

Ashutosh Kumar Soni vs State Of U.P. on 25 April, 2025

Author: Samit Gopal

Bench: Samit Gopal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:64085

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 5144 of 2025

Applicant :- Ashutosh Kumar Soni

Opposite Party :- State of U.P.

Counsel for Applicant :- D.M.Tripathi

Counsel for Opposite Party :- G.A.,Harish Chandra Gupta

Hon'ble Samit Gopal,J.

1. List revised.
2. Heard Sri D.M. Tripathi, learned counsel for the applicant, Sri Ajay Kumar holding brief of Sri Harish Chandra Gupta, learned counsel for the first informant, Sri V.D. Ojha, learned counsel for the State and perused the material on record.
3. Vakalatnama of Sri Harish Chandra Gupta, learned counsel for the first informant is not on record despite his name being printed in the cause list.
4. Office to trace out the same and place it on record and make a note in the order sheet regarding the same.

5. This bail application under Section 483 B.N.S.S has been filed by the applicant-Ashutosh Kumar Soni, seeking enlargement on bail during trial in connection with Case Crime No.95 of 2024, u/s 323, 504, 506, 120-B, 34, 302, 307 IPC, P.S. Pipari, District Kaushambi.

6. The FIR of the matter was lodged on 12.5.2024 by Prashant Kumar Soni against the applicant, Ram Balak Soni, Avinash Soni, Dharmraj Soni, Akhilesh Soni, Ashish Soni and Siyaram Soni with the allegation that an application was given against his father Suresh Soni by Ram Balak Soni at the police station in which he had taken his father to police chauki Chayal where the accused persons were also present and assaulted his father inside the chauki after which the police took them and proceeded for police station Pipari and told them to reach there on which he along with his father were also going to police station Pipari wherein on the way Akhilesh Soni, Ashish Soni and Siyaram Soni armed with country-made pistol and iron rod lying in wait for them assaulted them on account of which they received injuries and his father also received many injuries amongst injury on his head and became unconscious and fell down. The accused persons considering his father to be dead while extending threat ran away. He and his father were taken to Government Hospital, Chayal where on finding the condition of his father to be serious, he was referred to District Hospital, Manjhanpur from where he was referred to a higher centre.

7. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that FIR was initially lodged under Section 147, 148, 323, 504, 506, 308 IPC. Subsequently Suresh Kumar Soni died and the matter was converted in the case in which the present bail application has been filed. In so far as the role of the applicant is concerned, he is not amongst the three persons i.e. Akhilesh Soni, Ashish Soni and Siyaram Soni who were armed with country-made pistol and iron rod and lying in wait for them assaulted the informant and the deceased and ran away. Even the first informant reiterates his version in statement under Section 161 Cr.P.C. but subsequently in his supplementary statement under Section 161 Cr.P.C. assigns the role of conspiracy to the applicant. Initially after lodging of the FIR, the applicant and three other persons filed a Criminal Misc. Writ Petition No.8678 of 2024 (Ram Balak Soni and 3 others Vs. State of U.P. and 2 others) in which the Division Bench of this Court vide order dated 24.5.2024 had stayed the arrest of the petitioners therein till filing of police report under Section 173(2) Cr.P.C., copy of the same is annexed as Annexure No.8 to the affidavit filed in support of bail application, the said order reads as under:-

"Heard learned counsel for the petitioners, Sri Sobhit Agarwal, Advocate, holding brief of Sri Ashvni Mishra, learned counsel for the respondent and learned A.G.A. for the State respondents.

Learned counsel for the informant informs that subsequently petitioners have been implicated by the Investigating Officer under Section 304, 120B, 34 I.P.C also.

Upon oral request, learned counsel for the petitioners, is permitted to add the aforesaid sections in the prayer clause of the writ petition during the course of the day.

The present writ petition has been preferred with the prayer to quash the impugned First Information Report dated 12.05.2024, registered as Case Crime No. 95 of 2024, under sections 147, 148, 323, 504, 506, 308, 304, 120-B, 34 I.P.C, Police Station- Pipri, District - Kaushambi, and for a direction to the respondents not to arrest the petitioner in pursuance of impugned First Information Report.

The allegation of committing offence of culpable homicide in the first information report has not been assigned to the petitioners but to the co-accused, Akhilesh Soni, Ashish Soni and Siya Ram.

Learned counsel for the petitioners submits that it is case of false implication of the petitioners.

Respondent no.3 submits that the role of causing the offence under Sections 323, 504 I.P.C is also against the petitioners.

Learned AGA has opposed the submissions made by learned counsel for the petitioner.

Petition is disposed of directing that till submission of police report under Section 173(2) Cr.P.C., by the court the respondents shall not arrest the petitioners pursuant to the First Information Report dated 12.05.2024 subject to cooperation in ongoing investigation "

8. It is further argued that co-accused Satyendra Soni alias Lala who is not named in the FIR has been granted bail by a coordinate Bench of this Court vide order dated 14.11.2024 in Criminal Misc. Bail Application No.36406 of 2024, copy of the same is annexed on page 122 as Annexure No.11 to the affidavit filed in support of bail application, the said order reads as under:-

"1. List has been revised.

2. Heard Sri Vivek Srivastava, learned counsel for the applicant and Sri Ajay Kumar, learned counsel for the informant as well as Sri R.P. Patel, learned State Law Officer for the State and perused the record.

3. Applicant seeks bail in Case Crime No.95 of 2024, under Sections 323, 504, 506, 120B, 34, 302 and 307 I.P.C., Police Station Pipari, District Kaushambi, during the pendency of trial.

PROSECUTION STORY:

4. The named accused persons, namely, Rambalak Soni, Avinash Soni, Ashutosh Soni, Dharmraj Soni, Ashish Soni and Siyaram Soni, are stated to have assaulted the informant and his father on 11.05.2024 at some unknown time. The father of the

informant is stated to have succumbed to the injuries at hospital.

ARGUMENTS ON BEHALF OF APPLICANT:

5. The applicant is not named in the FIR and his name has come up in the statement of the informant recorded under Section 161 Cr.P.C. It was the informant himself who had nominated seven accused persons and leaving out the name of the applicant speaks volume of the fact that he has been subsequently falsely implicated in the case.

6. The FIR is delayed by about one day as no time of offence is mentioned in it, but the FIR has been instituted the next date at 12:15 p.m.

7. 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.

8. There is no criminal history of the applicant. The applicant is languishing in jail since 01.08.2024 and 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:

9. The bail application has been opposed but the submissions raised by the learned counsel for the applicant could not be disputed.

CONCLUSION:

10. 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.

11. 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.

12. 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".

13. Learned State Law Officer could not bring forth any exceptional circumstances which would warrant denial of bail to the applicant.

14. 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 State Law Officer.

15. 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.

16. Let the applicant- Satyendra Soni Alias Lala 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. 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.

17. 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.

18. 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."

9. It is further argued that co-accused Avinash Kumar Soni has been granted bail by a coordinate Bench of this Court vide order dated 24.1.2025 in Criminal Misc. Bail Application No.2702 of 2025, copy of the same is annexed on page 125 as Annexure No.11 to the affidavit filed in support of bail application, the said order reads as under:-

"1. List has been revised.

2. Heard Sri D.M. Tripathi, learned counsel for the applicant and Sri Ajay Kumar, learned counsel for the informant as well as Sri R.P. Patel, learned State Law Officer for the State and perused the record.

3. Applicant seeks bail in Case Crime No.95 of 2024, under Sections 302, 307, 120-B, 34 I.P.C., Police Station- Pipari, District- Kaushambi, during the pendency of trial.

PROSECUTION STORY:

4. The named accused persons, namely, Ram Balak Singh, Avinash Soni, Ashutosh Soni and Dharm Raj Soni, are stated to have assaulted the father of the informant inside the police chauki, whereby the police had apprehended the said four accused persons.

5. Subsequent to it, the father of the informant was leaving for police station Pipari, whereby enroute at Makhupur turn the named accused persons, namely, Akhilesh Soni, Ashish Soni and Siyaram Soni, armed with country-made pistol and iron rod assaulted the informant and his father causing grievous injuries to their head and other parts of the body on 11.5.2024.

ARGUMENTS ON BEHALF OF APPLICANT:

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

7. The FIR is delayed as it was instituted the next day on 12.5.2024 at 12:15 p.m. and there is no explanation of the said delay caused.

8. The time of incident is not mentioned in the FIR. The said time has come up subsequently in the supplementary statement of the informant, whereby it is shown to be at 11:00 a.m. on 11.5.2024.

9. The applicant has not been assigned the role of causing grievous injuries to the informant and his father who had succumbed to the injuries subsequently.

10. 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.

11. There is no criminal history of the applicant. The applicant is languishing in jail since 23.12.2024 and 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/OPPOSITE PARTY:

12. The bail application has been opposed on the ground that the informant and his father both were injured and had sustained grievous injuries. The condition of the

father of the informant was serious and they both were admitted at hospital, as such, delay in instituting the FIR was but natural.

13. The applicant had assaulted the father and son duo at the police chauki, as such, he is not entitled for bail.

CONCLUSION:

14. In light of the judgement of the Supreme Court passed in Niranjana Singh and another vs Prabhakar Rajaram Kharote and others AIR 1980 SC 785, this Court 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.

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 recapitulated 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 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.

18. Learned State Law Officer 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 State Law Officer.

20. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, taking into consideration the

(i) The applicant shall not tamper with evidence.

22. 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.

10. It is further argued that co-accused Dharamraj Soni has been granted bail by a coordinate Bench of this Court vide order dated 31.1.2025 in Criminal Misc. Bail Application No.2956 of 2025, copy of the same is annexed on page 129 as Annexure No.11 to the affidavit filed in support of bail application, the said order reads as under:-

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4. ????? ?????? ????? ?????? ?????? 95 ??? 2024, ??? 302, 307, 120-B, 34, 323, 504, 506 ???.??., ???-????, ???- ????????, ??? ?????? ????? ?????????-???? ????????? ????? ??

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7. ?? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? 1993 ?????????? ?? ?????? 938 ??? ?? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? MANU/SCOR/22410/2021 ??? ?????????? ?????? ?????? ?????? ?????? ?????? ? ?????, 2022 ?? ???. ???. ???. 690 ??? ?????????????? ??????????, ?????? ?? ?????? ??? ?????????????? ?? ??? ?? ?? ?? ?????? ?????? ? ?????? ?? ?????????? ?? ??? ?? ?????? ?????? ?? ?????? ?? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??

8. ?????????? ?????? ?????? ?? ?????? ?? ?????????? ?????? ?????????? ?????? ?? ?????????????? ?????? ?? ?????? ?????????? ?????????? ?? ?????????? ?? ?? ?? ?????????? ?????? ?? ?????? ?????? ?? ?? ?????????? ?????????? ?????? ?? ?????? ?? ?????? ?????? ??????

(1) ?????? ?????????? ?? ??? ?????????? ?????? ??????

(ii) ????? (1) ?????? ?? ?????????? ?????, (2) ??? ?? ??? ?? (3) ??? 313 ?????????/351 ?????? ?????? ?????????? ?????? ?? ?????????? ?????? ?????? ?? ?? ?????????? ?????????? ??, ?????????? ?? ??, ?????? ?????????? ?? ?????? ?????????? ?????? ?? ?????? ?????????? ?? ?? ??? ?????? ?? ?????????????? ?????????? ?? ?????????? ?????? ?? ?????? ??, ?? ?????? ?? ?????? ?? ?? ?? ?? ?? ?? ?????? ?? ?????????? ?????? ?? ?????? ?????? ?????? ??????

9. ?????????? ?????? ?? ?? ?????? ?? ?????????? ?? ?????? ??, ?? ?????? ?????? ?????? ?? ?????? ?????? ?????????? ?????????? ?? ?????? ?? ?????? ?????? ?? ?????????????? ?? ??????, ?????? ?? ?????? ?????????? ?????????? ?????????? ?????? ??????"

11. It is argued that co-accused Ram Balak Soni has also been granted bail by this Court vide order dated 9.4.2025 passed in Criminal Misc. Bail Application No.5281 of 2025. It is argued that case of the applicant is identical to that of co-accused Ram Balak Soni. It is argued that there is no recovery of any discriminating articles as used in the offence either from the possession of the applicant or

pointing out of the applicant. It has also been pointed out that the applicant is not having any criminal history as stated in para 29 of the affidavit. The applicant is in jail since 30.1.2025.

12. Per contra learned counsel for the first informant and learned counsel for the State opposed the prayer for bail and argued that the applicant was the person who had initially assaulted the first informant and his father at the police station and subsequently had exhorted the accused persons and had conspired for the present incident in which while on the way the first informant and his father were assaulted and his father during treatment died later on, as such the prayer for bail be rejected.

13. After hearing the counsel for the parties and perusing the record, it is evident that in so far as the incident regarding assault is concerned, the same is stated to be by co-accused Akhilesh Soni, Ashish Soni and Siyaram Soni as per FIR. The case of the applicant is distinguishable with that of co-accused Akhilesh Soni, Ashish Soni and Siyaram Soni. The applicant was not involved therein. Co-accused persons have been granted bail by coordinate Bench of this Court.

14. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

15. Let the applicant-Ashutosh Kumar Soni, be released on bail in the aforesaid case crime number on 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 will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) 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.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. 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 I.P.C.

(v) 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 and the trial court may proceed against him under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

16. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

17. The bail application is allowed.

(Samit Gopal, J.) Order Date :- 25.4.2025 Gaurav Kuls