

# Umesh vs State Of U.P. Thru. Prin. Secy. Home U.P. ... on 3 March, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:12695

Court No. - 15

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1603 of 2025

Applicant :- Umesh

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home U.P. Lko.

Counsel for Applicant :- Nagendra Singh,Kuldeep

Counsel for Opposite Party :- G.A.

Hon'ble Shree Prakash Singh,J.

Supplementary affidavit filed today by the counsel for the applicant is taken on record.

Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail during the trial in Case Crime No. 01 of 2025, under Sections 191(2), 191(3), 190, 351(3), 117(2), 127(2), 61(2), 109(1), 352 of Bhartiya Nyaya Sanhita, 2023, Police Station- Nasirabad, District- Raebareli.

Contention of learned counsel for the applicant is that the applicant is innocent and has falsely been implicated in the instant matter due to ulterior motive. He submits that though the allegation in the FIR is that the applicant including the co-accused has opened fire over the alleged victim, but it is a case of no injury. He has drawn attention of the Court towards paragraph no. 15 of the bail

application and submits that he has specifically taken this plea. He further added that there is no independent public eyewitness of the alleged incident as is mentioned in para no. 13 of the bail application. He also submits that the applicant has no previous criminal history and he is languishing in jail since 9.1.2025. He further submits that the applicant undertakes that in case, he is granted bail, he will not misuse the liberty of the same and would cooperate in the trial proceedings.

Per contra, learned AGA appearing for the State has opposed the contentions aforesaid and submits that the applicant was involved in committing the aforesaid offence and thus, he is not entitled for any relief.

Having heard learned counsels for the parties and after perusal of material placed on record, it transpires that the applicant is languishing in jail since 9.1.2025; though the allegation in the FIR is that the applicant including the co-accused has opened fire over the alleged victim, but it is a case of no injury; there is no independent public eyewitness of the alleged incident; there is no previous criminal history of the applicant coupled with the fact that the applicant has undertaken that if he is granted bail, he will not misuse the liberty of the same and would cooperate in the trial proceedings.

Considering the submissions of learned counsel of both sides, nature of accusation and severity of punishment in case of conviction, nature of supporting evidence, prima facie satisfaction of the Court in support of the charge, reformatory theory of punishment and considering larger mandate of the Article 21 of the Constitution of India and, without expressing any view on the merits of the case, I find it to be a fit case of bail.

Let the applicant- Umesh involved in the aforementioned 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, with the following conditions:-

- (1) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, or otherwise during the investigation or trial;
- (2) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. He shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code;
- (3) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C.; and (4) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, the trial court shall initiate proceedings against him, in accordance with law under Section 174-A of the Indian Penal Code.

The identity, status and residential proof of sureties will be verified by the court concerned and in case of breach of any of the above conditions, the court below shall be at liberty to cancel the bail and send the applicant to prison.

It is clarified that the observations made in this order are strictly confined to the disposal of this bail application and must not be construed to have any reflection on the merits of the case.

Order Date :- 3.3.2025 Shravan