

Shivam Patel vs State Of U.P. on 2 January, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:391

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47003 of 2024

Applicant :- Shivam Patel

Opposite Party :- State of U.P.

Counsel for Applicant :- Siddharth Niranjana

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Sri Salman Ahmad, Advocate, filed his power on behalf of informant, which is taken on record.
2. Short counter affidavit filed by the informant is taken on record.
3. Heard Sri Siddharth Niranjana, learned counsel for the applicant, Sri Salman Ahmad, learned counsel for the informant and Sri Jhamman Ram, learned AGA-I for the State-respondent.
4. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 162 of 2024, under Sections 103(1)/3(5) BNS, Police Station- Ait, District- Jalaun, during pendency of the trial in the court below.
5. FIR of the present case was lodged on 16.08.2024 against applicant and his father i.e. co-accused Krishnapal and according to FIR, on 15.08.2024 at about 15.30 hours in the evening, applicant and his father i.e. co-accused Krishnapal committed the murder of the father of the informant through axe. It is further mentioned in the FIR that incident has been witnessed by sister of the informant

Meena and uncle of the informant Bahadur.

6. Learned counsel for the applicant submitted that on the basis of false allegation, applicant has been made accused in the present matter and actually, he never participated in the alleged incident.

7. He further submitted that admittedly informant was not an eyewitness. He further submitted that however, according to FIR, Meena and Bahadur were the eye-witness but during investigation, Deepak, Haider Ali and Mewarani were also introduced as eye-witnesses.

8. He further submitted that as per the statements of Bahadur, Deepak and Haidar Ali, while deceased was going along with father of the applicant i.e. co-accused Krishnapal, some dispute arose between both of them and co-accused Krishnapal caused axe injury to him and thereafter applicant also arrived at a spot and after taking axe from the hand of his father, he also caused axe injury to him but according to eye-witnesses Meena and Mewarani, applicant was also along with his father i.e. co-accused Krishnapal and deceased and when his father caused injury to the deceased then thereafter he also caused injury to the deceased and this fact clearly suggests that only being son of co-accused Krishnapal, applicant has been made accused in the present matter.

9. He further submitted that however, as per prosecution, on the joint pointing out of the applicant and his father the axe, which was alleged to have been used in the crime, was recovered but recovery was made from an open place.

10. He further submitted that applicant is not having any criminal history and in the present matter, he is in jail since 16.08.2024.

11. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that the alleged incident has been witnessed by as many as five witnesses and all of them stated that applicant along with his father i.e. co-accused Krishnapal caused axe injury to the deceased but both the counsels could not dispute the fact that three eye-witnesses stated that applicant was not present at the spot along with the deceased and co-accused Krishnapal and he subsequently arrived at the spot and thereafter caused injury to the deceased and two eye-witnesses stated that applicant was also going along with his father and deceased and therefore, there are contradictions with regard to presence of the applicant at the spot. They further could not dispute the fact that the applicant is not having any criminal history and recovery of alleged axe was made from an open place, which was accessible to all.

12. I have heard both the parties and perused the record of the case.

13. However, as per statements of eye-witnesses, applicant also caused injury to the deceased through axe but even from the statements of eye-witnesses, it reflects that principal accused was father of the applicant i.e. co-accused Krishnapal. Further, there are contradictions in the statements of the eye-witnesses with regard to presence of the applicant at the spot. According to three eye-witnesses, applicant was not present at spot along with his father i.e. co-accused Krishnapal and deceased and when co-accused Krishnapal caused axe injury to the deceased then

thereafter, applicant arrived at the spot and also caused injury to the deceased and according to two eye-witnesses Meena and Mewarani, applicant since beginning was along with his father i.e. co-accused Krishnapal and deceased and considering this fact, the argument advanced by learned counsel for the applicant that applicant is the son of co-accused Krishnpaal, therefore, he has been made accused in the present matter, cannot be completely ruled out at this stage.

14. Further, from the joint pointing out of the applicant and his father, the axe, which was alleged to have been used in the crime, was recovered but recovery was made from an open place, which was accessible to all and no blood stained mark was found on the axe.

15. Further, applicant is not having any criminal history and in the present matter, he is in jail since 16.08.2024.

16. Further, unless proven guilty, an accused deemed to be innocent.

17. Therefore, considering the facts and circumstances of the case discussed above, in my view applicant is entitled to be released on bail.

18. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is allowed.

19. Let the applicant- Shivam Patel be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

20. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

21. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 2.1.2025 KK Patel