

Naresh Singh vs State Of U.P Thru. Addl. Chief Secy. ... on 24 September, 2024

Author: Irshad Ali

Bench: Irshad Ali

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2024:AHC-LK0:66301

Court No. - 5 / In Chamber

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8563 of 2023

Applicant :- Naresh Singh

Opposite Party :- State Of U.P Thru. Addl. Chief Secy. Deptt. Lko

Counsel for Applicant :- Gulam Mustafa

Counsel for Opposite Party :- G.A.

Hon'ble Irshad Ali,J.

1. Heard learned counsel for the applicant and learned AGA for the respondent State.
2. This is Second application under Section 439 Cr.P.C. in case crime No.198 of 2019 under Sections 323, 308, 504 IPC registered at police station Ajgain, District Unnao.
3. This second bail application has been pressed on the ground that under Section 479 of Bhartiya Nagarik Suraksha Sanhita, 2023 if the applicant has undergone one-third of maximum period of imprisonment specified for such offence under law, he shall be considered for grant of bail.

4. The applicant is languishing in jail since 29.01.2021 i.e. almost 3 years and 6 months have passed and the total punishment under Section 308 IPC is of 7 years. Meaning thereby, the applicant has undergone almost half of the imprisonment specified.

5. Learned AGA does not dispute the provisions contained under Section 479 of Bhartiya Nagarik Suraksha Sanhita, 2023.

6. For ready reference, Section 479 of Bhartiya Nagarik Suraksha Sanhita, 2023 is being quoted below:

"479. Maximum period for which undertrial prisoner can be detained:

(1) Where a person has, during the period of investigation, inquiry or trial under this Sanhita of an offence under any law (not being an offence for which the punishment of death or life imprisonment has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on bail:

Provided that where such person is a first-time offender (who has never been convicted of any offence in the past) he shall be released on bond by the Court, if he has undergone detention for the period extending up to one-third of the maximum period of imprisonment specified for such offence under that law:

Provided further that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail bond instead of his bond:

Provided also that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law."

7. On bare perusal of provisions contained under Section 479 of Bhartiya Nagarik Suraksha Sanhita, 2023, it is apparent on the face of it that in case the applicant is in jail for more than one-third of total punishment, then his application for bail is to be considered. Here, in the present case the applicant has undergone imprisonment for more than half of the total imprisonment provided under Section 479 of Bhartiya Nagarik Suraksha Sanhita, 2023 and other sections provide less than 7 years of imprisonment, therefore, considering the submissions advanced by learned counsel for parties, material available on record as well as totality of fact and circumstances, without expressing any opinion on the merits of the case, I am of the view that the applicant is entitled to be released on bail. Accordingly, the bail application is allowed.

8. Let applicant Naresh Singh be released on bail in the aforesaid Case Crime on his furnishing personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) Applicant will not try to influence the witnesses or tamper with the evidence of the case or otherwise misuse the liberty of bail.

(ii) Applicant will fully cooperate in expeditious disposal of the case and shall not seek any adjournment on the dates fixed for evidence when witnesses are present in the Court.

(iii) Applicant shall remain present, in person, before the trial court on the dates fixed for (a) opening of the case, (b) framing of charge; and (c) recording of statement under Section 313 Cr.P.C.

9. Any violation of above conditions will be treated misuse of bail and learned Court below will be at liberty to pass appropriate order in the matter regarding cancellation of bail.

10. It is, however, made clear that the observation made above shall not affect the trial of the case.

Order Date :- 24.9.2024 Adarsh K Singh