrial incarceration should not amount to punitive detention."

"The Court would, nevertheless, ensure that affluent or influential accused do not obstruct the ongoing investigation, tamper with evidence, or influence witnesses, namely, actions that undermine the fundamental doctrine of a fair trial," observed the bench.

15. The Supreme Court in the case of Union of India vs. K.A. Najeeb, AIR 2021 SC 712, has observed as under:-

"We are conscious of the fact that the charges levelled against the respondent are grave and a serious threat to societal harmony. Had it been a case at the threshold, we would have outrightly turned down the respondent's prayer. However, keeping in mind the length of the period spent by him in custody and the unlikelihood of the trial being completed anytime soon, the High Court appears to have been left with no other option except to grant bail."

16. 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.

17. ?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.

18. ?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".

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

20. ?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.

21. 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.

22. Let the applicant- Suresh Chand 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.

23. 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.

24. 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 Vikas (Justice Krishan Pahal)