

Ankit Sharma Alias Pandit vs State Of U.P. on 2 January, 2025

Author: Ajay Bhanot

Bench: Ajay Bhanot

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:99

Court No. - 5

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46962 of 2024

Applicant :- Ankit Sharma Alias Pandit

Opposite Party :- State of U.P.

Counsel for Applicant :- Ankit Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

By means of this bail application the applicant has prayed to be enlarged on bail in Case Crime No. 156 of 2023 at Police Station Muradnagar, District Ghaziabad under Section 452, 302, 34 I.P.C. and Section 3/25/27 of Arms Act. The applicant is in jail since 08.06.2023.

The bail application of the applicant was rejected by the learned trial court on 31.05.2024.

The following arguments made by Shri Ankit Srivastava, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Suchit Tandon, learned AGA from the record, entitle the applicant for grant of bail:

1. The applicant was not named in the F.I.R.

2. The F.I.R. identifies Sonu, Monu and Brijesh as the principal offenders who discharged their firearms and inflicted fatal gunshot injuries to the person of the deceased.
3. The applicant has not been identified as the principal offenders who inflicted fatal injuries which caused the death of the deceased.
4. As per the prosecution case the role of conspiracy has been attributed against the applicant. However, there is no evidence against the applicant to connect the commission of offence of criminal conspiracy. In fact on the date of the incident the applicant was in jail.
5. One pistol was planted on the applicant to burnish the credentials of the police authorities. There is no independent witness to the recovery. The recovered article cannot be connected to the offence.
6. No forensic science laboratory connecting the aforesaid item to the offence has been produced by the prosecution.
7. The applicant claims congruency in role and seeks parity in relief granted to the co-accused who have been enlarged on bail by this Court by order dated 28.05.2024 in Criminal Misc. Bail Application No. 34527 of 2023.
8. The applicant has explained his criminal history. It is also contended that the applicant is a convenient scapegoat for the police authorities. The applicant has been falsely nominated in a number of false cases only to show the proficiency of the police investigators. The said case does not have any bearing on the instant bail application.
9. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertake to join the trial proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant- Ankit Sharma Alias Pandit 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 below. The following conditions be imposed in the interest of justice:-

- (i) The applicant will not tamper with the evidence or influence any witness during the trial.

(ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

The learned trial court is directed to fix the sureties after due application of mind in light of the judgement rendered by this Court in Arvind Singh v. State of U.P. Thru. Prin. Secy. Home Deptt. (Application U/S 482 No.2613 of 2023).

The learned trial court shall ensure that the right of bail of the applicant granted by this Court is not frustrated by arbitrary demands of sureties or onerous conditions which are unrelated to the socioeconomic status of the applicant.

However, in the interest of justice and considering the facts and circumstances of the case, this Court deems it appropriate to direct the trial court to conclude the trial.

Though no specific time frame to conclude the trial has been set out in the Cr.P.C., yet the legislative intent of Section 309 Cr.P.C. is explicit. The scheme of the provision clearly shows that the legislative intent is to conclude the trial in an expeditious time frame. In the facts of this case, the learned trial court shall make all endeavours to conclude the trial expeditiously. Preferably the trial court shall set for itself a reasonable time frame to conclude the trial say one year from the date of receipt of a certified copy of this order.

The trial court has also to be conscious of the rights of the accused persons and is under obligation of law to ensure that all expeditious, necessary and coercive measures as per law are adopted to ensure the presence of witnesses. Counsels or parties who delay or impede the proceedings should not only be discouraged from doing so but in appropriate cases exemplary costs should also be imposed on such parties/ counsel.

All witnesses and counsels are directed to cooperate with the trial proceedings.

The learned trial court shall issue summons by regular process as per Section 62 Cr.P.C. and also by registered post as provided under Section 69 Cr.P.C. to expedite the trial.

The learned trial court shall promptly take out all strict coercive measures against all the witnesses in accordance with law who fail to appear in the trial proceeding. Counsels or parties who delay or impede the proceedings should not only be discouraged from doing so but in appropriate cases exemplary costs should also be imposed on such parties/ counsel.

The police authorities shall ensure that warrants or any coercive measures as per law taken out by the learned trial court to ensure that the attendance of the witnesses are promptly executed.

The Deputy Commissioner of Police, Ghaziabad shall file an affidavit before the trial court on the date fixed regarding status of execution of the warrants/service of summons taken out by the learned trial court.

The delay in the trials caused by the failure of the police authorities to serve summons or execute coercive measures to compel the appearance of witnesses at the trial despite a statutory mandate, is an issue of grave concern. The said issue had arisen for consideration before this Court in Bhanwar Singh @ Karamvir Vs. State of U.P. (Criminal Misc. Bail Application No. 16871 of 2023) & Jitendra v. State of U.P. .(Criminal Misc. Bail Application No.9126 of 2023) and was decided by the judgements dated 24.08.2023 & 20.12.2023 respectively. This Court in Bhanwar Singh @ Karamvir (supra) & Jitendra (supra) had issued certain directions to the police authorities regarding their statutory duty to promptly serve summons and execute coercive processes to compel the appearance of witnesses.

The Director General of Police, Government of U.P. as well as Principal Secretary (Home), Government of U.P. had taken out relevant orders in compliance of judgements in Bhanwar Singh @ Karamvir (supra) & Jitendra (supra) and nominated the Senior Superintendent of Police of the concerned districts as the nodal officials for implementing the said judgments.

The counsels as well as the learned trial court are directed to comply with the directions issued by this Court in Noor Alam Vs. State of U.P. rendered in Criminal Misc. Bail Application No. 53159 of 2021. In case any strike happens during the course of the trial, the learned trial court is directed to ensure full compliance of the directions issued in Noor Alam (supra) to prevent delay in the trial.

In case the police authorities are failing to comply with the directions issued by this Court in Bhanwar Singh @ Karamvir (supra) & Jitendra (supra) and do not implement the said directions of the Director General of Police, Government of U.P. & the Home Secretary, Government of U.P. in regard to service of summons and execution of coercive measures to compel the appearance of witnesses, the learned trial court shall direct the concerned Senior Superintendent of Police to file an affidavit in this regard.

The learned trial court shall be under an obligation to examine whether the judgements of this Court in Bhanwar Singh @ Karamvir (supra) & Jitendra (supra) as well as directions of Director General of Police, Government of U.P. & the Home Secretary, Government of U.P. issued in compliance thereof have been implemented or not and to take appropriate action as per law.

The learned trial court shall also take appropriate measures in law after receipt of such affidavit which may include summoning the concerned officials in person.

It is further directed that in case any accused person who has been enlarged on bail does not cooperate in the trial or adopts dilatory tactics, the learned trial court shall record a finding to this effect and cancel the bail without recourse to this Court.

The trial judge shall submit a fortnightly report on the progress of trial and the steps taken to comply with this order to the learned District Judge.

A copy of this order be communicated to the learned trial judge through the learned District Judge, Ghaziabad as well as Deputy Commissioner of Police, Ghaziabad by the Registrar (Compliance) by

E-mail.

Order Date :- 2.1.2025 Dhananjai