

Ravi Alias Vikas Rao vs State Of U.P. on 4 February, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:15582

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46650 of 2024

Applicant :- Ravi Alias Vikas Rao

Opposite Party :- State of U.P.

Counsel for Applicant :- Jeetendra Kumar Sharma, Laxmi Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Smt. Laxmi Dubey, learned counsel for the applicant, Sri Ankit Saran, learned counsel for the informant and Sri Dharmraj Pal, learned AGA for the State.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.54 of 2024, under Sections 103(1), 351(3) B.N.S., Police Station- Satti, District-Kanpur Dehat, during pendency of the trial in the court below.

3. FIR of the present case was lodged on 08.07.2024 at 15:51 hours against applicant under Sections 109(1), 351(3) B.N.S. and according to the FIR applicant used to tease the sister of informant and in this regard father of the informant on 13.11.2019 lodged an FIR against him under section 294 IPC but matter has been settled between the parties but in spite of that applicant was having enmity with the informant sides and due to this reason on 07.07.2024 at about 7:45 PM when father of the informant was sitting on the stairs of the house of one Hukum Singh then applicant made assault upon him from back side on his head through axe and the incident has been witnessed by the elder brother of his father who was luckily passing through from the spot.

4. It is further mentioned in the FIR that immediately after the incident father of the informant has taken to the hospital and he is under treatment.
5. Learned counsel for the applicant submits that initially FIR of the present case was lodged under Sections 109(1), 351(3) B.N.S. but when injured died on 16.07.2024 then case was converted under section 103 BNS.
6. She further submits admittedly till death of the deceased his statement could not be recorded.
7. It is further submitted that however applicant is specifically named in the FIR and as per FIR the elder brother of the deceased also witnessed the incident but entire allegation levelled against applicant is totally false and this fact is even evident from the FIR which suggest that it has been lodged after more than 19 hours from the date of alleged incident and therefore there is inordinate delay in lodging the FIR of the present case.
8. She further submits that the only eye witness of the incident is the elder brother of the deceased but even from his statement and the version of FIR it reflects he was the chance witness.
9. She further submitted that even from his statement it reflects that he witnessed the incident in the electric light and all these facts clearly suggest that actually nobody could witness the real incident but only due to previous enmity which has been even disclosed by informant in the FIR applicant has been made accused in the present matter.
10. It is further submitted, as dispute arose between informant side and applicant side had been resolved therefore applicant was not having any motive to commit the murder of the father of the informant.
11. She further submits that except the present case and the case under section 294 IPC which has been itself disclosed in the FIR applicant is not having any other criminal history and he is in jail in the present matter since 09.07.2024 i.e. for last almost seven months.
12. Per contra, learned AGA as well as learned counsel for informant opposed the prayer for bail submitted that there is eye witness account and he in his statement categorically stated that applicant is the person who caused injury to the deceased but they could not dispute the fact that except the witness Bharat Singh the elder brother of the deceased there is no other eye witness account and he was the chance witness.
13. They further could not dispute the fact that incident is said to have taken place 07.07.2024 at about 7:45 PM in the evening but FIR of the present case was lodged on 08.07.2024 at 15:51 hours, however, learned counsel appearing on behalf of informant submitted as admittedly after the incident deceased had to be taken to the hospital therefore due to this reason earlier FIR of the present case could not be lodged.
14. They further could not dispute the fact that enmity between both the sides is admitted.

15. Learned counsel for the informant however further submitted that during investigation when applicant was arrested and he confessed his guilt then on his pointing out a blood stained axe was recovered and according to the FSL report human blood was found on the axe but could not dispute the fact that it could not be reflected from the record that the blood was of the deceased.

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

17. However, as per allegation applicant caused injury on the head of the deceased through axe due to which he died and the alleged incident has been witnessed by Bharat Singh, the elder brother of the deceased but except Bharat there is no other eye witness account and from perusal of the statement of the Bharat it appears that he was chance witness.

18. Further, incident is said to have taken place on 07.07.2024 at 7:45 PM and FIR of the present case was lodged on 08.07.2024 at 15:51 hours i.e. after 19 hours and considering the delay in lodging the FIR coupled with the fact that enmity between both the sides is admitted and the sole eye witness Bharat Singh is not only the chance witness but is also elder brother of the deceased, the argument advanced by learned counsel for the applicant that actually nobody could see the real incident and subsequently due to enmity applicant has been made accused in the present matter after 19 hours of the alleged incident, cannot be ruled out at this stage.

19. Further, however as per prosecution when the applicant was arrested then he confessed his guilt and on his pointing out blood stained axe was recovered and as per the FSL report, on the blood stained axe human blood was found but there is no evidence on record which can show that the alleged blood was of the deceased.

20. Further, however it appears, apart from the present case applicant is also having criminal history of a case relates to section 294 IPC but that case was lodged by the deceased of the case and as per the prosecution due to that case applicant committed the murder of the deceased and except the present case and case under section 294 IPC applicant is not having any other criminal history.

21. Further, applicant is in jail in the present matter since 09.07.2024 i.e. for last almost seven months..

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

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

24. Let the applicant- Ravi Alias Vikas Rao 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.

25. 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.

26. 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 :- 4.2.2025 Neeraj