

## Aman vs State Of U.P. on 3 March, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:29765

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7230 of 2025

Applicant :- Aman

Opposite Party :- State of U.P.

Counsel for Applicant :- Vipin Gangwar

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Vipin Gangwar, learned counsel for the applicant and Sri Kunwar Tejandra Bahadur, learned AGA for the State.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 364 of 2024, under Sections 191(2), 191(3), 190, 115(2), 352, 351(2), 103(1) B.N.S., Police Station Shahi, District Bareilly during pendency of the trial.
3. FIR of the present case was lodged on 26.10.2024 against five named accused (non applicant) and 6-7 unknown persons and according to the FIR due to the earlier dispute nominated accused persons on 26.10.2024 in the night at about 2:00 AM in the morning made assault upon the husband of the informant through rod and wooden stick due to which he died. It is further mentioned in the FIR, along with deceased Gaurav Singh, Deepak Singh and Sonu Singh were also present at spot and they also sustained injuries.

4. Learned counsel for the applicant submits, from the perusal of the FIR it reflects, informant was not eye witness. He next submits, named accused number 1 to 4 were made accused due to previous incident dated 25.10.2024 but subsequently when it was revealed that they did not participate in the alleged incident then after exonerating them including accused No.2 Aman S/o Rishipal, applicant has been made accused in the present matter along with others.

5. He further submits, however, as per eye witness applicant also participated in the present crime along with others but from the statements of injured witnesses it reflects, they did not state that applicant also participated in the incident of assault, however, they stated that when applicant was arrested then they also identified him as one of the accused and this fact clearly suggests that actually applicant did not participate in the alleged crime.

6. He further submits, as many as ten persons were made accused in the present matter and only general role has been assigned to all of them except co-accused Nitin Yada and it reflects, however, deceased sustained four injuries but except injury no.1, other injuries were simple and on non vital parts. He further submits, as per autopsy report deceased died due to injury no.1, which was on his head and there is no evidence that applicant caused this injury. He next submits, considering the facts of the case, it appears to be a case of over implication.

7. He further submits, however, as per injured witnesses and eye witnesses, co-accused Nitin Yadav opened fire upon the deceased but from the post mortem, it reflects, deceased did not sustain any firearm injury and this fact again suggests that actually nobody could witness the real incident and on the basis of false allegation, applicant has been made accused in the present matter along with others.

8. He further submits, however, as per prosecution, in the alleged incident three persons also sustained injuries but admittedly they did not sustain any serious injury and their injuries were simple.

9. He further submits, applicant is not having any criminal history and in the present matter he is in jail since 27.10.2024.

10. Per contra, learned AGA opposed the prayer for bail and submitted, eye witnesses categorically disclosed the name of applicant and as, informant i.e. wife of the deceased was not an eye witness, therefore, if she wrongly nominated some accused in the FIR then merely on this ground prosecution case cannot be discarded. Learned AGA further could not dispute the fact that however there are also three injured but they did not even disclose the name of applicant with regard to incident of assault, however, learned AGA further submitted that when applicant was arrested then these three injured witnesses also identified him as one of the accused, who participated in the incident.

11. Learned AGA further could not dispute the fact that however as per prosecution as many as ten persons made assault through wooden sticks but deceased died due to head injury and he sustained only one injury on his head. He further could not dispute the fact that all the three injured sustained

simple injuries.

12. I have heard learned counsel for the parties and perused the record of the case.

13. From the record, it reflects, the three injured witnesses did not disclose in their statements that applicant also participated in the incident of assault, however from their statements it reflects when applicant was arrested then they identified him as one of the accused who also participated in the incident of assault. Considering this fact involvement of the applicant in the present case appears to be doubtful.

14. Further, however, as per prosecution as many as ten accused persons made assault through wooden sticks but post mortem report suggests that deceased died due to head injury and it reflects, he sustained only one head injury. Considering this fact, the argument advanced by learned counsel for the applicant that actually it is a case of over implication cannot be ruled out at this stage. Further, it is nowhere on record that applicant caused head injury to the deceased.

15. Further, however, in the incident three persons also sustained injuries but their injury reports show that they sustained simple injuries.

16. Further, applicant is not having any criminal history and in the present matter he is in jail since 27.10.2024.

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 - Aman 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 :- 3.3.2025 AK Pandey