

# Harish Chauhan vs State Of U.P. Thru. Prin. Secy. Home Lko. ... on 13 January, 2025

**Author: Rajesh Singh Chauhan**

**Bench: Rajesh Singh Chauhan**

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:2350

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 324 of 2025

Applicant :- Harish Chauhan

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

Counsel for Applicant :- Suraj Singh Visen,Aman Kumar Shrivastav

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan,J.

1. Heard Sri Suraj Singh Visen, learned counsel for the applicant and Sri Virendra Kumar, learned A.G.A. for the State.

2. As per learned counsel for the applicant, the present applicant is in jail since 04.11.2024 in Case Crime No. 406 of 2024, under Section 105 of Bhartiya Nyaya Sanhita (in short "B.N.S."), Police Station- Wazirganj, District- Gonda.

3. Learned counsel for the applicant has drawn attention of this Court towards the impugned F.I.R. wherein the sole allegation has been levelled against the present applicant to the effect that he

illegally connected electric wire to the fence of his crop field from one transformer. Attention has also been drawn towards Annexure No. 5, which is the naksha nazari, which indicates that there is one electric transformer near the crop field of the applicant and in between the crop field and the transformer, there is one kharanja road (pavement) and no electric connection may be taken from the transformer to the field of the applicant. He submitted that no electric wire etc has been recovered from the field of the applicant. As a matter of fact, nothing incriminating has been recovered from the field of the applicant.

4. As per the statement of the informant, so many villagers assembled at the place of incident. The statement of any villagers has not been recorded by the prosecution. In the F.I.R., only this much has been indicated that the wife of the applicant had gone to the said crop field to cut the grass where she met with an accident, however, as per the statement of the daughters of the deceased, they were with their mother when the incident of electrocution took place in the crop field of the applicant. Learned counsel for the applicant submitted that there is no previous criminal history of any kind whatsoever against the present applicant.

5. Learned counsel has further stated that the applicant undertakes that he shall cooperate in the trial proceedings and shall not misuse the liberty of bail. Further, the applicant shall abide by all terms and conditions of the bail order, the applicant may be enlarged on bail.

6. Learned A.G.A. has, however, opposed the prayer for bail but he could not dispute the aforesaid submissions of learned counsel for the applicant.

7. Without entering into merits of the issue, considering the arguments of learned counsel for the parties; contents and allegations of the FIR and the fact that the sole allegation has been levelled against the present applicant to the effect that he illegally connected electric wire to the fence of his crop field from one transformer; Annexure No. 5, which is the naksha nazari, indicates that there is one electric transformer near the crop field of the applicant and in between the crop field and the transformer, there is one kharanja road (pavement) and no electric connection may be taken from the transformer to the field of the applicant; no electric wire etc has been recovered from the field of the applicant; the statement of any villagers, who had assembled at the place of incident, has not been recorded by the prosecution; there is no previous criminal history of any kind whatsoever against the present applicant and the undertaking of the applicant that he shall cooperate in the trial proceedings and shall not misuse the liberty of bail, I find it appropriate to release the applicant on bail.

8. Accordingly, the bail application is allowed.

9. Let the applicant-Harish Chauhan be released on bail in the aforesaid case crime number 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:-

- (i) 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.

In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant 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.

(iii) 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, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) 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. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

(v) The applicant shall not leave India without previous permission of the court.

(Rajesh Singh Chauhan,J.) Order Date :- 13.1.2025 (Manoj K.)