

Akash vs State Of U.P. And 3 Others on 1 April, 2025

Author: Krishan Pahal

Bench: Krishan Pahal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:45056

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7372 of 2025

Applicant :- Akash

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

Counsel for Applicant :- Nirbhay Singh

Counsel for Opposite Party :- G.A.,Gajendra Singh Chauhan,Shikher Trivedi

Hon'ble Krishan Pahal,J.

1. Heard Mr. Nirbhay Singh, learned counsel for the applicant as well as Sri Gajendra Singh Chauhan, learned counsel for the informant and Sri Ashutosh Srivastava, learned AGA for the State and perused the record.

2. Applicant seeks bail in Case Crime No. 476 of 2024, under Sections 137(2), 87, 70(2) of BNS. and Section 5/6 of POCSO Act, Police Station Soron, District Kasganj, during the pendency of trial.

3. It is submitted by learned counsel for the applicant that similarly placed co-accused person, Akash, has already been enlarged on bail by same Bench of this Court vide order dated 04.03.2025 passed in Criminal Misc. Bail Application No. 5046 of 2025. It is further submitted that since the case of the applicant is at par to the co-accused, who has already been enlarged on bail, he is also

entitled to be enlarged on bail on the ground of parity. The applicant is languishing in jail since 14.10.2024, having criminal history of two cases which has been explained. In case, the applicant is released on bail, he will not misuse the liberty of bail and shall cooperate with trial.

4. The prayer for bail has been vehemently opposed by learned A.G.A. However, the aforesaid factual aspects of parity to the co-accused, have not been disputed by him.

5. In the case of Prabhakar Tewari Vs. State of U.P. and another, (2020) 11 SCC 648, the Supreme Court has observed that pendency of several criminal cases against an accused by itself cannot be a basis for refusal of bail.

6. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, evidence on record, pending trial and in the light of the judgement passed by this Court in Nanha S/o Nabhan Kha vs. State of U.P., 1993 Cr.L.J. 938 and the judgement passed by the Supreme Court in Paras Ram Vishnoi vs. The Director, Central Bureau of Investigation, MANU/SCOR/22410/2021 coupled with the judgement of Supreme Court passed in Satender Kumar Antil vs. Central Bureau of Investigation and another reported in (2022) 10 SCC 51, without expressing any opinion on the merits of the case, the Court is of the view that the applicant is entitled to be released on bail in this case. The bail application is allowed on the ground of parity.

7. Let the applicant- Akash, 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.

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

9. 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 :- 1.4.2025 Sumit S (Justice Krishan Pahal)