

Gaurav Singh vs State Of U.P. And 3 Others on 3 March, 2025

Author: Krishan Pahal

Bench: Krishan Pahal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:29414

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3793 of 2025

Applicant :- Gaurav Singh

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Ray Sahab Yadav

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

Hon'ble Krishan Pahal,J.

1. List has been revised.

2. Heard Sri Ray Sahab Yadav, learned counsel for the applicant and Sri Vivek Kumar Singh, learned counsel for the informant as well as Sri Pranshu Kumar, learned A.G.A. for the State and perused the record.

3. Applicant seeks bail in Case Crime No. 73 of 2024, under Sections 323, 376D, 504, 506 I.P.C. and Section 3(2)(V) of SC/ST Act, Section 5g/6 of POCSO Act, Police Station Rampur, District Jaunpur, during the pendency of trial.

PROSECUTION STORY:

4. The FIR was instituted by the informant stating that her minor daughter was forcibly abducted by the applicant and co-accused Prince Kumar Gautam on his motorcycle bearing no. UP62 BU5970 and both of them have gang raped her by taking her near Saraswati P.G. College. The applicant is even stated to have beaten up the minor daughter of the informant.

ARGUMENTS ON BEHALF OF APPLICANT :

5. The applicant has been falsely implicated in the present case and he has nothing to do with the said offence.

6. The FIR is delayed by about 13 hours and there is no explanation of the said delay caused.

7. The victim by her physical appearance seems to be major, although, she is stated to be 17 and 1/2 years old as per FIR.

8. There is no medical corroboration of the allegation made in the FIR as no injury was observed by the doctor on the ear of the victim.

9. It is true that certain redness and slight injury was observed on the vital part of the victim but the same cannot be attributed to the applicant.

10. The victim in her statement recorded under section 164 Cr.P.C. has stated that two persons who had ravished her were unknown persons and she did not know them and she has mentioned the names of the co-accused persons on being told by her family members.

11. No test identification parade has been conducted by the police to verify the identity of the assailants.

12. The applicant has an animosity with the informant over an old altercation, as such, the applicant has been falsely implicated in the case.

13. 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.

14. There is no criminal history of the applicant. The applicant is languishing in jail since 04.05.2024. The applicant 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 INFORMANT :

15. The bail application has been opposed on the ground that the victim has sustained injury on her vital part of the body, although he could not dispute the fact that there is no injury sustained by the victim in her ear in the medical examination but she has undertaken the treatment at a private

hospital regarding the injuries sustained in her ear.

CONCLUSION:

16. 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.

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 AGA 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 AGA.

22. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, taking into consideration the fact that there is no test identification parade conducted regarding the identity of the accused persons, 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- Gaurav Singh 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 :- 3.3.2025 Sumit S (Justice Krishan Pahal)