

Sirajuddin vs State Of U.P. And 3 Others on 28 February, 2025

Author: Krishan Pahal

Bench: Krishan Pahal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:28238

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43828 of 2024

Applicant :- Sirajuddin

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

Counsel for Applicant :- Shailendra Kumar Tripathi

Counsel for Opposite Party :- G.A.,Shiv Kumar Yadav

Hon'ble Krishan Pahal,J.

1. List has been revised. Supplementary affidavit filed in Court today is taken on record.
2. Learned counsel for the informant seeks adjournment on the ground that he needs one week time to file counter affidavit. A perusal of the order sheet indicates that counsel for the informant got the case adjourned on 17.01.2025 to file vakalatnama and counter affidavit and has not filed the counter affidavit in the intervening period of one and a half month. The instant exercise seems to wastage of precious time of Court.
3. Heard Sri Shailendra Kumar Tripathi, learned counsel for the applicant and Sri Shiv Kumar Yadav, learned counsel for the informant as well as Sri Sunil Kumar, learned A.G.A. for the State and perused the material available on record.

4. Applicant seeks bail in Case Crime No. 212 of 2024, under Sections 65(1), 127(2), 316(2), 191(2), 115(2), 351(2) of B.N.S. and Sections 3/5(1) U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 and Section 3/4 of POCSO Act, Police Station - Indargarh, District - Kannauj, during the pendency of trial.

PROSECUTION STORY:

5. The applicant is stated to have established corporeal relationship with the victim about 5 years before the incident and had even video recorded the said act and kept on blackmailing her on the pretext that he shall make it viral on social media. Subsequent to it, he kept on establishing the said relationship for the substantial period of time. On 30.07.2024, he is again stated to have forcibly taken her and had asked her to convert to Islam, on her refusal to do so, he is stated to have threatened her.

ARGUMENTS ON BEHALF OF APPLICANT:

6. The applicant has been falsely implicated in the present case due to ulterior motive. He has nothing to do with the said offence as alleged in the FIR.

7. The FIR is an after thought.

8. It is a clear cut case of false implication.

9. The victim is the consenting party. Her consent can be drawn from the fact that her statement recorded in trial court as PW1, she has stated that she used to go to the chicken farm of the applicant at his calling and established corporeal relationship there.

10. The victim by her physical appearance seems to be major, although as per ossification test report also, her age comes out to be 18 years.

11. There is no recovery of any photograph or indecent video of the victim.

12. 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.

13. The applicant is languishing in jail since 04.08.2024, having no criminal history to his credit, deserves to be released on bail. In case, the applicant is released on bail, he will not misuse the liberty of bail and shall cooperate with trial.

ARGUMENTS ON BEHALF OF INFORMANT/ STATE:

14. The bail application has been opposed on the ground that the said video has been deleted by the applicant.

CONCLUSION:

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 reiterated 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 emphasized 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 AGA 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 AGA.

20. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, pending trial and considering the complicity of accused, severity of punishment, at this stage, 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- Sirajuddin, 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 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 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.

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 :- 28.2.2025 Priya (Justice Krishan Pahal)