

# Aarif Khan vs State Of U.P. on 1 May, 2025

**Author: Samit Gopal**

**Bench: Samit Gopal**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:68856

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8374 of 2025

Applicant :- Aarif Khan

Opposite Party :- State of U.P.

Counsel for Applicant :- Hardev Singh, Ramesh Chandra Agrahari

Counsel for Opposite Party :- G.A., Virendra Kumar Yadav

Hon'ble Samit Gopal, J.

1. List revised.

2. Heard Sri Ramesh Chandra Agrahari, learned counsel for the applicant, Sri Virendra Kumar Yadav, learned counsel for the first informant, Sri Ajay Singh, learned AGA-I for the State and perused the material on record.

3. Despite name of Sri Virendra Kumar Yadav, being printed in the cause list, there is no vakalatnama on the record. Office to trace it out and place it on the record and make a note about it in the order sheet.

4. This bail application under Section 483 of B.N.S.S. has been filed by the applicant- Aarif Khan, seeking enlargement on bail during trial in connection with Case Crime No. 90 of 2024, under Sections 328, 302 I.P.C. registered at P.S. Sarai Inayat, District Prayagraj.

5. The F.I.R. of the matter has been lodged by Smt. Anantum Begum on 10.4.2024 on the basis of an order passed by the court concerned on an application dated 16.8.2023 filed under Section 156(3)

Cr.P.C. against the applicant and 6 other persons. The allegations in the matter are that on 28.5.2023 Mohammad Kaif the only son of the informant took a train with her from Gondia, Maharashtra and reached Rewa on 29.5.2023 and then took a train from Rewa for Prayagraj and reached her village in the evening. The people had come to see her son for marriage which was fixed with a girl of the village which was to be solemnized on 29.6.2023 on the day of Bakrid. On 29.5.2023 when she reached her house at about 01.00 p.m. with her son then after sometime Aarif came to her house and took her son with him by stating that his mother and relatives are calling, on which her son went with him. After sometimes a lady of neighbourhood came to the informant and told her that her son has become unwell and then the informant ran to see him and found him to be ill, on which she asked him as to what has happened and her son told her that Aarif and his family members forcibly gave him cold drink mixed with poison and made him to drink and he is feeling hot and then he became unconscious and while taking him to the hospital he died on the way. The accused persons with an intention to murder him, have given him poison mixed in cold drink. She gave an application at the police station but the village Pradhan told her that he would look into the matter and tore the said application. On objection by the informant he told her that the same is not properly written. The village Pradhan in conspiracy of the accused changed the application on which she affixed her thumb impression and her case was not registered. She then on 31.7.2023 gave an application to the Commissioner of Police, Prayagraj through registered post but no action was taken. She then moved the said application under Section 156(3) Cr.P.C.

6. Learned counsel for the applicant submitted that the applicant has been falsely implicated in the present case. It is submitted that initially on 30.5.2023 the first informant gave an application at Police Station Sarai Inayat, District Prayagraj stating therein that her son Mohammad Kaif has died due to excessive consumption of intoxicant. The said information was registered in G.D. No. 17, 10:03 hours on 30.5.2023 at Police Station- Sarai Inayat, District Prayagraj. It is submitted that the post mortem examination report of the deceased was conducted in which the doctor did not find any external injury all over his body and cause of death could not be ascertained and viscera was preserved which after analysis was found to contain "Organochloro Insecticide". It is submitted that subsequently after 02 months and 16 days an application dated 16.8.2023 was moved by the first informant before the court concerned on the basis of which the present F.I.R. has been lodged. It is submitted that moving of the application by the applicant under Section 156(3) Cr.P.C. is an afterthought just in order to falsely implicate and harass the applicant. It is submitted that in the first application dated 30.5.2023 given by the first informant, the applicant is not named and the death of the deceased is stated to be due to consumption of excessive intoxicant. It is submitted that charge sheet in the matter has been submitted by the police against the applicant only under Sections 328, 302 I.P.C. on 27.1.2025 whereas the other accused persons namely Shera@Shamsher, Talim, Pottar, Momina and Vijay Kumar Singh have been exonerated, para-28 of the affidavit has been placed before the Court for the same. It is submitted that the applicant has criminal history of two cases which have been disclosed and explained in para-4 to the supplementary affidavit dated 16.3.2025. The applicant is in jail since 13.11.2024.

7. Per contra, learned State counsel opposed the prayer for bail.

8. After having heard learned counsels for the parties and perusing the record, it is evident that initially an application dated 30.5.2023 was given by the first informant at Police Station informing that her son has died due to consumption of excess intoxicant. Subsequently an application dated 16.8.2023 which is after about 02 months and 16 days, has been moved under Section 156(3) Cr.P.C. on the basis of which the present F.I.R. has been lodged on 10.4.2024. Investigation in the matter has concluded and a charge sheet dated 27.1.2025 has been submitted only against the applicant. There are six accused persons named in the F.I.R. including the applicant but 05 of them have been exonerated during investigation.

9. 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.

10. Let the applicant- Aarif Khan, 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.

11. 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.

12. The bail application is allowed.

13. Pending application(s), if any, shall stand disposed of.

(Samit Gopal,J.) Order Date :- 1.5.2025 Naresh