

# **Sufiyan And Another vs State Of U.P. Thru. Prin. Secy. Home Lko on 7 January, 2025**

**Author: Rajesh Singh Chauhan**

**Bench: Rajesh Singh Chauhan**

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:876

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13341 of 2024

Applicant :- Sufiyan And Another

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

Counsel for Applicant :- Amit Bhardwaj, Sudhaker Prakash

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan, J.

1. Heard Sri Sudhakar Prakash, learned counsel for the applicants and Sri Arun Kumar Verma, learned Additional Government Advocate for the State.

2. It has been contended by the learned counsel for the applicants that the present applicants (Sufiyan and Waseem) are languishing in jail since 04.12.2024 in Case Crime No.313 of 2024 under Sections 109 Bhartiya Nyaya Sanhita (henceforth referred to as the "B.N.S.") and Section 3/25 Arms Act, Police Station-Malihabad, District -Lucknow. It has been submitted that the applicants have been falsely implicated in this case as they have not committed any offence as alleged.

3. As per prosecution story so narrated in the F.I.R., the present applicants have allegedly fired upon the police team along with other co-accused persons but no police team has sustained any injury. On the pointing out of the co-accused, Ishtiyag, the name of the present applicants have come into picture. No incriminating material as well as beef have been recovered from the possession of the present applicants. The entire prosecution story is false and misconceived. On account of this case, the present applicants have been implicated in Case Crime No.0310 of 2024 u/s 325 B.N.S. and 3/5A/8 U.P. Prevention of Cow Slaughter Act, P.S. Malihabad wherein the F.I.R. was lodged against unknown persons. In the present case, the recovery of country-made pistol has been shown from the possession of the co-accused, Ishtiyag, however, the aforesaid recovery is false. In this case, the charge-sheet has been filed.

4. The learned counsel for the applicants has submitted that the co-accused Ishtiyag from whose possession a country made pistol has been shown to be recovered, has been granted bail by this Court vide order dated 22.11.2024 passed in Criminal Misc. Bail Application No.12203 of 2024; Ishtiyag vs. State of U.P. (Annexure No.2) and the case of the present applicants is on better footing than the co-accused, Ishtiyag, therefore, on the basis of principles of parity, the present applicants may be granted bail. He has undertaken on behalf of present applicants that the applicants shall not misuse the liberty of bail and shall cooperate with the trial proceedings properly and shall abide by all terms and conditions of bail, if granted.

5. On the other hand, learned Additional Government Advocate has opposed the prayer for bail of the present applicants by submitting that since the role of the present applicants was found in the commission of crime, therefore, they are not entitled for grant of bail, but he could not dispute the aforesaid contention of learned counsel for the applicants.

6. Without entering into the merits of the case and considering the arguments of learned counsel for the parties, contents and allegations of the F.I.R., the fact that the present applicants have allegedly fired upon the police team along with other co-accused persons but no police team has sustained any injury; no incriminating material as well as beef have been recovered from the possession of the present applicants; the entire prosecution story is false and misconceived, on account of this case the present applicants have been implicated in Case Crime No. 0310 of 2024 u/s 325 B.N.S. and 3/5A/8 U.P. Prevention of Cow Slaughter Act, P.S. Malihabad wherein the F.I.R. was lodged against unknown persons; the co-accused, Ishtiyag, has been granted bail by this Court vide order dated 22.11.2024 (supra); in this case the charge-sheet has been filed and the undertaking given on behalf of the applicants that they shall not misuse the liberty of bail and shall cooperate in the trial proceedings, the applicants are entitled to be released on bail in this case.

7. Accordingly, the instant bail application is allowed.

8. Let the applicants, (Sufiyan and Waseem) involved in aforesaid case crime be released on bail on their furnishing personal bonds and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) 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. 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 applicants 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 269 of the B.N.S., 2023.

(iii) In case, the applicants misuse the liberty of bail during trial and in order to secure their presence proclamation under Section 84 of B.N.S.S., 2023 is issued and the applicants fail to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against them, in accordance with law, under Section 208 of the B.N.S., 2023.

(iv) 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 351 of B.N.S.S., 2023. If in the opinion of the trial court absence of the applicants 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 them in accordance with law. The applicants shall not leave the country without prior permission of the Court.

[Rajesh Singh Chauhan,J.] Order Date :- 7.1.2025 Suresh/