

## Arvind Rajak vs State Of U.P. on 18 April, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

Neutral Citation No. - 2025:AHC:57777

Court No. - 67

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 23103 of 2024

Applicant :- Arvind Rajak

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajendra Prasad Tiwari,Vineet Tiwari,Vineet Vikram

Counsel for Opposite Party :- G.A.

Hon'ble Chandra Dhari Singh,J.

1. Instant bail application 439 Cr.P.C. has been filed by the applicant for seeking regular bail in Case Crime No. 31 of 2024, under Section 457, 380, 411 IPC, Police Station - Kotwali, District - Jhansi.  
Brief Facts

2. The alleged incident took place on 27//28.01.2024 and FIR was lodged on 28.01.2024 at about 4:00 pm in Police Station - Kotwali, District - Jhansi.

3. According to prosecution case, on 27.01.2024 at 9:30 am, the informant alongwith his family members went at the residence of his friend's house at Talbehat, but he did not come back in evening to his house. When he came back on 28.01.2024 at about 09:15 am to his house, he saw that lock of his house is broken and when he tried to open the door of dining room, he could not open as door was closed from inside. He opened the door from the window and when he entered into the house, he found that articles lying in almirah were missing then he informed the police by dialing 112 number and given a complain to lodge FIR. As per the FIR, the missing articles are as under :-

(i) Rs. 60, 000/- cash (ii) 3 golden chains (iii) 01 golden Mangalsutra (iv) 03 pairs payal (v) 15 silver coins (vi) golden ear ring (vii) 02 finger rings and (viii) silver Kardhani.

4. The police party arrested the applicant on 25.02.2024 and shown recovery of stolen property of Case Crime No. 24/2024 punishable under Section 380, 457 IPC, Police Station - Kotwali, District - Jhansi and Case Crime No. 12/2024, Case Crime No. 472/2023, Case Crime No. 34/2024, under Section 457, 380 IPC, Case Crime No. 31/2024, Case Crime No. 44/2024, under Section 457, 380 IPC, Police Station - Sipari Bazar, District - Jhansi, Case Crime No. 85/2024, under section 186/307 IPC & 3/25 Arms Act.

5. The police has also connected the applicant with the instant Case Crime No. 31/2024, under Section 457, 380, 411 IPC, Police Station - Kotwali, District - Jhansi and he has been sent to jail on 25.2.2024 in connection with the aforesaid cases and since then he is languishing in jail.

6. The Investigating Officer recorded the statement of informant under Section 161 Cr.P.C and in his statement he has supported the version of the FIR. After completion of the investigation, the charge sheet was filed on 21.3.2024 in the competent Court. There are 21 witnesses mentioned in the charge sheet and except informant all 20 witnesses are police witness.

7. The applicant had filed bail application bearing No. 1144 of 2024 before the Court of Special Judge (DAA Act), Jhansi. The same was rejected by Special Judge (DAA Act) vide order dated 30.05.2024.

8. After rejection of the said bail application, the applicant has filed the instant bail application before this Court. Submissions

9. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has not committed any offence. He has been falsely implicated in the present case. The applicant was not named in the FIR., but he was arrested on 25.2.2024 in other case crime and has been falsely implicated in the instant crime.

10. Recovery of articles which has been made by the police is without following the procedure prescribed under the law. There were no independent witnesses examined by the police of the said alleged recovery. It is vehemently submitted that the entire recovery shown by the police is to implicate falsely in the instant crime case to the present applicant. There is no credible evidence available on record to link the applicant with the instant offence.

11. Learned counsel further submitted that the applicant has criminal history of 63 cases which have been duly explained in paragraph no. 10 of the paper book.

12. The counsel vehemently submitted that in almost all the cases, the applicant was falsely implicated by the police and also that he was acquitted in most of the cases. It is submitted that he has not been convicted even in one criminal case. The applicant is languishing in jail since

25.02.2024 i.e. more than 15 months.

13. Per contra, learned AGA appearing on behalf of the State vehemently submitted that the applicant is a habitual offender as he is involved in 63 criminal cases. Learned Trial Court while rejecting his bail application has taken into consideration criminal history of 63 cases . He again submitted that the FIR was registered without delay on the information received from the informant on 28.01.2024. Investigating agency investigated into the matter and found sufficient material against the applicant to connect him with the offence in the instant case and has filed charge sheet on 21.03.2024. Learned trial Court after considering the material available in charge sheet on record has taken cognizance against the applicant.

14. It is also submitted that the applicant has criminal history of 63 cases of similar nature and there is each and every possibility of repeating the same offence after getting the bail. There are also possibility that the applicant may tamper with the evidence or influence the witnesses and would not cooperate in the trial and may also violate the terms and conditions of bail order.

15. Finally, learned AGA has submitted that in view of the facts and circumstances, the applicant has failed to make out a case to release him on bail as prayed in the instant bail application. The applicant does not deserves any leniency from this Court for releasing him on bail. The bail application is devoid of any merit and is liable to be rejected.

16. On behalf of the State, counter affidavit was filed on 15.7.2024 and it has opposed the bail application of the applicant on the following grounds :

Firstly, the applicant is a habitual offender having criminal history of 63 cases. There are credible material on record to connect the applicant with instant commission of case;

Secondly, there is every possibility of repetition of the same nature of offence as well as he will not cooperate in the trial and, Thirdly, after taking into consideration of material on the charge sheet, prima facie involvement of the accused is emerged upon investigation. Taking into consideration the statement of the informant under section 161 Cr.P.C. which supports the version of the FIR to connect the applicant for the commission of the said offence. Therefore, there is no reason for this Court to exercise its power to grant bail to the applicant.

#### Analyses and Conclusion

17. These rival submissions are for my consideration.

18. Essentially this Court is required to analysis whether there are sufficient valid grounds available for exercise of the power conferred under Section 439 Cr.P.C and grant bail to the applicant or not. The power to grant bail under Section 439 Cr.P.C and 483 BNSS is of wide aptitude, but it very settled that now grant of bail involves the exercise of discretionary power of the Court which is to be

exercised in judicious manner and not as a matter of course. The Hon'ble Supreme Court in the case of Ram Govind Upadhyay Vs. Surdarshan Singh<sup>1</sup>. In paragraph nos. 3 and 4 of this judgement, the Apex Court has observed as under.

"3. Grant of bail though being a discretionary order -- but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case...The nature of the offence is one of the basic considerations for the grant of bail -- more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.

4. Apart from the above, certain other which may be attributed to be relevant considerations may also be noticed at this juncture, though however, the same are only illustrative and not exhaustive, neither there can be any. The considerations being:

(a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.

(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter grant of bail.

(c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the court in support of the charge.

(d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

19. The determination of whether a case is fit for grant of bail involves the balancing of the numerous factors among which the nature of the offence, the severity of the punishment and prima facie view of the involvement of the accused are important. No straight jacket formula exists for Courts to assess an application for the grant or rejection of bail.

20. At the stage of assessing whether a case is fit for the grant of bail, the Court is not required to enter into detailed analysis of the evidence on record to establish beyond reasonable doubt the commission of the crime by the accused. That is a matter for trial. However, the Court is required to examine whether there is a prima facie or reasonable ground to believe that the accused has

committed the offence and on a balance of the considerations involved, the continued custody of the accused sub-serves the purpose of criminal justice system.

21. In the instant case, the FIR was lodged on the information received from the informant on 28.01.2024 at about 4:00 pm on the same day when the informant saw his house was looted by some miscreants when he alongwith his family was out from the house, and there was no delay in lodging the FIR. For the purpose of proper adjudication in the said case, the relevant portion of the the FIR dated 28.01.2024 is quoted below:

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¶ ¶ 245 " □ µ - 28.01.2024"

22. On another assessing rival submission, it is necessary to quote the statement of the informed recorded under Section 161 Cr.P.C, which is as under :

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23. It is admitted fact that the present applicant is involved in 63 criminal cases of the similar nature. The details of which has been explained by the applicant himself in paragraph no. 10 of the affidavit supported with the bail application and almost all criminal cases are of similar nature.

24. The details of the antecedents of applicant are as under:

Sl No. FIR / Case Crime No. Proceedings.

1.

1175 / 2017, u/s 457, 380, 411, 413 IPC Bail granted on 19.06.2023

2. 34/2023, u/s 380, 457, 411, 413 IPC Bail granted on 13.05.2024

3. 85/2024, u/s 186, 307 IPC and 3/25 Arms Act.

Bail granted on 13.05.2024

4. 497/2023, u/s 380, 457, 411, 413 IPC Bail granted on 13.05.2024.

5. 472/2023, u/s 389, 457, 411, 413 IPC Bail granted, 13.05.2024

6. 330/2018, u/s 380, 457, 411, 413, 414 Bail granted on 07.03.2019

7. 241/2018, u/s 380, 457, 411, 413, 414 IPC Bail granted on 26.03.2019

8. 277/2018, u/s 380, 457, 411, 413, 414 IPC Bail granted on 15.03.2019

9. 347/2018, u/s 394, 411, 413 IPC Bail granted on 12.03.2019

10. 190/2018, u/s 380, 457, 411, 413, 414 IPC Bail granted on 14.2.2020.

11. 281/2018, u/s 457, 380, 411, 413, 414 IPC Bail granted on 20.2.2019
12. 375/2018, u/s 457, 380, 411 IPC Bail granted on 28.11.2018
13. 552/2018, u/s 457, 380, 411 IPC Bail granted on 19.11.2018
14. 567/2018, u/s 380, 411 IPC Bail granted on 19.11.2018 552/2018 u/s 457, 380, 411 IPC Bail granted on 19.11.18
16. 525/2018 u/s 457, 380, 411 IPC Bail granted on 29.11.2018
17. 283/2018, u/s 457, 380, 411 IPC Bail granted on 05.02.2019
18. 515/2018, u/s 457, 380, 411 IPC Bail granted on 28.11.2018
19. 777/2021 u/s 457, 389 IPC Bail granted.
20. 21/2018, U/S 457, 380, 411, 413, 414 IPC Bail granted on 29.11.2018
21. 85/2018, u/s 457, 380, 411, 413, 414 IPC Bail granted on 28.11.2018
22. 330/2018, u/s 392, 411 IPC Bail granted on 07.03.2019.
23. 41/2018, u/s 457, 380, 411 IPC Bail granted on 23.07.2019
24. 367/2018, u/s 41, 411, 413, 414 IPC Bail granted on 19.06.2023
25. 268/2021, u/s 457, 380 IPC Bail granted on 17.08.2022.
26. 479/2022, u/s 457, 380 IPC Bail granted on 29.07.2022
27. 481/2012, u/s 457, 380 IPC Bail granted on 15.6.2022
28. 542/ 2022, u/s 454, 389 IPC Bail granted on 6.8.2022
29. 365/2018, u/s 41, 411, 413, 414 IPC Bail granted on 19.6.2023
30. 363/2018, u/s 25/4 Arms Act.  
  
Bail granted on 19.12.2018
31. 480/2022, u/s 457, 380 IPC Bail granted on 26.7.2022.
32. 604/2018, u/s 380, 411 IPC Bail granted on 4.9.2018

33. 154/2018, u/s 457, 380, 411, 413 IPC Bail granted on 17.6.2023
34. 116/2017, u/s 457, 380, 411, 413 IPC Bail granted on 19.6.2023
35. 502/2018, U/S 457, 380, 411 IPC Bail granted on 23.8.2018
36. 316/2018, u/s 380, 411 IPC Bail granted on 23.8.2018
37. 368/2021, u/s 457, 380 IPC Bail granted on 12.10.2022
38. 270/2018, u/s 457, 380, 411, 413 IPC Bail granted on 17.5.2023
39. 131/2018, u/s 457, 380, 411, 413 IPC Bail granted on 19.6.2023
40. 360/2018, u/s 65, 67 IT Act & 124A, 501 IPC Bail granted on 23.06.2018
41. 137/2018,u/s, 394, 411 IPC Bail granted on 22.12.2018
42. 476/2018, u/s 380, 411 IPC Bail granted on 19.10.2018
43. 742/2021, u/s 379 IPC Acquitted on 01.07.2022
44. 403/2021, u/s 457, 380 IPC Acquitted on 05.11.2022
45. 389/2021, u/s 380 IPC Acquitted on 09.11.2022
46. 388/2021, u/s 457, 380 IPC Acquitted on 12.10.2022
47. 544/2021, u/s 504, 380 IPC Acquitted on 02.05.2022
48. 31/2021, u/s 380, 457, 411 IPC Bail rejected on 30.05.2024
49. 12/2024, u/s 380, 457, 411, 413 IPC & 24/2024, u/s 380, 457, 411 IPC Bail rejected on 30.5.2024
50. 322/2018, u/s 380, 467 IPC Bail granted
51. 362/2018, u/s 25, 3 Arms Act Bail granted
52. 366/2018, u/s 41, 411, 413, 414 IPC Bail granted
53. 359/2018, u/s, 380 IPC Bail granted
54. 68/2018, u/s 380 IPC Bail granted



55. 428/2021, u/s 380, 497 IPC Bail granted

56. 313/2021, u/s 380, 457 IPC Bail granted

57. 407/2021, u/s 380, 457 IPC Bail granted

58. 410/2021, u/s 380, 457 IPC Bail granted

59. 444/2021, u/s 380, 457 IPC Bail granted

60. 44/2023, u/s 380, 457, 411, 413 IPC Bail granted on 13.5.2024

61. 515/2018, u/s 411 IPC Bail granted on 28.11.2018

62. 336/2018, u/s 392/411 IPC Bail granted on 07.3.2019

63. 1176/2017, u/s 457, 380, 411, 413 IPC Bail granted on 19.6.2023

25. From the material on record, it is clear that as and when he is granted bail, he came out of the jail, committed another offence and again went to jail. He is involved in 63 criminal cases almost similar in nature. From the material on record, it appears that there is high possibility of threat and repetition of the another offence, if he will release on bail.

26. In case of Gudikanti Narsimhulu vs Public Prosecutor, High Court of (AP)<sup>2</sup>. The Hon'ble Supreme Court held as under:

Para 09: Thus the legal principles and practice validate the Court considering the likelihood of the applicant interfering with the witnesses for the prosecution or otherwise polluting the process of justice. It is not only traditional but rational, in this context, to enquire into the antecedents of a man who is applying for bail to find whether he has a bad record - particularly a record which suggest that he is likely to commit serious offences while on bail. In regard to habituals, it is part of criminological history that a thoughtless bail order has enabled the bailee to exploit the opportunity to inflict further crimes on the members of society. Bail discretion, on the basis of evidence about the criminal record of a defendant, is therefore not an exercise in irrelevance.

27.. In the case of Prasanta Kumar Sarkar vs Ashish Chatterjee & Anr.,<sup>3</sup> the Hon'ble Supreme Court held as under

Para 09: We are of the opinion that the impugned order is clearly unsustainable. It is trite that this Court does not normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in

compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

- (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of course, of justice being thwarted by grant of bail.

28. In the case of Harjit Singh vs Inderpreet Singh @ Inder and another<sup>4</sup>, the Hon'ble Supreme Court has held as under. Para 12: It is also required to be noted that earlier while Respondent 1 was released on bail by the High Court suspending the sentence in FIR No. 67 of 2016 by order dated 30.4.2019, again he committed the offence while on bail and his bail came to be cancelled by the High Court against which a special leave petition was preferred before this Court which came to be dismissed. It is to be noted that though the High Court cancelled the bail on 26.7.2019 and directed the Chief Judicial Magistrate, Jalandhar to take the accused into custody, despite issuance of arrest warrants against Respondent 1 herein and the co-accused Jaskaran Singh alias Jassa, they could not be arrested and Respondent 1 herein was finally arrested on 18.7.2020, and even the co-accused Jaskaran Singh alias Jassa is still absconding. From the aforesaid, it can be seen that Respondent 1 herein is a habitual offender. On number of occasions, he has tried to kill the appellant-complainant herein and his family. He has repeatedly committed offence of attempting to murder the appellant herein/complainant thrice and has been convicted in all the three FIRs.

29. In Kalyan Chandra Sarkar vs. Rajesh Ranjan alias Pappu Yadav & Anr<sup>5</sup>. - Hon'ble the Supreme Court observed in paragraph 11 as under

"11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly, where the accused is charged of having committed a serious offence. Any

order devoid of such reasons would suffer from non application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

30. In the case of State of UP vs.Amarmani Tripathi<sup>6</sup> - Hon'ble the Supreme Court noted the facts of the case therein to the effect that the respondent therein had been named in ten other criminal cases in the last 25 years or so, out of which five cases were under section 307 IPC for attempt to murder and another under section 302 IPC for committing murder. That in most of the cases he was acquitted for want of sufficient evidence. Without saying anything further this Court noted that the High Court in the said case completely ignored the general principle for grant of bail in a heinous crime of commission of murder in which the sentence, if convicted, death or life imprisonment.

31. Hon'ble the Supreme Court in Ash Mohammad vs. Shiv Raj Singh @Lalla Bahu & Anr.<sup>7</sup> -,observed that though the period of custody is a relevant factor, the same has to be weighed simultaneously with the totality of the circumstances and the criminal antecedents. That these are to be weighed in the scale of collective cry and desire and that societal concern has to be kept in view in juxtaposition to individual liberty, was underlined in Bhoopindra Singh vs. State of Rajasthan &Anr.<sup>8</sup> Hon'ble the Supreme Court has observed as under in the matter of exercise of an appellate power to determine whether bail has been granted for valid reasons as distinct from an application for cancellation of bail by quoting Mahipal vs. Rajesh Kumar; (2020) 2 SCC 118.

"16. The considerations that guide the power of an appellate court in assessing the correctness of an order granting bail stand on a different footing from an assessment of an application for the cancellation of bail. The correctness of an order granting bail is tested on the anvil of whether there was an improper or arbitrary exercise of the discretion in the grant of bail. The test is whether the order granting bail is perverse, illegal or unjustified. On the other hand, an application for cancellation of bail is generally examined on the anvil of the existence of supervening circumstances or violations of the conditions of bail by a person to whom bail has been granted."

32. In the case of Brijmani Devi vs. Pappu Kumar;<sup>9</sup> Hone'ble the Supreme Court has held as under:

25. While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail Courts cannot lose sight of he serious nature of the accusations against an accused and the facts that have a bearing in the case, particularly, when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record so as to enable a Court to arrive at a prima facie conclusion. While considering an application for grant of bail a prima facie conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the nature

of crime, the criminal antecedents of the accused, if any, and the nature of punishment that would follow a conviction vis- a-vis the offence/s alleged against an accused.

26. We have extracted the relevant portions of the impugned orders above. At the outset, we observe that the extracted portions are the only portions forming part of the "reasoning" of the High court while granting bail. As noted from the aforesaid judgments, it is not necessary for a Court to give elaborate reasons while granting bail particularly when the case is at the initial stage and the allegations of the offences by the accused would not have been crystallised as such. There cannot be elaborate details recorded to give an impression that the case is one that would result in a conviction or, by contrast, in an acquittal while passing an order on an application for grant of bail. At the same time, a balance would have to be struck between the nature of the allegations made against the accused; severity of the punishment if the allegations are proved beyond reasonable doubt and would result in a conviction; reasonable apprehension of the witnesses being influenced by the accused; tampering of the evidence; the frivolity in the case of the prosecution; criminal antecedents of the accused; and a prima facie satisfaction of the Court in support of the charge against the accused.

33. In view of the aforesaid discussion, I shall now consider the facts of the present case. The allegation against applicant as well as the contentions raised at the Bar have been narrated in detailed above. On a consideration of the same, the following aspects of the case could emerge.

(i) Allegation against the applicant/accused are under Sections 457, 380, 411 IPC, in respect of Case Crime No. 31 of 2024 at police station - Kotwali, District - Jhansi with regard to theft in the House of the complainant.

(ii) According to the applicant, he has been falsely implicated in the instant Case Crime No. 31 of 2024.

(iii) The applicant/accused herein has been named in the about 63 criminal cases and duly explained in the application.

(iv) Thus, it is case of the State/respondent that the applicant is habitual offender and committed all with similar nature offences.

(v) There is a likelihood of the applicant/accused absconding or threatening the witnesses, if on bail which would have vital bearing on the trial of the cases.

(vi) Also, for securing the applicant/accused herein for the purpose of commencement of the trial in right earnest in the instant case, direction could not have been exercise in favour of the applicant/accused in the instant case.

34. Having considered the aforesaid facts of the present case in juxtaposition with judgments referred to above, I do not think the instant case is fit case for grant of bail to applicant/accused as he has involved in 63 criminal cases.

35. Accordingly, the instant bail application is dismissed as devoid of any merit. Order Date :- 18.4.2025 S.K.S. (Chandra Dhari Singh,J).