

Vipin Tyagi vs State Of U.P. on 28 February, 2025

Author: Krishan Pahal

Bench: Krishan Pahal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:28099

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39598 of 2024

Applicant :- Vipin Tyagi

Opposite Party :- State of U.P.

Counsel for Applicant :- Akash Tyagi,Naveen Kumar Yadav,Pankaj Kumar Tyagi,Pradeep Kumar

Counsel for Opposite Party :- Awadh Sharma,Chandan Yadav,Dipanshu Kushwaha,G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.

2. Heard Sri Pankaj Kumar Tyagi, learned counsel for the applicant and Sri Awadh Sharma, learned counsel for the informant as well as Sri Arun Kumar Mishra, learned A.G.A. for the State and perused the record.

3. Applicant seeks bail in Case Crime No.817 of 2024, under Sections 123, 75(2), 78(2), 351(3), 64 B.N.S., Police Station Nandgram, District Ghaziabad, during the pendency of trial.

PROSECUTION STORY:

4. The applicant, who happens to be a fitness trainer at the gym, is stated to have outraged the modesty of the victim and had taken certain indecent photographs of her and had blackmailed her to make them viral on social media.

5. The applicant is even pressed her for undue favours in the month of August, 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 by about one month and there is no explanation of the said delay caused. The FIR does not indicate any allegation of rape. The FIR was instituted by the victim herself and she has not whispered a single word about sexual assault.

8. The allegations of sexual assault have been levelled by the victim in her statements recorded under Sections 180 and 183 B.N.S.S. as an afterthought.

9. Only two photographs were recovered from the mobile of the applicant, which were not made viral by the applicant anywhere. The said photographs are not indecent. The applicant and the victim are embrace with each other in the said photographs.

10. There is no medical corroboration of the incident.

11. The victim is a married lady aged about 37 years and the applicant is also a married person aged about 38 years.

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. There is no criminal history of the applicant. The applicant is languishing in jail since 09.09.2024 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:

14. The bail application has been opposed on the ground that the applicant used to such kind of incidents as he had earlier on also ruined the life of another lady and she had given an application before the police station, but the matter was sorted out between the two but his tactics continued, as such, another application was given by her at the police station.

15. Learned counsel for the informant has provided a copy both the applications, which are undated and do not mention the receipt.

CONCLUSION:

16. ?The Supreme Court in the case of Niranjana 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.

17. 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.

18. ?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.

19. ?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".

20. ?Learned A.G.A. could not bring forth any exceptional circumstances which would warrant denial of bail to the applicant.

21. ?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 A.G.A.

22. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, taking into consideration the delay in the institution of the FIR coupled with the fact that the said photographs do not seem to be obscene and also the fact that they have not been made viral on social media, 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.

23. Let the applicant- Vipin Tyagi 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/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.

24. 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.

25. 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 (Ravi Kant) (Justice Krishan Pahal)