

Court No. - 10

AFR

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1776 of 2022

Applicant :- Mukhtar Ansari

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

Counsel for Applicant :- Arun Sinha

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh,J.

1. Heard Sri Arun Sinha, learned counsel for the applicant and Sri V.K. Shahi, learned Additional Advocate General assisted by Sri Anurag Varma, learned A.G.A. and perused the record.

2. The present application under Section 439 Cr.P.C. has been filed seeking bail in FIR No.369 of 2021, under Sections 419, 420, 467, 468, 471, 120-B, 177 and 506 IPC and Section 7 Criminal Law Amendment Act, Police Station Kotwali Nagar, District Barabanki after the bail application of the accused-applicant has been rejected by the Special Judge (MP/MLA)/Additional District Judge, Court No.4, Barabanki on 13.12.2021 in Bail Application No.2824 of 2021.

3. As per the allegations in the FIR, an ambulance bearing registration no.UP 41 AT 7171 was registered in the Road Transport Office, Barabanki on 21.12.2013 in the name of Dr. Alka Rai, R/o 56, Rafi Nagar, Barabanki. A letter was submitted that the said ambulance would be attached to Sanjeevani Hospital and Research Center Private Limited, National Highway-24, G.T. Road, Mau. However, on 1.4.2021 it came to the notice that the said ambulance was being run without fitness and insurance as the fitness of the said ambulance got expired on 31.1.2017. The Road Transport Office issued notice on 23.1.2020 to the alleged owner of the said ambulance on the address, which was given at the time of registration of the vehicle. At the time of registration, the said vehicle got registered in the name of Dr. Alka Rai, 56, Rafi Nagar, Barabanki, for which the relevant papers such as

Voter Identity Card of the said address were submitted and the Registration Officer believing the genuineness of the documents submitted, registered the said vehicle to the address given at the time of registration. However, it was found that the said Voter Identity Card was forged and fabricated document. There was no such address of 56, Rafi Nagar, Barabanki, but there was an address in nearby locality, House No.56, Abhay Nagar and in the said house, one Pradeep Mishra was living with his family. It was said that no one in the name of Dr. Alka Rai ever lived in Rafi Nagar or Abhay Nagar, and the papers submitted at the time of registration of the said ambulance were forged and fabricated documents.

4. This FIR was registered against co-accused, Dr. Alka Rai. However, during the course of investigation, the name of the accused-applicant figured, and it was found that the real beneficiary and user of the said vehicle was the present accused-applicant and he got the said vehicle purchased in the name of Dr. Alka Rai by pressurizing her and the payment was allegedly made by him.

5. It has been submitted on behalf of the State that the accused-applicant is a known Mafia, Don and Gangster. He has been elected five times for the Legislative Assembly of the Uttar Pradesh from Mau Constituency and three times while he was in jail. His name is well known in the crime world and he is the biggest 'bahubali' of the State of Uttar Pradesh. He has created an empire in the crime world with the proceeds of crime. To his credit, there are as many as 56 criminal cases, in which 14 are murder cases under Section 302 along with 364-A and 307 IPC etc. Other cases are also for commission of the serious offences by him. He enjoys the image of Robin-hood and because of his terror, witnesses do not dare to depose against him, and if someone dares, he would be finished.

6. The criminal history of the accused-applicant, which has been placed on record along with supplementary counter affidavit on behalf of the State, is extracted herein under:-

1. NCR No.219 of 1978, under section 506 IPC,
2. Case Crime No.169 of 1986, under Section 302 IPC,
3. Case Crime No.106 of 1988, under Section 302 IPC,
4. Case Crime No.410 of 1988, under Sections 147, 148, 149, 302 and 307 IPC,
5. NCR No.233 of 1988, under Sections 504 and 506 IPC,
6. Case Crime No.124 of 1990, under Sections 364, 395 and 397 IPC,
7. Case Crime No.399 of 1990, under Sections 147, 148, 149 and 307 IPC,
8. Case Crime No.682 of 1990, under Sections 147 and 506 IPC,
9. Case Crime No.266 of 1990, under Sections 467, 468, 420, 120-B IPC,
10. Case Crime No.44 of 1991, under Section 302 IPC,
11. Case Crime No.172 of 1991, under Sections 147, 148 and 302 IPC,
12. Case Crime No.294 of 1991, under Sections 307 and 302 IPC,
13. Case Crime No.229 of 1991, under Sections 147, 148, 149 and 302 IPC,
14. Case Crime No.456 of 1993, under Sections 365 and 387 IPC,
15. Case Crime No.503 of 1993, under Section 5 TADA,
16. Case Crime No.834 of 1995, under Sections 353, 504 and 506 IPC,
17. Case Crime No.165 of 1996, under Sections 323, 352 and 307 IPC,
18. Case Crime No.192 of 1996, under Section 3(1) U.P. Gangster Act,
19. Case Crime No.264 of 1996, NSA,
20. Case Crime No.237 of 1996, under Sections 120, 135, 136 Lo.Pra. Adhi.;
21. Case Crime No.19 of 1997, under Sections 364A, 365, 302, 120-B and 34 IPC;
22. NCR No.19 of 1997, under Section 506 IPC,
23. Case Crime No.121 of 1997, under Section 364A IPC;
24. Case Crime No.377 of 1997, under Section 506 IPC;
25. Case Crime No.58 of 1998, NSA;
26. Case Crime No.33 of 1999, NSA;
27. Case Crime No.17 of 1999, under Section 506 IPC;
28. Case Crime No.60 of 1999, under Sections 419, 420, 109 and 120-B IPC;
29. Case Crime No.106 of 1999, under Sections 307, 302 and 120-B IPC;
30. Case Crime No.126 of 1999, under Section 506 IPC;
31. Case Crime No.428 of 1999, under Section 2/3 U.P. Gangster Act;
32. Case Crime No.66 of 2000, under Sections 147, 336, 353 and 506 IPC;
33. Case Crime No.209 of 2002, under Section 3/7/25 Arms Act;
34. Case Crime No.131 of 2003, under Sections 353, 504 and 506 IPC;

35. *Case Crime No.9A of 2004, under Sections 147, 148, 149, 307 IPC;*
36. *Case Crime No.808 of 2004, under Sections 147, 148, 149, 393, 307, 507, 506, 504 and 342 IPC;*
37. *Case Crime No.493 of 2005, under Sections 302, 506 and 120-B IPC;*
38. *Case Crime No.589 of 2005, under Sections 147, 148, 149, 302, 307, 404, 120-B IPC and Section 7 Criminal Law amendment Act;*
39. *Case Crime No.1580 of 2005, under Sections 147, 148, 149, 302, 435, 436, 153A IPC;*
40. *Case Crime No.1051 of 2007, under Section Gangster Act;*
41. *Case Crime No.361 of 2009, under Sections 302, 120-B IPC and Section 7 Criminal Law Amendment Act;*
42. *Case Crime No.1182 of 2009, under Sections 307, 506 and 120-B IPC;*
43. *Case Crime No.66 of 2009, under Section 3 Makoka Act;*
44. *Case Crime No.1866 of 2009, under Sections 147, 148, 149, 307, 302, 325, 404, 120-B IPC and Section 7 Criminal Law Amendment Act;*
45. *Case Crime No.399 of 2010, under Sections 302, 307, 120-B, 34 IPC, Section 7 Criminal Law Amendment act and Section 25 Arms Act;*
46. *Case Crime No.482 of 2010, under Section 3(1) U.P. Gangster Act;*
47. *Case Crime No.891 of 2010, under U.P. Gangster Act;*
48. *Case Crime No.20 of 2014, under Section 147, 148, 149, 302, 307, 506, 120-B IPC and Section 7 Criminal Law Amendment Act;*
49. *Case Crime No.05 of 2019, under Sections 386 and 506 IPC;*
50. *Case Crime No.04 of 2020, under Sections 419, 420, 467, 468, 471, 120B IPC Section 30 Arms Act;*
51. *Case Crime No.160 of 2020, under Section 3(1) U.P. Gangster Act;*
52. *Case Crime No.236 of 2020, under Sections 468, 471, 120-B IPC and Section 3 Sa.Sa.Nu, Adhi;*
53. *Case Crime No.55 of 2021, under Section 3(1) U.P. Gangster Act;*
54. *Case Crime No.369 of 2021, under Sections 419, 420, 467, 468, 471, 120-B, 506, 177 IPC and Section 7 Criminal Law Amendment Act;*
55. *Case Crime No.121 of 2021, under Section 25/26 Arms Act; and*
56. *Case Crime No.185 of 2021, under Sections 419, 420, 467, 468, 471 and 120-B IPC;*

7. It is alleged that the aforesaid vehicle was recovered from Mohali, Punjab, which was being used by the accused-applicant and his henchmen for going to the court from jail. His henchmen would travel in the said ambulance armed with sophisticated weapons to escort him.

8. It is irony and tragedy of the Indian republic and biggest scar on Indian democracy that criminals like the present accused-applicant are the law-makers. This Court in its judgment and order dated 7.6.2022 passed in Criminal Misc. Bail Application No.5473 of 2022 while taking serious view on increasing criminalisation of politics and criminals reaching Parliament and State Legislature, has observed as under:-

“16. No one can dispute that the present day politics is caught in crime, identity, patronage, muscle and money network. Nexus between crime and politics is serious threat to democratic values and governance based on rule of law. Elections of Parliament and State Legislature and even for local bodies and panchayats are very expensive affairs. The record would show that the elected members of Lok Sabha with criminal records are extremely wealthier candidates. For example, in 2014 Lok Sabha election 16 out of 23 winners having criminal charges in their credit related to murder were multi-millionaire. After candidates get re-elected, their wealth and income grows manyfold which is evident from the fact that in 2014, 165 M.Ps. who got re-elected, their average wealth growth was Rs.7.5 Crores in 5 years.

17. Earlier, 'Bahubalis' and other criminals used to provide support to candidates on various considerations including caste, religion and political shelter but now criminals themselves are entering into politics and getting elected as the political parties do not have any inhibition in giving tickets to candidates with criminal background including those having heinous offence(s) registered against them. Confirmed criminal history sheeters and even those who are behind bars are given tickets by different political parties and surprisingly some of them get elected as well.

18. It is the responsibility of the Parliament to show its collective will to restrain the criminals from entering into the politics, Parliament or legislature to save democracy and the country governed on democratic principles and rule of law.

19. There is responsibility of civil society as well to rise above the parochial and narrow considerations of caste, community etc and to ensure that a candidate with criminal background does not get elected. Criminalization of politics and corruption in public life have become the biggest threats to idea of India, its democratic polity and world's largest democracy. There is an unholy alliance between organized crime, the politicians and the bureaucrats and this nexus between them have become pervasive reality. This phenomenon has eroded the credibility, effectiveness, and impartiality of the law enforcement agencies and administration. This has resulted into lack of trust and confidence in administration and justice delivery system of the

country as the accused such as the present accused-applicant win over the witnesses, influence investigation and tamper with the evidence by using their money, muscle and political power. Alarming number of criminals reaching Parliament and State Assembly is a wake up call for all. Parliament and Election Commission of India are required to take effective measures to wean away criminals from politics and break unholy nexus between criminal politicians and bureaucrats.

20. This unholy nexus and unmindfulness of political establishment is the result of reaching person like the accused-applicant, a gangster, hardened criminal and 'Bahubali' to the Parliament and becoming a law maker. This Court, looking at the heinousness of offence, might of the accused, evidence available on record, impact on society, possibility of accused tampering with the evidence and influencing/ winning over the witnesses by using his muscle and money power does not find that there is a ground to enlarge the accused-applicant on bail at this stage. This bail application is thus, rejected."

9. Dr. Alka Rai in her statement said that under pressure and fear of the present accused-applicant, she signed on some papers brought by his men and her signatures were taken on the blank letter pad of the hospital along with seal etc. She further said that she met with the present accused-applicant in jail, and because of the manner in which the accused-applicant insisted to buy ambulance, out of fear and terror of the accused-applicant, she put her signatures on the papers brought by his men. This ambulance was being used by the accused-applicant and she could come to know this fact on 31.3.2021 that the present accused-applicant was using the said vehicle for going to the court in Mohali, Punjab from jail.

10. She further said that after the news channel made the disclosure of the above incident, his men told her that what was required to be said by her to the police. If she was asked by the investigating agency, she would tell that she purchased the said vehicle by giving her permanent address at Barabanki and, thereafter, she was shifted to Mau, and she was running the ambulance from Mau itself. She was told to say that Afsa Ansari, wife of the accused-applicant had taken the said ambulance on rent 4-5 days before as she had to travel to Punjab to bring back her husband, ambulance would be required as she was having trouble/pain on her neck. Dr. Alka Rai was threatened that if

she would not tell whatever was told, her hospital and she would be finished.

11. There are statements of other co-accused, who have corroborated the allegation against the accused-applicant regarding purchase of the said ambulance on the basis of the forged and fabricated documents in the name of Dr. Alka Rai for the use of the accused-applicant.

12. Anand Yadav, one of the co-accused, had said that one Surendra Sharma S/o Indrasen Sharma, Saleem S/o Badruddin and Firoz used to drive the said ambulance. The accused-applicant and his men, Afroz, Shahid and Zafar @ Chanda would keep sophisticated and modern illegal weapons in the said ambulance, which would accompany the accused-applicant. Once in Lucknow at Hazratganj Crossing, one Reporter clicked the photograph of the said ambulance, and then henchmen of the accused-applicant assaulted the said Reporter badly. All these persons are close, confident and associate of the accused-applicant.

13. Allegation is that the ambulance was being used by the accused-applicant to carry his men with sophisticated arms to escort the accused-applicant from jail to the court in order to avoid any untoward incident. A photograph has been placed on record, which would demonstrate that when the accused-applicant came to the court in Mau, the said ambulance and his men accompanied him.

14. The Supreme Court recently in the case of ***Harjit Singh Vs. Inderpreet Singh and others***, (2021) SCC Online SC 633 has cancelled the bail granted to the accused by the High Court considering the criminal antecedents of the accused. Paragraphs 11 and 12 of the aforesaid judgement read as under:-

“11.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. Even the High Court cancelled the bail in another case vide order dated 26.07.2019 specifically observing that while on bail during the pendency of the appeal, they were involved in other cases of heinous crime. From the material on record, it appears that there is a high possibility of threat and danger to the life

and safety of the appellant herein/complainant and his family members, as is evident from the criminal history of respondent no.1, detailed above.

12. The aforesaid relevant considerations are not at all considered by the High Court in its true perspective. Grant of bail to respondent no.1 herein does not appear to be in order. The antecedents of respondent no.1 herein; the threat perception to the appellant and his family members are also not considered by the High Court. We are of the opinion that the High Court has erred in granting bail to respondent no.1 herein without taking into consideration the overall facts, otherwise having a bearing on exercise of its discretion on the issue. The order passed by the High Court fails to notice material facts and shows non- application of mind to the seriousness of the crime and circumstances, which ought to have been taken into consideration.”

15. In the case of ***Brijmani Devi Vs. Pappu Kumar and another;*** (2022) 4 SCC 497, the Supreme Court has held that while considering a bail application by the Court, the due consideration, inter alia, to be given to the criminal antecedents of the accused. Paragraph 35 of the said judgement reads as under:-

“35. 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 the 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 visàvis the offence/ s alleged against an accused.”

16. The long criminal history of the accused-applicant of most heinous offences and looking at the facts of the case that the ambulance was allegedly being used to carry his men armed with illegal and sophisticated weapons for his protection, this Court finds that there is no ground to enlarge the accused-applicant on bail. The accused-applicant commands un-parallel fear in the minds and hearts of the people that no one dares to challenge him and his men and his politics. If the accused-applicant is enlarged on bail, the apprehension of the

prosecution that he would tamper with the evidence and influence the witnesses, cannot be ruled out.

17. Considering all these aspects, this Court finds no ground to enlarge the accused-applicant on bail.

18. Bail application is accordingly *rejected*.

Order Date :- 19.7.2022

Rao/-