

Bhura Alias Mohsin vs State Of U.P. And 3 Others on 19 March, 2025

Author: Siddharth

Bench: Siddharth

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:39781

Court No. - 47

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47137 of 2024

Applicant :- Bhura Alias Mohsin

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Brijesh Kumar Mishra

Counsel for Opposite Party :- Akhilesh Srivastava,G.A.,Saksham Srivastava

Hon'ble Siddharth,J.

Heard learned counsel for the applicant; Sri Akhilesh Srivastava, learned counsel for the informant and learned A.G.A for the State.

There is allegation against the applicant of making attempt to commit unnatural offence against the victim.

Counsel for the applicant submits that it is a case of false implication on account of local politics. The applicant is in jail since 23.09.2024 and has no criminal history to his credit.

On the other hand learned A.G.A has opposed the prayer for bail.

Keeping in view the nature of the offence, evidence, complicity of the accused, submissions of the learned counsel for the parties noted above, finding force in the submissions made by the learned counsel for the applicant, larger mandate of the Article 21 of the Constitution of India, considering the dictum of Apex Court in the case of Dataram Singh Vs. State of U.P. and another reported in (2018) 3 SCC 22 and recent judgment dated 11.07.2022 of the Apex Court in the case of Manish Sisodia vs. Directorate of Enforcement, 2024 LawSuit (SC) 677 and considering 5-6 times overcrowding in jails over and above their capacity by the under trials and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

Let the applicant, Bhura Alias Mohsin, involved in Case Crime No. 304 of 2024, under Sections- 115(2), 351(2), 352 of Bhartiya Nyaya Sanhita, 2023 readwith Section 3/4 of POCSO Act, Police Station- Chharra, District- Aligarh, 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 subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) 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.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) 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.

(v) 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.

In case, of breach of any of the above conditions, it shall be a ground for cancellation of bail.

Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 19.3.2025 Rohit