

# Sugriv Bharti 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:14981

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 31447 of 2024

Applicant :- Sugriv Bharti

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohd. Shoeb Khan

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Mohd. Shoeb Khan, learned counsel for the applicant, Sri Anit Kumar Shukla, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No.214 of 2024, under Sections 87/70(1) B.N.S., Police Station Khadda, District Kushinagar, during the pendency of trial.
4. Earlier on, this Court was pleased to pass the following order vide order dated 07.01.2024:-

"The matter relates to Case Crime No.214 of 2024 under Section 87/70(1) of B.N.S. Police Station Khadda District Kushinagar.

In the present case, victim is major girl aged about 18 years. She in her statement has made an allegation inter alia that on 04.07.2024 accused Akash along with his friend Sugriv (applicant) took her to a hotel on bike and stayed together and thereafter they have committed rape on her. Next day i.e. on 05.07.2024, when she woke up in the morning and came outside, she saw that those people were talking with two men and Akash was demanding Rs. 10,00,000/-, whereas they were inclined to give Rs. 7,00,000/-, and they were about to sell her in Jaipur. Then she ran towards the room and called her father, and told everything. After that her father brought her to the police station.

Main substratum of argument of learned counsel for the applicant is that applicant has been falsely implicated in this case. During investigation victim refused for her medical examination. The Investigating Officer, in C.D. No. 7 has also mentioned that when the registers of nearby hotels were checked, no hotel was found where Akash and Sugriv (applicant) had stayed along with victim on 05.07.2024. Even despite making query from the victim and her father they have not disclosed about the name of the hotel and the place of incident. It is also mentioned that no authentic evidence was found regarding the victim talking about selling herself. Despite the said observation in the case diary, the Investigating officer without conducting the fair investigation submitted charge-sheet. It is next submitted that not only fair trial but fair investigation is also the legal right of the accused.

Much emphasis has been given by contending that when amended law (B.N.S.) has provided stringent punishment, then it is mandatory duty of the State to ensure fair investigation.

Learned Government Advocate for the State prays for and is allowed two weeks? time to seek instructions in the mater.

Put up this matter as fresh on 20th January, 2025.

Learned Government Advocate shall communicate this order to the Principal Secretary (Home), U.P. Lucknow and the Director General of Police, U.P. Lucknow."

5. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case. He is a youth aged about 24 years and the victim is major. As per High School Certificate of the victim, her date of birth was 05.06.2006, as such, she comes out to be 18 years and 29 days old on the date of occurrence. The victim was having love affair with the co-accused person Akash and there is no evidence whatsoever collected by the Investigating Officer during investigation regarding the stay of the applicant and the co-accused person at the said hotel with the victim.

6. Learned counsel for the applicant has further stated that there is no proof of any money being exchanged between the parties. The final report (charge-sheet) has already been filed. 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. There is no criminal history of the applicant. The applicant is languishing in jail since 10.07.2024 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

7. Learned A.G.A. has vehemently opposed the bail application on the ground that the conduct of the Investigating Officer was not found up to the mark and a bad entry has been given to him, as such, the applicant is not entitled for bail as the Investigating Officer had acted in collusion with the applicant.

8. The Supreme Court in the case of Niranjan 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.

9. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, and taking into consideration the settled law of the Supreme Court passed in Satender Kumar Antil vs. Central Bureau of Investigation and Ors., 2022 INSC 690 and Manish Sisodia vs. Directorate of Enforcement, 2024 INSC 595 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.

10. Let the applicant- Sugriv Bharti, 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 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.

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

12. 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)