

A.F.R.

Court No. - 87

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 22865 of 2020

Applicant :- Umakant Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Ram Pratap Yadav, Devbratt Yadav

Counsel for Opposite Party :- G.A., Hanuman Deen Verma

Hon'ble Dinesh Kumar Singh, J.

1. Heard Sri Amrendra Nath Singh, learned Senior Advocate assisted by Sri Ram Pratap Yadav, learned counsel for the applicant as well as Sri Hanuman Deen Verma, learned counsel for the complainant and Sri J.P.S. Chauhan, learned Additional Government Advocate for the State.

2. The present bail application under Section 439 Cr.P.C. has been filed seeking bail by the accused applicant in Case Crime No. 260 of 2019, under Sections 120-B, 454, 380, 447 I.P.C. and Section 3(2)(ka) of the Prevention of Damage to Public Property Act, 1984, Police Station - Phoolpur, District - Azamgarh.

3. The F.I.R. in question got registered on a written complaint of Lal Chand Yadav S/o Ram Bujharat on 04.10.2019 on the allegation that on 27.09.2019 at around 5-6 p.m. on exhortation of present accused applicant, his sons, namely, Ravikant Yadav and Dineshkant Yadav and several unknown accomplices broke open the locks of Gandhi Ashram and stolen the government property and documents. The said Gandhi Ashram was constructed by funds given by the World Bank and mobilized by the Ashram itself. After looting the government property and the documents, the said Ashram was painted by the accused applicant in pink paint and the Ashram building got occupied by the accused applicant and his sons. At the time of incident, no one was present in the premises from the Ashram.

4. On the next day, when the complainant who was In-Charge of the Gandhi Ashram came to the office and only then he could know about the incident. On the basis of the said complaint the F.I.R. in question came to be registered.

5. The said Gandhi Ashram had been constructed on the land bearing Gata No. 113 which is a nazool land and said building had been in the possession of the Gandhi Ashram since 1963 when its construction got completed. The accused applicant, his sons and other co-accused, had taken forcible possession and occupied the said property of Gandhi Ashram.

6. The accused applicant is another Bahubali, gangster and dreaded criminal of Eastern Uttar Pradesh which is adjacent to State of Bihar and is known for having bahubali, mafia and gangster culture. The accused applicant is a dreaded criminal which is evident from his long, rich but inglorious criminal history of heinous offences which would include 15 murder cases under Section 302 I.P.C. He had been convicted very recently in two cases. One case, for which he has been convicted, is an offence under Section 302 I.P.C., and the other one for which he has been convicted is an offence under Section 420 I.P.C.

7. The accused applicant was two times Member of Parliament and one time Member of Lagislative Assembly of Uttar Pradesh. The rich but inglorious criminal history of the accused applicant of heinous offences would disclose that he had accumulated wealth and properties of several hundred crore from the proceeds of crime, using his political clout, muscle power, mafia and don image. He had been acquitted in several cases of heinous offences as he would winover the witnesses or making the witnesses tired or got them eliminated, a phenomenon which was taken note of by the Supreme Court. The people could not dare to complain against him because of his close proximity to the ruling elite, power and terror and fear, which he

strikes in the hearts and mind of the people of the area. The rich but inglorious criminal history of the accused applicant of 80 cases is extracted hereunder:

“1. उमाकान्त यादव पुत्र श्रीपति यादव सा० चकगंज अलीशाह (सरावाँ), थाना-दीदारगंज, आजमगढ़

क्र० सं	मु०अ०सं	धारा	थाना	जनपद
1	29/21	3(1) उ० प्र० गैंगस्टर एक्ट	दीदारगंज	आजमगढ़
2	260/19	120 बी, 454,38,447 भादवि व 3(2) क सार्व० सम्पत्ति क्षति नि० अधि०	फूलपुर	आजमगढ़
3	546/07	3 / 4 गुण्डा एक्ट	दीदारगंज	आजमगढ़
4	56/98	147,323,504,506,427 भादवि व 3(1)10 एससी/एसटी एक्ट	दीदारगंज	आजमगढ़
5	127/97	3 / 4 गुण्डा एक्ट	दीदारगंज	आजमगढ़
6	06/93	302 भादवि	दीदारगंज	आजमगढ़
7	194/92	364,506 भादवि	दीदारगंज	आजमगढ़
8	108/91	147,148,149,364,302,201,452 भादवि	दीदारगंज	आजमगढ़
9	16/88	147,148,149,323,324 भादवि	दीदारगंज	आजमगढ़
10	24/84	147,148,353,307 भादवि	दीदारगंज	आजमगढ़
11	94 ए/83	302 भादवि	दीदारगंज	आजमगढ़
12	43/77	323, 325 भादवि	दीदारगंज	आजमगढ़
13	298/07	147,148,149,307,440,427,504,506, भादवि	फूलपुर	आजमगढ़
14	36/98	147,336,307,427 भादवि	फूलपुर	आजमगढ़
15	94/86	147,148,149,302 भादवि	फूलपुर	आजमगढ़
16	47 ए/84	147,148,149,307 भादवि	फूलपुर	आजमगढ़
17	200/83	147,148,149,302,307 भादवि	फूलपुर	आजमगढ़
18	83/87	364 भादवि	अहरौला	आजमगढ़
19	87/87	3(1) उ० प्र० गैंगस्टर एक्ट	अहरौला	आजमगढ़
20	49/83	325,323,332,504 भादवि	दीदारगंज	आजमगढ़
21	111/83	307 भादवि	फूलपुर	आजमगढ़

22	200/83	147,148,149,307,302 भादवि	फूलपुर	आजमगढ़
23	86/94	147,148,149,302 भादवि	फूलपुर	आजमगढ़
24	62/86	364 भादवि	दीदारगंज	आजमगढ़
25	141/90	147,148,323,504,506 भादवि	दीदारगंज	आजमगढ़
26	62/95	3(1) उ०प्र० गैंगस्टर एक्ट	फूलपुर	आजमगढ़
27	135/94	420,467,468,471 भादवि	दीदारगंज	आजमगढ़
28	137/94	25 आर्म्स एक्ट	दीदारगंज	आजमगढ़
29	104/85	504,506 भादवि	दीदारगंज	आजमगढ़
30	105/85	504,506 भादवि	दीदारगंज	आजमगढ़
31	93/14	147,148,149,302,364,201 भादवि	दीदारगंज	आजमगढ़
32	407/04	110 सीआरपीसी	दीदारगंज	आजमगढ़
33	241/09	110 सीआरपीसी	दीदारगंज	आजमगढ़
34	622/09	307,302 भादवि	फूलपुर	आजमगढ़
35	156/06	142,143,186,353,341 भादवि	दीदारगंज	आजमगढ़
36	28/87	379 भादवि	दीदारगंज	आजमगढ़
37	132/15	147,148,323,352,506 भादवि	दीदारगंज	आजमगढ़
38	NCR-75/83	504,506 भादवि	दीदारगंज	आजमगढ़
39	NCR-118/84	323,504,506 भादवि	दीदारगंज	आजमगढ़
40	NCR-123/84	504,506 भादवि	दीदारगंज	आजमगढ़
41	NCR-168/86	323,504,506 भादवि	दीदारगंज	आजमगढ़
42	171/91	147,143,194,307 भादवि	फूलपुर	आजमगढ़
43	307/07	147,148,353,506 भादवि व 7 सीएलए एक्ट	फूलपुर	आजमगढ़
44	22/88	171,504,506 भादवि	दीदारगंज	आजमगढ़
45	10/92	382,506 भादवि	दीदारगंज	आजमगढ़
46	86/93	3(1) उ०प्र० गैंगस्टर एक्ट	दीदारगंज	आजमगढ़
47	09/92	41,411 भादवि	दीदारगंज	आजमगढ़
48	121/97	3 /4 उ०प्र० गुण्डा एक्ट	दीदारगंज	आजमगढ़

49	NCR-57/86	323,504,506 भादवि	दीदारगंज	आजमगढ़
50	57/84	147,149,353,307 भादवि	सरायमीर	आजमगढ़
51	85/89	420,467,471 भादवि	सरायमीर	आजमगढ़
52	86/89	3/25/27 आर्म्स एक्ट	सरायमीर	आजमगढ़
53	NCR-54/89	323,504,506 भादवि	सरायमीर	आजमगढ़

प्रभारी डीसीआरबी
आजमगढ़
प्रभारी डी०सी०आर०बी०
आजमगढ़।

उक्त संबंध में जनपद के समस्त थानों से जरिये आर० टी० सेट जानकारी की गयी तो उपरोक्त अभियुक्त के विरुद्ध जनपद जौनपुर में निम्न अभियोग पंजीकृत होना पाया गया।

क्र० सं०	म०अ०सं०	धारा	थाना	जनपद
1	85/74	364,302,201 भादवि	शाहगंज	जौनपुर
2	87/92	27/25 ए एक्ट	शाहगंज	जौनपुर
3	36/90	302,120 बी भादवि	शाहगंज	जौनपुर
4	71/1985	364/302 भादवि	शाहगंज	जौनपुर
5	469/1990	396/302 भादवि	शाहगंज	जौनपुर
6	96/1990	3/25 ए एक्ट	शाहगंज	जौनपुर
7	NCR-NO 136/91	323/504/506 भादवि	शाहगंज	जौनपुर
8	109/1994	147/148/149/323/504/506/427/307	सिगरामऊ	जौनपुर
9	497/1997	504/506 भादवि	शाहगंज	जौनपुर
10	25/1998	504/506 भादवि	शाहगंज	जौनपुर
11	179/1995	3(1) उ०प्र० गिरोहबंद अधि०	शाहगंज	जौनपुर
12	82/1995	147/148/149/307/302/224/332/333/427 भादवि 7 CLA ACT	G.R.P. शाहगंज	जौनपुर
13	03/2000	419/420 भादवि	शाहगंज	जौनपुर
14	501/2002	3(1) उ०प्र० गुण्डा अधि०	शाहगंज	जौनपुर

15	648/2003	147/148/149/504/302 भादवि 7 CLA	शाहगंज	जौनपुर
16	652/2003	3(1) उ०प्र० गिरोहबंद अधि०	शाहगंज	जौनपुर
17	461/2014	420/467/468/471 भादवि	लाईनबाजार	जौनपुर
18	654/2015	147/148/323/506/363/307 भादवि 3(2)5 एससी०/एस०टी० एक्ट	शाहगंज	जौनपुर
19	355/2019	504/506/427 भादवि	शाहगंज	जौनपुर
20	74/85	364/302/201 भादवि	शाहगंज	जौनपुर
21	650/07	147/148/149/302/307/120 बी भादवि	सरायख्वाजा	जौनपुर
22	968/14	174 ए भादवि	लाइन बाजार	जौनपुर
23	2079/17	419/420/467/468 भादवि	लाइन बाजार	जौनपुर
24	158/06	347/323/506/147 भादवि	खुटहन	जौनपुर
25	NCR NO. 99/2000	323,504 भादवि	खुटहन	जौनपुर
26	21/14	506 भादवि	खुटहन	जौनपुर
27	97/91	147,323,188 भादवि	खुटहन	जौनपुर

रिपोर्ट सेवा में प्रेषित है।

प्रभारी डीसीआरबी,
जौनपुर।"

8. The trial court has taken note of the long criminal antecedents of the accused applicant while rejecting the application for bail vide order dated 11.06.2020 passed in Bail Application No. 935 of 2020. The accused applicant is a land mafia besides a don, gangster and dreaded criminal. This Court while rejecting the bail application of another Bahubali and sitting Member of Parliament, namely, Atul Kumar Singh Alias Atul Rai S/o Shri Bharat Singh, vide order dated 07.06.2022 passed in Criminal Misc. Bail Application No. 5473 of 2022, had noted the greatest irony of the largest democracy of the world and said that 43% of the Members of Lok Sabha who got elected in 2019 General Elections, are having criminal cases including cases related to heinous offences. The relevant paragraphs of the said

judgment dated 07.06.2022 passed in Criminal Misc. Bail Application No. 5473 of 2022, are quoted hereinbelow:

"14. A constitution Bench of the Supreme Court in the case of **Public Interest Foundation & Ors vs. Union of India & Anr : (2019) 3 SCC 224** has taken note of 244th Law Commission report in which it was said that 30 per cent or 152 sitting M.P.s were having criminal cases pending against them, of which about half i.e. 76 were having serious criminal cases. This phenomenon has increased with every general election. In 2004, 24 per cent of Lok Sabha M.Ps. had criminal cases pending, which increased to 30 per cent in 2009 elections. In 2014, it went up to 34 per cent and in 2019 as mentioned above, 43 per cent Members of Parliament who got elected for Lok Sabha are having criminal cases pending against them. The Supreme Court has taken judicial notice of criminalization of politics and imperative needs of electoral reforms. There have been several instances of persons charged with serious and heinous offences like murder, rape, kidnapping and dacoity got tickets to contest election from political parties and even got elected in large number of cases.

15. The Supreme Court has said that this leads to a very undesirous and embarrassing situation of law breakers becoming law makers and moving around police protection. The Supreme Court in the said case has directed the Election Commission of India to take appropriate measures to curb criminalization in politics but unfortunately collective will of the Parliament has not moved in the said direction to protect the Indian Democracy going in the hands of criminals, thugs and law breakers. If the politicians are law breakers, citizens cannot expect accountable and transparent governance and the society governed by the rule of law be an utopian idea. After independence with every election, role of identities such as caste, community, ethnicity, gender, religion etc, has been becoming more and more prominent in giving tickets to winnable candidates. These identities coupled with money and muscle power has made entry of criminals in politics easy and every political party without exception (may be with some difference in degree and extent) uses these criminals to win elections. Giving tickets to candidates with serious criminal charges would break the confidence and trust of the civil society, law abiding citizens of this country in the electoral politics and elections.

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....."

9. The accused applicant had allegedly committed the first offence of murder in the year 1974 and in 48 years of his long and heinous journey in world of crime, he could be convicted only in two cases recently in the year 2022. This phenomena is very perturbing and does not auger well for a democratic polity and a society which is governed by rule of law. All wings of the government i.e. executive, legislative and judiciary, must share the blame for allowing such a dreaded criminal to go scot-free in several heinous offences which have been noted hereinabove. Such a criminal should not have any place in the society.

10. This Court, therefore, does not think that such a dreaded criminal should be allowed to be set free by enlarging him on bail. Such a person is a constant threat to the civil society governed by the rule of law. He is a threat to the society and peace living and law abiding citizens.

11. On an overall conspectus of the aforesaid facts, this Court does not find any ground to enlarge the accused applicant on bail.

12. Consequently, the bail application is hereby ***rejected***.

Order Date :- 21.2.2023

Arun K. Singh