

## **Abhay Vishwakarma vs State Of U.P. Thru. Prin. Secy. Home ... on 30 January, 2025**

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:6370

Court No. - 15

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 931 of 2025

Applicant :- Abhay Vishwakarma

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

Counsel for Applicant :- Mohd. Amir Khan, Sheelam Devi, Surya Prakash

Counsel for Opposite Party :- G.A.

Hon'ble Shree Prakash Singh, J.

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. 538 of 2024, under Sections 191(2), 191(3), 190, 115(2), 351(3), 117(2), 309(6), 109(1) of Bhartiya Nyaya Sanhita, 2023, Police Station- Para, 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 submits that the applicant has specifically been assigned the role of attacking with hammer over the hand of the alleged injured, thus, the alleged injury inflicted on the body of the injured is not on the vital part and the main role is assigned to the co-accused persons namely, Shankar and Anurag. He next added that the role of the present applicant is distinguishable from the role of the said co-accused persons. He further submits

that charge-sheet has been filed and as such, there is no possibility that the applicant would tamper with the evidences or would threaten the witnesses. He also submits that the applicant has a case criminal history which has been explained in the bail application and he is languishing in jail since 06.11.2024. Further submitted 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 06.11.2024; the alleged injury inflicted on the body of the injured is not on the vital part and the main role is assigned to the co-accused persons namely, Shankar and Anurag; the role of the present applicant is distinguishable from the role of the said co-accused persons; charge-sheet has been filed and as such, there is no possibility that the applicant would tamper with the evidences or would threaten the witnesses; there is a case criminal history of the applicant, which has been explained in the bail application 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- Abhay Vishwakarma 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 :- 30.1.2025 Shravan