

# **Srikant Gupta vs State Of U.P. Thru. Prin. Secy. Home Lko on 12 February, 2025**

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:9215

Court No. - 15

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 606 of 2025

Applicant :- Srikant Gupta

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

Counsel for Applicant :- Manoj Kr. Singh

Counsel for Opposite Party :- G.A.

Hon'ble Shree Prakash Singh,J.

It is contended by learned counsel for the applicant that the bail in Case Crime No. 458 of 2024 has already been granted vide the order dated 26.11.2024, and the same is quoted hereinunder:-

"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. 458 of 2024, under sections 316(5), 318(4), 338, 336(3), 342(2), 351(3), 316(5), 319(2), 223, 211, 61 of the Bhartiya Nyaya Sanhita, Police Station-Gomti Nagar, District-Lucknow.

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 added

that the applicant is a marginal witness and allegation against the applicant is that he, by way of impersonation has shown himself Mata Prasad on place of Srikant Gupta and signed over the sale deed and thus, he has helped the other co-accused persons to commit the cheat and fraud. He next added that it is not a case that he has identified some person other than the vendor and it is an admitted fact that no sale consideration has been incriminated in the account of the applicant or was ever given to him and all the sale consideration credited into the account of the company itself. He submits that the applicant is neither the Director or the employee of the company in question. Further submits that the applicant has five cases criminal history, which has been explained and he is languishing in jail since 16-09-2024 and he 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 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 16-09-2024; five cases criminal history of the applicant has been explained; the case of the present applicant is distinguishable from the case of other co-accused persons coupled with the fact that he 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-Srikant Gupta, 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."

Referring the aforesaid, she submits that the rejection order is under section 340(2) of the B.N.S. alongwith other sections whereas, on the last occasion, the same was wrongly mentioned as '340' in place of '340(2)' of B.N.S. She submits that after thoroughly considering the matter, the applicant was enlarged on bail. She further submits that the applicant has explained the criminal history in the supplementary affidavit thus, submission is that he may be enlarged on bail under section 340(2) of B.N.S. in Case Crime no. 458 of 2024.

Learned A.G.A. appearing for the State though has opposed the prayer, but he could not dispute that the applicant has already been granted bail in the aforesaid mentioned Case Crime Number.

Having heard learned counsels for the parties and after perusal of material placed on record, it transpires that in the rejection order, section 340(2) had wrongly been mentioned as 342(2) 'the applicant has already been granted bail on earlier occasion vide order dated 26.11.2024'; the applicant is a law-abiding citizen and he is languishing in jail since 16.09.2024; criminal history has been explained coupled with the fact that he 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.

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Order Date :- 12.2.2025 Mayank