

Monu vs State Of U.P. And 3 Others on 28 February, 2025

Author: Krishan Pahal

Bench: Krishan Pahal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:28834

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 37668 of 2024

Applicant :- Monu

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

Counsel for Applicant :- Sushil Dubey

Counsel for Opposite Party :- Ashish Kumar Pandey,G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised. Learned counsel for the informant is not present.
2. Counter affidavit filed by learned A.G.A. for the State and rejoinder affidavit filed by learned counsel for the applicant are taken on record.
3. Heard Sri Sushil Dubey, learned counsel for the applicant as well as Sri Anit Kumar Shukla, learned A.G.A. for the State and perused the record.
4. Applicant seeks bail in Case Crime No.264 of 2024, under Sections 65(2), 62, 140(4) B.N.S., Section 9M/10 POCSO Act and 3(2)(5) SC/ST Act, Police Station- Anoopshahar, District-Bulandshahar, during the pendency of trial.

PROSECUTION STORY:

5. The applicant is stated to have enticed away the minor daughter of the informant aged about 5 years to jungle and had disrobed her and committed indecent act with her. After her raising of alarm, the villager Anita w/o Praveen is stated to have reached there, whereby the applicant is stated to have run away from the place of occurrence. The victim without clothes is stated to have been taken home by the said witness Anita on 17.7.2024 at about 10:30 a.m. ARGUMENTS ON BEHALF OF APPLICANT:

6. The applicant is absolutely innocent and has been falsely implicated in the present case.

7. The FIR is delayed by about seven hours and there is no explanation of the said delay caused.

8. The delay in institution of FIR speaks volume of false implication as already during the course of day the applicant and uncle of the victim had entered into an altercation and both were booked by the police and taken to the police station which stands entered in GD No.37 dated 17.7.2024 at 13:55 hours, whereby the applicant and Amar were taken for medical examination and were found in an injured state. The medical examination of the uncle of the victim Satish was also conducted the same day and he was examined at 02:05 a.m. and the applicant was examined at 02:10 p.m. the same day.

9. The instant FIR is just a fall out of the said injuries sustained by the uncle of the victim. The injury reports of the uncle of the victim Satish and the applicant have been filed with the counter affidavit. The police did not register the FIR in the said matter of altercation rather entered in GD only, and subsequently, the instant FIR has been instituted the same day.

10. There is no medical corroboration of the said incident as the victim has not sustained any injury whatsoever.

11. It is true that the victim is a girl of tender age, but the instant case is a clear cut case of false implication.

12. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length.

13. There is no criminal history of the applicant. The applicant is languishing in jail since 18.7.2024 and is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

ARGUMENTS ON BEHALF OF STATE/OPPOSITE PARTY:

14. The bail application has been opposed but the submissions raised by the learned counsel for the applicant could not be disputed.

CONCLUSION:

15. In light of the judgement of the Supreme Court passed in Niranjana Singh and another vs Prabhakar Rajaram Kharote and others AIR 1980 SC 785, this Court has avoided detailed examination of the evidence and elaborate documentation of the merits of the case as no party should have the impression that his case has been prejudiced. A prima facie satisfaction of case is needed but it is not the same as an exhaustive exploration of the merits in the order itself.

16. The well-known principle of "Presumption of Innocence Unless Proven Guilty," gives rise to the concept of bail as a rule and imprisonment as an exception.

17. A person's right to life and liberty, guaranteed by Article 21 of the Indian Constitution, cannot be taken away simply because the person is accused of committing an offence until the guilt is established beyond a reasonable doubt. Article 21 of the Indian Constitution states that no one's life or personal liberty may be taken away unless the procedure established by law is followed, and the procedure must be just and reasonable. The said principle has been recapitulated by the Supreme Court in Satender Kumar Antil Vs. Central Bureau of Investigation and Ors., 2022 INSC 690.

18. Reiterating the aforesaid view the Supreme Court in the case of Manish Sisodia Vs. Directorate of Enforcement 2024 INSC 595 has again emphasised that the very well-settled principle of law that bail is not to be withheld as a punishment is not to be forgotten. It is high time that the Courts should recognize the principle that ?bail is a rule and jail is an exception?.

19. Learned AGA could not bring forth any exceptional circumstances which would warrant denial of bail to the applicant.

20. It is settled principle of law that the object of bail is to secure the attendance of the accused at the trial. No material particulars or circumstances suggestive of the applicant fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like have been shown by learned AGA.

21. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

22. Let the applicant- Monu involved in aforementioned case crime number be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

(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./351 B.N.S.S. 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.

23. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

24. 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 :- 28.2.2025 Vikas (Justice Krishan Pahal)