

Court No. - 72

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Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13747 of 2021

Applicant :- Gaurav @ Gaura

Opposite Party :- State of U.P.

Counsel for Applicant :- Zia Naz Zaidi, Atul Kumar, Dharmendra Pratap Singh, Praveen Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Kumar Singh, J.

History chart dated 22.9.2021 filed by learned counsel for the applicant is taken on record.

1. Heard Sri Atul Kumar, learned counsel for the applicant and Sri Azad Singh and Sri Abhinav Prasad, learned brief holders for State.

2. The present bail application has been filed by the applicant - Gaurav @ Gaura with a prayer to enlarge him on bail in Case Crime No.0583 of 2020, under Sections 8/1 of Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Khatauli, District Muzaffar Nagar.

3. On 4.10.2021 this Court has passed the following order :-

“There appears to be criminal history of 48 cases of the applicant. Learned counsel for the applicant submits that all cases have been levelled malafidely by the police of Police Station Khatauli, Muzaffar Nagar and on the application moved on behalf of the applicant in regard to atrocities of police, the Human Rights Commission has awarded compensation.

Let an exhaustive report regarding criminal antecedents of the applicant and the basis of his implication in criminal cases as also the status of investigation carried out by the police be filed by Senior Superintendent of Police, Muzaffar Nagar.

Put up this case on 19.10.2021 in the additional cause list.”

4. Thereafter, as the vacation falling on 20.10.2021 as been observed on 19.10.2021, therefore, this case was listed on 20.10.2021,

however, on account of Lawyer's strike on said date the matter was directed to be listed on 9.11.2021.

5. Today again the matter is listed before this Court, however, no report, as directed in the order dated 4.10.2021 ,regarding criminal antecedents of the applicant and the basis of his implication in criminal cases as also the status of investigation carried out by the police has been filed by Senior Superintendent of Police, Muzaffar Nagar.

6. Learned counsel for the applicant submits that as many 49 cases have been imposed upon the applicant. He produced a chart of criminal cases levelled against the applicant, which reads as under:-

History Chart

S.N.	Case Crime No.	Under Sections	Police Station	District	Status
1	320 of 1997	307, 506 I.P.C.	Khatauli	Muzaffar Nagar	Acquitted
2	56 of 1998	25 Arms Act	Khatauli	Muzaffar Nagar	Acquitted
3	17 of 1999	$\frac{3}{4}$ of U.P. Goonda Act	Khatauli	Muzaffar Nagar	Notice was withdrawn
4	401 of 2001	$\frac{3}{4}$ of U.P. Goonda Act	Khatauli	Muzaffar Nagar	Notice was withdrawn
5	328 of 2002	$\frac{3}{4}$ of U.P. Goonda Act	Khatauli	Muzaffar Nagar	Notice was withdrawn
6	316 of 2003	147, 148, 149, 323, 324, 504, 336 I.P.C.	Khatauli	Muzaffar Nagar	Acquitted
7	317 of 2003	147, 148, 149, 323, 324, 504, 353, 427, 336 I.P.C.	Khatauli	Muzaffar Nagar	Acquitted
8	56 of 1998	25 Arms Act	Khatauli	Muzaffar Nagar	Acquitted
9	593 of 2005	110 G Cr.P.C.	Khatauli	Muzaffar Nagar	Notice was withdrawn
10	1049 of 2006	$\frac{3}{4}$ U.P. Goonda Act	Khatauli	Muzaffar Nagar	Notice was withdrawn
11	266 of 2007	325, 504, 506 I.P.C.	Khatauli	Muzaffar Nagar	Acquitted

12	807 of 2009	60 Excise Act	Khatauli	Muzaffar Nagar	Acquitted
13	1158 of 2009	60 Excise Act	Khatauli	Muzaffar Nagar	Acquitted
14	1527 of 2010	$\frac{3}{4}$ U.P. Goonda Act	Khatauli	Muzaffar Nagar	Notice was withdrawn
15	1409 of 2010	60 Excise Act and Sections 272, 273 I.P.C.	Khatauli	Muzaffar Nagar	On Bail
16	338 of 2010	110 G Cr.P.C.	Khatauli	Muzaffar Nagar	Notice was withdrawn
17	356 of 2011	60 Excise Act and Sections 272, 273 I.P.C.	Khatauli	Muzaffar Nagar	On Bail
18	850 of 2011	60 Excise Act and Sections 420, 467, 468, 272, 273 I.P.C.	Khatauli	Muzaffar Nagar	On Bail
19	851 of 2011	18/21 of N.D.P.S. Act	Khatauli	Muzaffar Nagar	Has wrongly been mentioned As neither applicant has been nominated nor charge sheeted in the case.
20	420 of 2011	60 Excise Act and Sections 272, 273 I.P.C.	Khatauli	Muzaffar Nagar	On Bail
21	105 of 2012	2, 3 of Gangster Act	Khatauli	Muzaffar Nagar	On Bail
22	392 of 2012	302, 201 I.P.C.	Khatauli	Muzaffar Nagar	On Bail
23	56 of 1998	25 Arms Act	Khatauli	Muzaffar Nagar	Acquitted
24	164 of 2013	60 Excise Act	Khatauli	Muzaffar Nagar	Acquitted
25	289 of 2013	60 Excise Act	Khatauli	Muzaffar Nagar	Acquitted
26	420 of 2011	60 Excise Act and Sections 272, 273 I.P.C.	Khatauli	Muzaffar Nagar	On Bail
27	179 of 2014	110 G Cr.P.C.	Khatauli	Muzaffar Nagar	Notice was withdrawn
28	294 of 2014	60 Excise Act and	Khatauli	Muzaffar	On Bail

		272, 273 I.P.C.		Nagar	
29	521 of 2014	¾ of U.P. Goonda Act	Khatauli	Muzaffar Nagar	Notice was withdrawn
30	1014 of 2015	2, 3 of U.P. Gangster Act	Khatauli	Muzaffar Nagar	On Bail
31	633 of 2015	147, 328 I.P.C.	Khatauli	Muzaffar Nagar	On Bail
32	634 of 2015	147, 148, 149, 332, 353, 336, 504, 506 I.P.C.	Khatauli	Muzaffar Nagar	On Bail
33	663 of 2015	60 Excise Act and Sections 272, 273 I.P.C.	Khatauli	Muzaffar Nagar	On Bail
34	916 of 2015	60 Excise Act and Sections and 272, 273 I.P.C.	Khatauli	Muzaffar Nagar	On Bail
35	1180 of 2015	60/72 of Excise Act	Khatauli	Muzaffar Nagar	On Bail
36	428 of 2016	147, 148, 149, 307, 332, 353, 336, 504, 506 I.P.C.	Khatauli	Muzaffar Nagar	On Bail
37	426 of 2016	147, 148, 149, 307, 325, 504 I.P.C. and Section 7 of Criminal Law Amendment Act	Khatauli	Muzaffar Nagar	On Bail
38	653 of 2016	60 Excise Act and Section 272, 273 I.P.C.	Khatauli	Muzaffar Nagar	On Bail
39	690 of 2016	25 Arms Act	Khatauli	Muzaffar Nagar	On Bail
40	694 of 2017	3(2) N.S.A. Act	Khatauli	Muzaffar Nagar	Has already been quashed by this Hon'ble Court
41	506 of 2017	302, 120-B I.P.C. and Section 3(2) of SC/ST Act	Khatauli	Muzaffar Nagar	On Bail
42	1391 of 2017	2/3 of Gangster Act	Khatauli	Muzaffar Nagar	On Bail
43	423 of 2018	60 of Excise Act and Sections 272, 273 I.P.C.	Khatauli	Muzaffar Nagar	On Bail
44	17 of 2019	Section 506 I.P.C.	Khatauli	Muzaffar Nagar	Has wrongly been

					mentioned
45	103 of 2020	147, 452, 323, 504, 506 I.P.C.	Khatauli	Muzaffar Nagar	On Anticipatory Bail

7. Perusal of the aforesaid history chart shows that there is history of 49 cases to the credit of the applicant pertains to one and same Police Station i.e. Police Station Khatauli, District Muzaffar Nagar, wherein out of 45 cases shown above the applicant has been **acquitted** in 11 cases; and in 9 cases **notices were withdrawn**; in 2 cases **name of the applicant has wrongly been mentioned**; in one case **under National Security Act the proceedings were quashed**; and in 21 cases the applicant has been enlarged **on bail**; and in one case **anticipatory bail** has been granted.

8. It is averred in paragraph no.15 of the affidavit accompanying this bail application that the applicant & his wife has made several complaints to the National Human Rights Commission, New Delhi, with regard to the atrocities of the Police and implication of the applicant in false and frivolous cases, reference in this regard is made to **annexure-2 & 4** to the affidavit accompanying this bail application.

9. It is also averred in paragraph no.13 of affidavit accompanying this bail application that the Police of the concerned police station made several attempts to falsely implicate the applicant and is registering false and frivolous cases against the applicant and in this regard a complaint was made by the applicant to Human Rights Commission, New Delhi, whereupon after enquiry report dated 28.12.2006 an order dated 5.6.2007 was passed by the Under Secretary, Government of Uttar Pradesh directing the Additional Director General of Police, Allahabad to compensate the applicant. In pursuance of the same a compensation to the tune of Rs.10,000/- was also awarded to the applicant and his brother Omi, reference in this regard is made to annexure-2 to the affidavit accompanying this bail application.

10. Submission of the learned counsel for the applicant is that being annoyed by the order of National Human Rights Commission, New Delhi, the Police of the concerned Police Station started implicating the applicant incessantly in several cases and resultantly as many as 49 cases have been registered against the applicant those either turned out in either acquittal or notices were withdrawn and in some applicant is on bail or on anticipatory bail or the name of the applicant has been wrongly been mentioned.

11. This Court fails to understand the working of the Police of the concern police station that how the cases said to have been wrongly imposed on a person that too not once, it happens repeatedly in the present case, it is not expected from the U.P. Police. Such callous action cannot be imagined from the officers of the disciplined force.

12. For a citizen term 'Police' is a sense of protection, relief, peace and tranquillity and under its auspices he walks and sleeps fearlessly. However, if his protection shield finds pores, the belief is devastated. Police is one of the wings of disciplined forces which have been set up for the safety and security of the public at large.

13. Life of every person has similar values. The day passed never gets back and if it is darkened it becomes hard to live life with the basket of allegations. Belief is that deliberate mistake should be repented, however, if the days of life are spotted with stigma of criminal activities and those allegations ultimately are found to be unproved, the question arises whether can it be compensated or sphere of his life can be rewilded. Though there is no mechanism to forecast involvement or implication, however, finding it proved that someone's life has been spoiled because of ill-intention, it needs to be dealt with strictly.

14. The case in hand is an example of such incident where about twenty three years of life of the applicant have been spoiled implicating him time and again in as many as 49 cases during said span, wherein in most of the cases he has been acquitted; in some his name has been

expunged or in some police realized applicant's name has wrongly been shown albeit on the complaint made by the applicant the Human Rights Commission has imposed costs upon the Police Authorities and awarded it in applicant's favour. Such inexplicable business of police is fraught with obstinacy and dangerous outcomes which shows it has gone haywire. Circumstances of this case *prima facie*, appears to be odd, have compelled this Court not to confine only to consider the applicant's bail application but required to call upon the higher authorities to calibrate and ponder over the veracity in applicant's case on peculiar facts.

15. The Director General of Police, U.P., Lucknow and Senior Superintended of Police, Muzaffar Nagar are directed to ensure their personal presence before this Court on the next date to assist the Court.

16. Put up this case on 13.12.2021, as unlisted for further hearing, at 2:00 P.M.

17. Office shall provide a copy of this order be given to learned A.G.A. for it's communication and compliance.

Order Date :- 9.11.2021

Dev/-

[Justice Vivek Kumar Singh, J.]