

**Court No. - 11**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 1538 of 2023

**Applicant :-** Nandan Singh Bisht

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

**Counsel for Applicant :-** Vaibhav Kalia, Vidhu Bhushan Kalia

**Counsel for Opposite Party :-** G.A., Ajai Kumar, Vivek Kumar Rai

CONNECTED WITH

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 11541 of 2022

**Applicant :-** Ankit Das

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

**Counsel for Applicant :-** Salil Kumar Srivastava, Rahul Srivastava

**Counsel for Opposite Party :-** G.A.

AND

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. 14110 of 2022

**Applicant :-** Latif Alias Kale

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

**Counsel for Applicant :-** Salil Kumar Srivastava

**Counsel for Opposite Party :-** G.A., Ajai Kumar, Vivek Kumar Rai

AND

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 14113 of 2022

**Applicant :-** Satyam Tripathi Alias Satya Prakash Tripathi

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

**Counsel for Applicant :-** Salil Kumar Srivastava

**Counsel for Opposite Party :-** G.A., Ajai Kumar, Vivek Kumar Rai

AND

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 14164 of 2022

**Applicant :-** Shekhar Bharti

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

**Counsel for Applicant :-** Salil Kumar Srivastava

**Counsel for Opposite Party :-** G.A., Ajai Kumar, Vivek Kumar Rai

AND

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 1640 of 2023

**Applicant :-** Ashish Pandey

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

**Counsel for Applicant :-** Manish Mani Sharma

**Counsel for Opposite Party :-** G.A.,Ajai Kumar,Vivek Kumar Rai

AND

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 1920 of 2023

**Applicant :-** Rinkoo Rana

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

**Counsel for Applicant :-** Manish Mani Sharma

**Counsel for Opposite Party :-** G.A.,Ajai Kumar,Vivek Kumar Rai

AND

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 2090 of 2023

**Applicant :-** Sumit Jaisawal

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

**Counsel for Applicant :-** Manish Mani Sharma

**Counsel for Opposite Party :-** G.A.

**Hon'ble Rajesh Singh Chauhan,J.**

Heard learned counsel for the applicants, Sri Prachish Pandey, learned A.G.A. for the State and Sri Vivek Kumar Rai, learned counsel for the victim.

Since all the aforesaid bail applications are relating to the same crime case, therefore, they are being connected together and a common order is being passed.

As per learned counsel for the applicants, applicant- Nandan Singh Bisht is in jail since 19.10.2021 in Case Crime No.0219 of 2021, under Sections 147, 148, 149, 307, 326, 302, 120-B, 34, 427 IPC, Section 30 of Arms Act and Section 177 of Motor Vehicle Act, Police Station – Tikuniya, District – Lakhimpur Kheri.

Applicant- Ankit Das is in jail since 13.10.2021 in Case Crime No.0219 of 2021, under Sections 147, 148, 149, 302, 120-B, 307, 326/34, 427 IPC, Section 30 of Arms Act and Section 177 of Motor Vehicle Act, Police Station – Tikuniya, District – Lakhimpur Kheri.

Applicant- Latif alias Kale is in jail since 13.10.2021 in Case Crime No.0219 of 2021, under Sections 147, 148, 149, 302, 120-B, 307, 326/34, 427/34 IPC, Section 30 of Arms Act and Section 177 of Motor Vehicle Act, Police Station – Tikuniya,

District – Lakhimpur Kheri.

Applicant- Satyam Tripathi alias Satya Prakash Tripathi is in jail since 19.10.2021 in Case Crime No.0219 of 2021, under Sections 147, 148, 149, 302, 120-B, 307, 326/34, 427/34 IPC, Section 30 of Arms Act and Section 177 of Motor Vehicle Act, Police Station – Tikuniya, District – Lakhimpur Kheri.

Applicant- Shekhar Bharti is in jail since 12.10.2021 in Case Crime No.0219 of 2021, under Sections 147, 148, 149, 302, 120-B, 307, 326, 34, 427/34 IPC and Section 177 of Motor Vehicle Act, Police Station – Tikuniya, District – Lakhimpur Kheri.

Applicant- Ashish Pandey is in jail since 18.10.2021 in Case Crime No.0219 of 2021, under Sections 147, 148, 149, 307, 326, 34, 302, 120-B, 427 IPC and Section 177 of Motor Vehicle Act, Police Station – Tikuniya, District – Lakhimpur Kheri.

Applicant- Rinkoo Rana is in jail since 18.10.2021 in Case Crime No.0219 of 2021, under Sections 147, 148, 149, 307, 326, 34, 302, 120-B, 427 IPC and Section 177 of Motor Vehicle Act, Police Station – Tikuniya, District – Lakhimpur Kheri.

Applicant- Sumit Jaisawal is in jail since 18.10.2021 in Case Crime No.0219 of 2021, under Sections 147, 148, 149, 307, 326, 34, 302, 120-B, 427 IPC, Sections 3/25 & 3/27 of Arms Act and Section 177 of Motor Vehicle Act, Police Station – Tikuniya, District – Lakhimpur Kheri.

Attention has been drawn towards the order dated 25.01.2023 passed by the Apex Court in **Special Leave Petition (Criminal) No.7857 of 2022, Ashish Mishra alias Monu Vs. State of U.P.**, whereby the Apex Court has granted interim bail to Ashish Mishra alias Monu imposing certain conditions fixing the date on 14.03.2023. For the convenience, the order dated 25.01.2023 is being reproduced herein below:-

*"1. The present Special Leave Petition is directed against the judgement and order dated 26.07.2022 passed by the High Court of Judicature at Allahabad, Lucknow Bench, whereby Petitioner's bail application under Section 439 of the Code of Criminal Procedure of 1973 has been rejected.*

*2. The alleged incident of crime in this case has already been the subject matter of two separate proceedings before this court – First, Re: **Violence in Lakhimpur Kheri (UP) Leading to Loss of Life**, (2022) 9 SCC 337, whereby an SIT headed by a retired High Court Judge was constituted to monitor the investigation in the concerned incident and; second Re: **Jagjeet Singh v. Ashish Mishra**, (2022) 9 SCC 321, whereby this court set aside the erstwhile order granting bail to the Petitioner and remitted the matter for reconsideration which resulted in the impugned decision.*

Hence, at this juncture, it is not imperative to delve Signature Not Verified deep into the factual matrix, and it suffices to succinctly mention the key facts to set out the context of the present proceedings.

3. It is stated that on the fateful day, a wrestling contest had been organized by the Petitioner which was supposed to be attended by the Petitioner's father, Mr. Ajay Mishra who is the Union Minister of State for Home and Mr. Keshav Prasad Maurya, the Deputy Chief Minister of the State of Uttar Pradesh. The proposed route which was to be taken by these persons had to be changed because of the protests held by farmers at the incident spot, which is alleged to have irked the Petitioner and his associates, leading to the alleged occurrence. Consequently, two separate FIRs bearing FIR No. 219 of 2021 and FIR No. 220 of 2021 at PS Tikonia, District Kheri, U.P. were lodged by the parties involved in the incident against each other.

4. FIR No. 219 of 2021 was registered by the Informant (Jagjeet Singh) against the Petitioner and his associates, alleging that they committed the criminal offense as a retaliation to the protests organized by the farmers on various issues which also included the adverse public comments made by Petitioner's father. It was specifically alleged that Petitioner and his co accused intentionally ran over the farmers returning to their respective homes and killed four innocent farmers and a journalist. It was stated that the vehicle carrying the Petitioner fell into a ditch as it became uncontrollable due to high speed. Consequently, the Petitioner is alleged to have run away from the spot by escaping to the nearby sugarcane fields under cover of open fire of weapons.

5. On the other hand, FIR No. 220 of 2021 was lodged by one Sumit Jaiswal, who is stated to be the Petitioner's aide and also the coaccused in FIR No. 219 of 2021. He has alleged that at the time of the incident, Petitioner and his associates were on their way to welcome the dignitaries for the wrestling competition when they encountered the protesting farmers on the spot. It is stated that the farmers stopped the vehicle in which the complainant was travelling and started assaulting the occupants. The complainant has further alleged that he somehow managed to escape the assailants' clutch while his other cooccupants continued to be assaulted. Three persons died at the spot as a result of the said assault.

6. Hence, for the same incident we are confronted with two completely different narratives which necessitates a fullblown trial to scourge out the actual facts. Regardless, we must be cognizant that the unfortunate grave incident is reported to have led to the loss of eight lives, consisting of four protesting farmers, one journalist and the other three who were part of the Petitioner's convoy.

7. During the course of hearing, this court via order dated 26.11.2022 took note of the fact that the chargesheet had been filed and directed the Trial Court to decide on framing of charges in the case registered against the Petitioner and his coaccused. Consequently, charges have been framed against the Petitioner under Sections 147, 148, 307 r/w 149, 326 r/w 149, 302 r/w 149, 120B, 427 of Indian Penal Code of 1860; under Section 30, 5 r/w 27, 3 r/w 25 of Arms Act of 1959; and under Section 177 of Motor Vehicles Act of 1988. It must be noted that charges have also been framed against the remaining accused in FIR No. 219 of 2021.

8. Additionally, the State has informed us that charges have been framed in FIR No. 220 of 2021 against Accused No(s). 1 to 3, namely, (i) Guruwinder Singh, (ii) Kamaljeet Singh, (iii) Gurupreet Singh under Sections 143, 147, 148, 323 r/w 149, 325 r/w 149, 427, 436, 504, 302 r/w 149 of Indian Penal Code of 1860; and Accused No. 4, namely, (iv) Vichitra Singh under Sections 109, 114, 504, 427, 436 of Indian Penal Code of 1860. It must be noted that further investigation to identify the involvement of other than the four accused farmers is still going on.

9. Afterwards, this court via order dated 12.12.2022, had sought to find out from the First Additional Sessions Judge at Lakhimpur Kheri, U.P. as to how much time is likely needed in the normal course to conclude the trial in the present case, without compromising with the schedule of other pending or prioritised matters. In compliance thereto, a report was submitted by the learned Trial Judge, the relevant extracts of which are as follows –

**"5. There are 208 oral witnesses, 171 documentary evidence, 17 scientific evidence, 07 physical evidence and 24 Forensic Science Laboratory reports have been proposed by prosecution in the chargesheet of Session Trial No.44/2022 State versus Ashish Mishra@Monu and Ors Case Crime No.219/2021 u/s 147, 148, 149, 307, 326, 34, 302, 120B, 427, 201 IPC and section 3/25, 5/27 and 30 Arms Act and section 177 M.V. Act.**

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**8. Pursuant to proposed oral evidence, documentary evidence, scientific evidence, physical evidence and F.L. report and 04 separate advocates of accused persons, in the case of no external circumstances arising in the case, normally minimum 05 years is likely to be taken in the disposal of the session trial."**

10. Mr. Mukul Rohatgi, learned Senior Counsel for the Petitioner, argued that the Informant's version in FIR No. 219 of 2021 in which Petitioner is arrayed as an accused, was based on hearsay as the concerned Informant was not a witness to the incident. His argument was hinged on the premise that since the narration in FIR No. 220 of 2021 was based on the version given by an injured witness, it should be treated more credible than the opposite one. He strenuously highlighted the contents of the Trial Court's letter in respect of the time required for the conclusion of the trial and argued that Petitioner should not be kept in custody for an indefinite period. Mr. Rohatgi was supported by Mr. Siddhartha Dave, learned Senior Counsel who is also appearing on behalf of Petitioner.

11. Ms. Garima Prashad, learned Additional Advocate General appearing on behalf of the State strongly contested the prayer for the grant of bail on the ground that a strong prima facie case has been made out against the Petitioner. Mr. Dushyant Dave, learned Senior Counsel appearing on behalf of the Informant in FIR No. 219 of 2021, very vehemently opposed the prayer for bail. Mr. Dave chronologically cited multiple decisions including the Constitution Bench verdict in **Bihar Legal Support Society v. The Chief Justice of India**, 3 (1986) 4 SCC 767, to establish that this court has taken a consistent stand to refuse bail in cases involving heinous crimes such as premeditated murder as alleged in the instant case. Furthermore, he argued that the Petitioner commanded tremendous

*influence in the jurisdiction where the incident had occurred and that if granted bail, the trial would never be able to see the light of day.*

*12. We have heard both the parties at considerable length and have perused the documents brought on record.*

*13. We are conscious of the grave allegations levelled against the Petitioner but we must also acknowledge that principles of procedural fairness require these allegations to be proven in trial proceedings. In the present case, charges have been framed, and Petitioner is in custody for more than a year. In view of the large volume of oral and documentary evidence, which the prosecution is entitled to lead in both the cases, coupled with the defence evidence, if any, trial cannot be expected to be concluded that early.*

*14. Similar is the fate of the undertrials in the contrasting version wherein four farmers who are accused of inflicting fatal injuries to three associates of the Petitioner are incarcerated. We are further informed by the learned State Counsel that their respective bail applications are pending in the High Court.*

*15. At the same time, we find ourselves in agreement with the apprehensions raised regarding fair trial and the doubts surrounding the impartiality of the conduct of law enforcement agencies. We are, therefore, of the view that it is imperative to balance the rights of Petitioner's liberty emanating under Article 21 visavis the State's right to ensure a fair and proper trial and safeguard the legitimate outcry of the victim(s) of crime.*

*16. In view of two diametrically opposite versions, both supported by their respective investigation reports, we are not inclined to express any final opinion as regard to the Petitioner's right to seek regular bail at this stage. Rather, we undertake to keep these proceedings pending by issuing certain interim directions, in furtherance of interest of justice and in a way on an experimental basis, to adjudge as to whether there is any substance in the apprehensions expressed on behalf of the State and the Informant.*

*17. We, thus, deem it appropriate to issue the following interim directions at this stage:*

*i. The Petitioner is directed to be released on interim bail initially for a period of eight weeks subject to his furnishing bail bonds to the satisfaction of the Trial Court;*

*ii. With a view to ward off any direct or indirect influence on the material witnesses who are yet to depose, the Petitioner is directed to leave the State of Uttar Pradesh within one week from the date of his release on interim bail;*

*iii. The Petitioner shall not stay in the State of Uttar Pradesh or in NCT of Delhi during the period of interim bail;*

*iv. The Petitioner shall disclose the place of his residence to the Trial Court as well as the jurisdictional police station where he would stay during the period of interim bail, within one week of his release. He shall mark his presence in the jurisdictional police station once in a week;*

v. The Petitioner shall surrender his passport with the Trial Court within one week of his release on interim bail; vi. The Petitioner shall not enter the State of Uttar Pradesh except to attend the trial proceedings;

vii. Any attempt made by the Petitioner, his family or supporters to influence or threaten the witnesses, directly or indirectly, shall entail cancellation of the interim bail;

viii. The prosecution, SIT, Informant or any family member of the victims of the crime will be at liberty to promptly inform this Court of any incident of misuse of the concession of the interim bail;

ix. The Petitioner shall appear before the Trial Court on every date of hearing and no adjournment shall be sought on his behalf. If the Petitioner is found involved in prolonging the trial, it shall be taken as a valid ground to cancel the interim bail.

18. As noticed earlier, there are two separate FIRs with different narratives but the place of occurrence and substratum of the incident are the same. The question as to who were the aggressors or responsible for the unfortunate ghastly incident would be ascertained only after a full-fledged trial. As a necessary corollary we, in exercise of our suo motu constitutional powers, extend the benefit of interim liberty to the under-trial accused involved in the other version also, namely, FIR No. 220 of 2021. Consequently, it is directed that the following four accused namely:

1. Guruwinder Singh, S/o. Gurmej Singh, R/o. Mukarimpur, Post Aliganj, PS Gola Dist., Kheri;

2. Kamaljeet Singh; S/o. Iqbal Singh, R/o. Panchhi Farm Babaura, PS Palia Dist. Kheri;

3. Gurupreet Singh; S/o. Kulwinder Singh, R/o. Vanshi Nagar, PS Palia, Dist. Kheri; and

4. Vichitra Singh, s/o. Lakhwinder Singh, R/o. Gogaon, PS Bheeta, Dist. Kheri;

who have been arrested and whose bail applications are now stated to be pending before the High Court of Judicature at Allahabad, are ordered to be released on interim bail till further orders, subject to their furnishing bail bonds to the satisfaction of the Trial Court.

19. The learned Trial Court is directed, in the interest of justice, to prioritize the deposition of protected witnesses, followed by other crucial witnesses. All the accused persons and their counsel will ensure full cooperation to the Trial Court and no adjournment shall be granted by the Trial Court merely on the asking of the undertrials or their counsels.

20. The Trial Court shall send progress reports to this Court after every date of hearing, along with details of witnesses examined on each date. The Registry is directed to list the matter without any delay for appropriate directions as soon as a report is received from the Trial Court.

21. The Trial Court shall also be at liberty to move this Court, if need be,

*for issuance of suitable directions to the prosecution, accused or any other stakeholder so that the trial is not hampered in any manner till it reaches a logical conclusion.*

*22. It is made clear that we have not expressed any views on merits of the versions contained in FIR No. 219 of 2021 or FIR No. 220 of 2021; both dated 04.10.2021 and registered at Police Station Tikonia, District – Kheri.*

*23. Post the matter for further consideration on 14.03.2023."*

Learned counsels for the applicants have further submitted that the Apex Court has granted interim bail to the accused of both the sides inasmuch cross FIRs were lodged in the issue in question. Therefore, they have requested that the benefit of aforesaid order of the Apex Court may be given to the present applicants and they may be enlarged on interim bail on the same terms and conditions, which have been imposed by the Apex Court in the order dated 25.01.2023 in re; **Ashish Mishra alias Monu** (supra).

Learned AGA as well as learned counsel for the victim has opposed the aforesaid prayer for interim bail but could not dispute the fact that the Apex Court has granted interim bail to accused persons of both the sides.

Therefore, without entering into merits of the issue, considering the order dated 25.01.2023 passed by the Apex Court in **Ashish Mishra alias Monu** (supra), till the next date of listing, let present applicants, namely, Nandan Singh Bisht, Ankit Das, Latif alias Kale, Satyam Tripathi alias Satya Prakash Tripathi, Shekhar Bharti, Ashish Pandey, Rinkoo Rana and Sumit Jaisawal be released on interim bail in the aforesaid case crime number on the same terms and conditions, which have been indicated in para-17 of the order dated 25.01.2023 in re; **Ashish Mishra alias Monu** (supra) subject to their furnishing bail bonds and sureties to the satisfaction of the Trial Court concerned.

The interim bail order may be extended or vacated on the next date subject to the orders being passed by the Apex Court.

List on 20.03.2023.

**[Rajesh Singh Chauhan,J.]**

**Order Date :- 14.2.2023**

**RBS/-**