

Aditya Alias Nate vs State Of U.P. on 1 May, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:69168

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11354 of 2025

Applicant :- Aditya Alias Nate

Opposite Party :- State of U.P.

Counsel for Applicant :- Gaurav Kakkar,Raghvendra Prakash

Counsel for Opposite Party :- Shivam Yadav,G.A.

Hon'ble Sameer Jain,J.

1. Counter affidavit filed on behalf of the State and supplementary affidavit filed on behalf of the applicant are taken on record.
2. Heard Sri Gaurav Kakkar, learned counsel for the applicant, Sri Shivam Yadav, learned counsel for the informant and Sri Pradeep Kumar, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 0154 of 2024, under Sections 147, 148, 323, 452, 304, 34 IPC, Police Station Soraon, District Prayagraj during pendency of the trial.
4. FIR of the present case was lodged on 28.04.2024 against applicant and five others and according to the FIR on 28.04.2024 at about 8.00 AM in the morning applicant and other accused persons through wooden stick and iron rod made assault upon the informant and others due to which number of persons sustained injuries and one person died.

5. Learned counsel for the applicant submits, however, applicant is named in the FIR but from the FIR it reflects, only general role has been assigned to all the accused. He further submits, when the statement of the informant was recorded during investigation, who was also one of the injured then also he made general allegation against all the accused.

6. He further submits, when statements of other injured persons were recorded then they attributed specific weapon to the accused persons including applicant and according to them applicant and co-accused Ram Avtar were having iron rod and co-accused Man Singh was having wooden stick. He further submits, according to these witnesses co-accused Anuj was having plastic pipe and co-accused Ankit was having axe.

7. He further submits, from the post mortem report of the deceased it reflects, deceased however sustained five injuries but only injury nos. 1 and 2 were on his head and he died due to head injury and there is no evidence that applicant caused these injuries to him.

8. He further submits, both the head injuries can also be caused by the plastic pipe and plastic pile was in the hand of co-accused Anuj Kumar and he has been released on bail by the co-ordinate Bench of this Court and his bail order has been annexed along with instant bail application.

9. He further submits, considering the number of accused persons and number of injuries sustained by the injured persons and deceased, prima facie it appears to be a case of over implication. He further submits, however apart from the deceased there are as many as seven injured persons but their injuries were simple in nature.

10. He further submits, however, FIR of the present case was lodged in the month of April, 2024 and applicant surrendered before the court concerned on 08.01.2025 but he is not an absconder and he specifically narrated this fact in the supplementary affidavit filed in support of instant bail application.

11. He next submits, actually it is a case in which thrice charge-sheet was filed and during investigation involvement of the two co-accused were found false, therefore, as a natural human conduct applicant was of the thinking that his involvement may also found false, therefore, he earlier did not surrender before the court concerned.

12. He further submits, there is no evidence that Investigating Officer either moved any application against him to declare him absconder or to get warrants against him.

13. He further submits, however, apart from the present case applicant is having criminal history of one another case but that case relates to minor offence.

14. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that applicant appears to be principal accused along with co-accused Ram Avtar and Man Singh as all these accused were having iron rod and wooden stick and deceased sustained two head injuries which can very well be caused by these weapons.

15. They further submitted that as co-accused Anuj was having plastic pipe in his hand, therefore, his case is distinguishable from the case of applicant. They further submitted that applicant surrendered before the court concerned after eight months, therefore, prima facie, he appears to be an absconder, therefore, considering the totality of facts and circumstances of the case, he should not be released on bail.

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

17. Applicant is named in the FIR along with five others and from the FIR and the statement of the informant it reflects, only general role has been assigned by the informant to all the accused including applicant. However, when the statements of other injured witnesses were recorded then they stated that applicant and co-accused Ram Avtar were having iron rod while co-accused Man Singh was having wooden stick and according to them co-accused Ankit and Anuj were having axe and plastic pipe respectively and from the record it reflects, in the present case apart from the deceased there are several injured persons but from their injury report it reflects, they sustained simple injury.

18. Further, from the post mortem report it reflects, although deceased sustained as many as seven injuries but injury nos. 1 and 2 appear to be fatal which were on his head and there is no evidence on record which can suggest that applicant caused these injuries to the deceased.

19. Further, this Court finds merit in the argument advanced by learned counsel for the applicant that precisely at this stage, it cannot be said that above head injuries could not be caused by plastic pipe and co-accused Anuj was having plastic pipe and he has been released on bail by the co-ordinate Bench of this Court.

20. Further, however, it reflects, applicant surrendered after eight months but considering the argument advanced by learned counsel for the applicant in this regard, this Court is of the view that merely on this ground it is not proper to withhold his bail application.

21. Further, law is settled that unless proven guilty an accused is deemed to be innocent and bail application should not be dismissed for punitive purpose.

22. Further, however, apart from the present case applicant is having criminal history of one another case but that case relates to minor offence.

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

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

25. Let the applicant - Aditya @ Nate 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.

26. 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.

27. 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 :- 1.5.2025 AK Pandey