

## Shrikant Tyagi vs State Of U.P. on 1 February, 2010

**Author: Surendra Singh**

**Bench: Surendra Singh**

Court No. - 48

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 34693 of 2009

Petitioner :- Shrikant Tyagi

Respondent :- State Of U.P.

Petitioner Counsel :- Amit Daga

Respondent Counsel :- Govt Advocate

Hon'ble Surendra Singh,J.

Counter Affidavit filed by the learned A.G.A. today is taken on record.

Applicant-Shrikant Tyagi seeks bail in Case Crime No. 1204 of 2009, under Sections 384, 323, 504 and 506 I.P.C., Police Station Nai Mandi, District Muzaffarnagar.

Heard learned counsel for the applicant, learned AGA for the State as well as Sri Sudhir Kumar Agarwal, learned counsel for the informant and perused the material placed on record.

It is contended on behalf of the applicant that the basic ingredients which constitute an offence of extortion, as defined under Section 383 I.P.C are absolutely missing in the case of prosecution. In the absence of delivery of property or the money demanded offence of extortion is not completed. He has further submitted that several criminal litigations are pending between the applicant and the informant and therefore present First Information Report lodged by the informant is manifestly attended with malafides and falls under the category of maliciously instituted prosecution. He further contends that the co-accused, Dev Kant Tyagi having its similar allegation, has been released on bail by the Additional Session Judge, Muzaffarnagar. He further submits that the offences are triable by Magistrate and the maximum sentence under Section 384 Cr.P.C is three years. The applicant is in jail since 14.9.2009 and the trial has not commenced and is likely to consume some more time to conclude, thus he deserves to be released on bail at this stage.

However, the learned AGA and the learned counsel for the informant vehemently opposed this bail application and it has been contended that the applicant is a hardened criminal and is involved in several other criminal cases and the prosecution is apprehensive of the fact, that in case the applicant is allowed to be released on bail, he will tamper the prosecution witnesses and will not allow the trial to proceed, thus he is not entitled to be released on bail at this stage.

The points pertaining to nature of accusation, severity of punishment, reasonable apprehension of tampering the witnesses, prima facie, satisfaction regarding proposed evidence and genuineness of the prosecution case were dully considered.

Considering totality of circumstances, I consider it a fit case to enlarge the applicant on bail.

Without expressing any opinion on the merits of the case, let the applicant- Shrikant Tyagi involved in aforesaid crime be released on bail on his furnishing a personal bond of Rs. 250,000/- and two sureties each in the like amount to the satisfaction of the court concerned and executing an undertaking in the following terms:

1. The applicant shall appear on every date before the trial court and shall not seek unnecessary adjournment.
2. The applicant shall not tamper with evidence in any manner.
3. The applicant shall report to the court of C.J.M. Concerned in the first week of each month till the conclusion of the trial to show his good conduct and behaviour.

In case of breach of the above conditions, the prosecution would be at liberty to move application for cancellation of bail. Identity, status and residence proof of the applicant and sureties be verified by the authorities concerned before bonds are accepted.

Order Date :- 1.2.2010 SFH