

Akib Khan And 3 Others 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-LK0:6381

Court No. - 15

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 940 of 2025

Applicant :- Akib Khan And 3 Others

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

Counsel for Applicant :- Mohd. Salman, Ana Fatma, Arshad Jameel, Mukhtar Ahamad

Counsel for Opposite Party :- G.A.

Hon'ble Shree Prakash Singh, J.

Shri Noupil Ahmad, Advocate has put in appearance on behalf of the complainant by filing vakalatnama and the same is taken on record.

This is the second bail application as the first bail application bearing No. 414 of 2025 vide order dated 20.01.2025 was dismissed as withdrawn.

Heard learned counsel for the applicants, Sri Noupil Ahmad, learned counsel for the complainant, learned A.G.A. for the State and perused the record.

The instant bail application has been filed on behalf of the applicants with the prayer to release them on bail during the trial in Case Crime No. 0264 of 2024, under sections 191(3), 190, 109(1), 324(5), 118(1), 110, 115(2), 352, 74, 351(3), 333, 191(2) of Bhartiya Nyaya Sanhita, 2023, Police Station- Bangarmau, District- Unnao.

Contention of learned counsel for the applicants is that the applicants are innocent and have falsely been implicated in the instant matter due to ulterior motive. He next added that the applicants are not named in the first information report and there is no cogent piece of evidence against them. He added that main accused namely, Shubham Mishra, has already been enlarged on bail by this court vide order dated 25-10-2024 passed in Criminal Misc. Bail Application No. 11405 of 2024 and the case of the present applicants is on better footings. He next added that identically situated co-accused, namely, Sameer has already been enlarged on bail in Criminal Misc. Bail Application No. 9667 of 2024 vide order dated 6.11.2024 passed by this Court and applicant is seeking parity of the same. He further added that the applicant no. 1 has a case criminal history, while the applicant nos. 2 and 3 have two cases criminal history each, which has been properly explained in the bail application and they are languishing in jail since 02.01.2024. He added that the applicants undertake that in case, they are granted bail, they will not misuse the liberty of the same and would cooperate in the trial proceedings. Further submitted that the chargesheet has been filed and as such, there is no possibility that the applicants will flee away from the trial proceedings and will not not cooperate in the investigation proceedings.

Per contra, Sri Noupil Ahmad, learned counsel appearing for the complainant as well as the learned counsel for the State have vehemently opposed the contentions aforesaid and submitted that the applicants are involved in committing the offence as there are ample evidences against them and as such, they are not entitled for any relief, but, they could not dispute the fact that the main accused namely, Shubham Mishra, has already been enlarged on bail by this court.

Having heard learned counsels for the parties and after perusal of material placed on record, it transpires that the applicants are languishing in jail since 02-01-2024; applicant no. 1 has a case criminal history, while the applicant nos. 2 and 3 have two cases criminal history each, which has been properly explained in the bail application; the chargesheet has been filed and therefore, there is no possibility that the applicants will flee away from the investigation proceedings; the main accused namely, Shubham Mishra, has already been enlarged on bail by this court; further, identically situated co-accused, namely, Sameer has already been enlarged on bail coupled with the fact that the applicants have undertaken that if they are granted bail, they 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 applicants- Akib Khan, Irfan Ali, Awesh and Vali involved in the aforementioned crime be released on bail, on their 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 applicants shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, or otherwise during the investigation or trial;

(2) The applicants shall file an undertaking to the effect that they shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. They shall remain present before the trial court on each date fixed, either personally or through their counsel. In case of their absence, without sufficient cause, the trial court may proceed against them under Section 229-A of the Indian Penal Code;

(3) The applicants 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 applicants misuse the liberty of bail during trial and in order to secure their presence proclamation under Section 82 Cr.P.C. is issued and the applicants fail to appear before the court on the date fixed in such proclamation, the trial court shall initiate proceedings against them, 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 applicants 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