

Anshu Shukla vs State Of U.P. Thru. Addl. Chief Secy. ... on 3 March, 2025

Author: Rajesh Singh Chauhan

Bench: Rajesh Singh Chauhan

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:12757

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1490 of 2025

Applicant :- Anshu Shukla

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Lko.

Counsel for Applicant :- Rama Kant Jayswal,Kapil Dev Mishra

Counsel for Opposite Party :- G.A.,Ajeet Kumar Singh

Hon'ble Rajesh Singh Chauhan,J.

1. Heard Sri Rama Kant Jayswal, learned counsel for the applicant, Sri Arun Kumar Verma, learned A.G.A. for the State and Sri Ajeet Kumar Singh, learned counsel for the complainant who has filed counter affidavit, same is taken on record.

2. Learned counsel for the applicant has filed two supplementary affidavits, same are taken on record.

3. It has been contended by the learned counsel for the applicant that the applicant is in jail since 8.1.2025 in Case Crime No. 278 of 2016 u/s 147, 302 IPC, P.S. Kotwali City, District Hardoi. It has

been submitted that the applicant has been falsely implicated in this case as he has not committed any offence as alleged.

4. Attention has been drawn towards the impugned F.I.R. which was lodged on 25.5.2016 for the alleged incident dated 19.5.2016 without explaining the reason of delay properly. Learned counsel has stated that after lodging of the aforesaid F.I.R. the investigation started and nothing incriminating has been found against the applicant, therefore, the final report was filed. However, on such final report the competent authority has directed for further investigation transferring the investigation to another agency i.e. Crime Branch. The matter was investigated by the crime branch and crime branch found that the earlier final report was rightly filed.

5. On the aforesaid report and earlier final report the protest was filed by the informant and on such protest application the Chief Judicial Magistrate, Hardoi passed order dated 18.12.2020 (Annexure no. 2 to the supplementary affidavit) allowing the protest application summoning the present applicant and other co-accused persons. Against the order dated 18.12.2020 the criminal revision was filed wherein no interim order was granted but the present applicant could not be arrested. The summoning order, bailable order and non-bailable order has been issued against the present applicant, pursuant thereto he was taken into judicial custody on 8.1.2025 and since then the applicant is in jail.

6. Learned counsel has stated that in the F.I.R. the main allegation has been levelled against the accused Rahul Singh and as per the statement of the witnesses the main accused Rahul Singh had come to the place of deceased to call him. As per statement of the supplementary statement (Majeed Bayan) of Brijesh Kumar Singh, father of the victim (since deceased), the main accused Rahul Singh is the main accused who had come to call his son Amit Singh and no other accused persons were with the main accused Rahul Singh.

7. As per the prosecution story the main accused Rahul Singh was having motive against the deceased as he was having suspicion that the deceased was having illicit relation with his wife. The cause of death is coma due to ante-mortem injury. As per investigation report the deceased jumped into the swimming pool and received head injury and that head injury was fatal. There is no allegation that the present applicant has beaten the victim but as a matter of fact, prima -facie, the incident in question was an accident and this fact may be ascertained during the course of trial. However, so far as the present applicant is concerned he has been falsely implicated. In paras no. 2 to 5 of the supplementary affidavit the learned counsel for the applicant has explained the criminal history enclosing therewith the bail orders.

8. The learned counsel for the applicant has given an undertaking on behalf of applicant that the applicant shall not misuse the liberty of bail and shall cooperate with the trial proceedings and shall abide by all terms and conditions of bail, if granted.

9. Learned A.G.A. opposed the prayer for bail but could not dispute the aforesaid facts as argued by the learned counsel for the applicant.

10. Without entering into the merits of the case and considering the arguments of learned counsel for the parties, contents and allegations of the F.I.R., the fact that the F.I.R. was lodged on 25.5.2016 for the alleged incident dated 19.5.2016 without explaining the reason of delay properly, in the investigation started and nothing incriminating has been found against the applicant, therefore, the final report was filed, on such final report the competent authority has directed for further investigation transferring the investigation to another agency i.e. Crime Branch, the matter was investigated by the crime branch and crime branch found that the earlier final report was rightly filed, in the F.I.R. the main allegation has been levelled against the accused Rahul Singh and as per the statement of the witnesses the main accused Rahul Singh had come to the place of deceased to call him, as per statement of the supplementary statement (Majeed Bayan) of Brijesh Kumar Singh, father of the victim (since deceased), the main accused Rahul Singh is the main accused who came to call his son Amit Singh and no other accused persons were with the main accused Rahul Singh, as per the prosecution story the main accused Rahul Singh was having motive against the deceased as he was having suspicion that the deceased was having illicit relation with his wife, cause of death is coma due to ante-mortem injury, as per investigation report the deceased jumped into the swimming pool and received head injury and that head injury was fatal, there is no allegation that the present applicant has beaten the victim, in paras no. 2 to 5 of the supplementary affidavit the criminal history of the applicant has been explained enclosing therewith the bail orders and the undertaking given on behalf of the applicant that he shall not misuse the liberty of bail and shall cooperate in the trial proceedings, the applicant is entitled to be released on bail in this case.

11. Bail application is allowed.

12. Let the applicant Anshu Shukla, involved in aforesaid 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 with the following conditions which are being imposed in the interest of justice:-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates 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 of the Indian Penal Code.

(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 the 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 of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) 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 applicant shall not leave the country without permission of the Court concerned.

13. It is made clear that the role of the present applicant is different from the role of co-accused Rahul Singh, therefore, Rahul Singh may not seek parity with the present applicant.

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(Rajesh Singh Chauhan, J.) Order Date :- 3.3.2025/Om