

# Rishi Singh Alias Ujala vs State Of U.P. on 2 January, 2025

**Author: Shekhar Kumar Yadav**

**Bench: Shekhar Kumar Yadav**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:18

Court No. - 35

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44605 of 2024

Applicant :- Rishi Singh Alias Ujala

Opposite Party :- State of U.P.

Counsel for Applicant :- Sharique Ahmed

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav,J.

1. This is second bail application moved on behalf of the applicant- Rishi Singh Alias Ujala to enlarge him on bail, who is involved in Case Crime No. 227 of 2021, under Sections 147, 148, 341, 307, 120-B I.P.C., Police Station- Barra, District- Kanpur Nagar during the pendency of the trial.
2. The first bail application of the applicant was heard and rejected by co-ordinate Bench of this Court vide order dated 21.3.2024 passed in Criminal Misc Bail Application No.4435 of 2022.
3. Heard Mr. Sharique Ahmed, learned counsel for the applicant, learned counsel for the informant and learned AGA for the State as well as perused the material on record.
4. As per prosecution story, the informant lodged the impugned FIR on 20.3.2021 stating therein that on 21.03.2021 at about 9:30 p.m. Ranjeet Yadav son of the informant was going to his aunt's

house. On the way ahead of Jairam Hospital towards D Block, due to previous enmity, Manoj Singh, Laddu @ Himanshu Gupta, Ujala @ Rishi Singh, Sachin Singh and Sachin Verma with 2-3 unknown persons holding illicit arms in their hands came on four wheeler and surrounded Ranjeet Yadav. Manoj Singh and Ujala @ Rishi Singh with intention to kill Ranjeet Yadav indiscriminately fired upon him. After firing two shots at the injured, the accused ran away from the spot leaving the injured in a serious condition. The F.I.R. of this case was lodged on 22.03.2021 at about 7:07 a.m.

5. Learned counsels for the applicant has submitted that the applicant is innocent and has falsely been implicated in the present case. The applicant has not committed any offence as alleged in the impugned FIR. He submits that at the time of alleged incident, the applicant was in Mahoba which is 400 km away from the place of occurrence. Charge sheet has been filed and till date only one witness i.e. P.W.1- informant, has been examined. The informant and accused applicant belong to the same locality and due to malafide intention, the applicant has been falsely implicated in the present case. There is no motive against the applicant to commit the alleged incident. No weapon or incriminating article has been recovered from the possession of the applicant. Learned counsel for the applicant further submits that co-accused, namely, Sachin Verma and Laddu @ Himanshu Gupta have been granted bail by this Court vide orders dated 7.12.2021 and 15.12.2021 passed in Criminal Misc. Bail Application Nos. 39369 of 2021 and 42959 of 2021, copies of the bail orders has been passed on, the same are kept on record. He submits that the applicant is languishing in jail since 23.3.2021 and the applicant is seeking his release on bail by taking recourse to the provisions of Section 436A of the Cr.P.C. on the ground that he has already undergone detention for a period of 3 years and 9 months. Section 436A reads as under:

"Section 436A Maximum period for which an under trial prisoner can be detained.-

Where a person has, during the period of investigation, inquiry or trial under this Code of an offence under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties."

6. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed forth before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been touched upon at length. It has been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required. Lastly, it is argued that the applicant has criminal history of seven cases and in maximum cases, he has been granted bail by the court below.

7. Learned counsel for the informant and learned A.G.A have vehemently opposed the bail application of the applicant but could not dispute the submission advanced by learned counsel for the applicant.

8. Upon hearing learned counsel for the parties, perusal of record and considering the complicity of accused, severity of punishment as well as totality of facts and circumstances and the applicant is languishing in jail since 23.3.2021, at this stage without commenting on the merits of the case, I find it a fit case for bail.

9. Let the applicant- Rishi Singh Alias Ujala, who is involved in aforementioned case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the Trial Court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A IPC.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C., may be issued and if applicant fails to appear before the Court on the date fixed in such proclamation, then, the Trial Court shall initiate proceedings against him, in accordance with law, under Section 174-A IPC.

(iv) 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. 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.

(v) The Trial Court is directed to make all possible efforts/endeavour and try to conclude the trial within a period of six months after the release of the applicant.

10. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

11. 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.

12. With the aforesaid observations/ directions, the application is allowed.

Order Date :- 2.1.2025 Krishna\*