

# Ajay Nishad vs State Of U.P. on 2 January, 2025

**Author: Krishan Pahal**

**Bench: Krishan Pahal**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:665

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 28406 of 2024

Applicant :- Ajay Nishad

Opposite Party :- State of U.P.

Counsel for Applicant :- Pramod Kumar Maurya

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. Heard SriPramod Kumar Maurya, learned counsel for the applicant, Sri Ashutosh Srivastava, learned A.G.A. for the State and perused the material placed on record.

2. Applicant seeks bail in Case Crime No. 329 of 2024, under Sections 498A, 304B, 323, 328 I.P.C. and Section 3/4 of D.P. Act, Police Station Ramgarhtal, District Gorakhpur, during the pendency of trial.

3. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case. The instant case is a misuse of process of law as two witnesses have been examined as PW-1 and PW-2 and they have not supported the prosecution story. They have completely resiled from their earlier statement given to the I.O. and the allegations

of the FIR. The witnesses have been cross-examined by the public prosecutor after declaring them hostile. Learned counsel has further stated that there is no possibility of conviction in the present case under the circumstances.

4. 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.

5. There is no criminal history of the applicant. The applicant is languishing in jail since 01.06.2024 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

6. Learned A.G.A./State Law Officer has vehemently opposed the bail application.

7. 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.

8. Let the applicant-Ajay Nishad, 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. 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.

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

10. 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 :- 2.1.2025 Sumit S (Justice Krishan Pahal)