

Neutral Citation No. - 2024:AHC:48652

RESERVED

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51149 of 2023

Applicant :- Vinod Bihari Lal

Opposite Party :- State of U.P.

Counsel for Applicant :- Amit Kumar Srivastava, Kumar Vikrant

Counsel for Opposite Party :- G.A., Vishal Tandon

HON'BLE PIYUSH AGRAWAL, J.

1. Heard Shri Kumar Vikrant, learned counsel for the applicant as well as Shri P.K. Giri, learned Additional Advocate General for the State of U.P. and Shri Vishal Tandon, learned counsel for the first informant, and perused the record.
2. The present bail application has been filed by the applicant seeking bail in Case Crime No. 328/2023, under Sections 307/323/506/325/467/471/120-B IPC, Police Station - Naini, District – Prayagraj.
3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present crime. He further submits that the applicant was not named in the FIR. The FIR was lodged with an inordinate delay without there being any plausible explanation for the same. He further submits that the applicant was working as Director, Administration of the Sam Higginbottom University of Agriculture, Technology & Sciences and the first informant was an ex-student of the said University, who has not completed his degree course and pressurizing the Administration to issue degree without clearing the examination, to which the University administration refused, due to which the first informant bears personal grudge with the applicant.
4. Learned counsel for the applicant further submits that the applicant is nowhere connected with the present case. Since the

place of occurrence is mentioned as the end of Yamuna Bridge, the repairing work was going on and the eyewitness, i.e., the security guard, was present, who specifically denied the occurrence of incident as alleged in the FIR and the statement of the first informant. The security guard has specifically mentioned that due to an accident, the first informant on a schooty, had fallen down. He further submits that in the CCTV recording as investigated by the Investigating Officer, the first informant in his FIR has stated that he was being followed by two bikers, but no such video footage was available. He further submits that the Compounder of Global Health Care Hospital stated in his statement that the injured informant has walked upto the dispensary/place of Doctor and his injuries were simple in nature. He further submits that one of the independent witnesses, who is having shop near the bridge, also denied the incident as alleged in the FIR. He further submits that on the subsequent statement of the informant, section 325 IPC was added and section 308 IPC was deleted.

5. The learned counsel for the applicant further submits that theory of conspiracy came into light after the second statement of the first informant almost after three months, in which the first informant planted two witnesses to support his case and implicate the applicant. He further submits that the subsequent statement that two persons have informed the informant that they heard that the applicant and one R.B. Lal were discussing about the incident occurred at the Yamuna Bridge that the first informant was saved this time, but next time, he will be eliminated unless and until he withdraws the criminal case being lodged by the first informant, is false and concocted. He further submits that in all the three statements, the persons have not given any specific date and time as well as no explanation has been given for such delay, which occurred in the month of July, 2023. He further submits that no CDR has been brought on record connecting the applicant with

the persons involved in the alleged incident. After recording the statements, the Investigating Officer has added sections 307 & 120-B of IPC. He further submits that only AADHAR card was recovered from the possession of the applicant and on the basis of suspicion, the applicant has been implicated. No specific role has been assigned for commission of the alleged crime. There was no independent or public witness to the alleged incident or recovery.

6. He further submits that criminal history of the applicant, 35 in numbers, has been explained in paragraph no. 34 of the affidavit filed in support of the application as well as the rejoinder and supplementary affidavits. He further submits that out of the 35 criminal cases, 5 criminal cases have been quashed by the Apex Court, in 10 cases final reports have been submitted after investigation, in 15 cases, the proceedings have been stayed by the Apex Court/this Court and in 3 cases, bail has been granted, while only 2 cases have been pending.
7. He further submits that the applicant has been made the victim of political vendetta and multiple baseless cases have been maliciously filed against the applicant with a view to dent his reputation in the society. He further submits that the applicant, along with University officials moved a Writ Petition (Cri.) No. 28/2024 (***Rajendra Bihari Lal & Others Vs. State of U.P.***) before the Apex Court challenging the instant case, along with some other cases, in which the Apex Court, while issuing notice, directed that no coercive steps shall be taken against the petitioners vide order dated 22.01.2024. He further submits that the co-accused – Rajendra Bihari Lal has been granted interim bail in connection with the instant case crime by the Apex Court in Special Leave to Appeal (Cri.) No. 2944/2024 vide order dated 04.03.2024.
8. It is also submitted that there is no apprehension that after being released on bail, the applicant may flee from the course of law or

may, otherwise, misuse the liberty of bail and the applicant is in jail since 02.10.2023 and the possibility of conclusion of trial in near future is very bleak. He prays for allowing the bail application.

9. Shri Tandon, learned counsel for the first informant submits that after lodging of FIR at Fatehpur, several threats have been made to the first informant and the instant case is one of the example of such threatening, who are intimidating the first informant to take back the FIR. He further submits that after lodging the instant FIR, again an attack was made upon the applicant on 31.12.2023, after which an FIR, bearing FIR No. 0693 of 2023, had been lodged by the first informant, which is on record of the counter affidavit. He further submits that the applicant is a person of criminal instinct and having more than 35 criminal cases against him, including the case of gang rape also, the bail application of which has been rejected by the court below vide order dated 08.11.2023. The applicant is a habitual offender and operating from the behind. He further submits that the first informant has sustained serious injuries as mentioned in the FIR. He further submits that due to the threats of the applicant, the informant is not able to appear and give his statement before the court below at Fatehpur. He further submits that in case the applicant is enlarge on bail, there is every likelihood of life threat to the informant. He further submits that even while in jail, the applicant is threatening the first informant and in case, the applicant is enlarge on bail, he will misuse the liberty of bail. He prays for rejection of the bail application.

10. Learned AAG submits that the injuries are grievous in nature, which are evident from the statement of the Doctor. The injuries and the statements of the eyewitnesses corroborate the prosecution story as well as the version of the FIR. The applicant was brought to the hospital in serious condition. He further

submits that in the statement of Dr. Sunil Kumar Maurya, it has been stated that the injuries are serious in nature. The applicant has not brought on record the supplementary medical report. He further submits that there are more than 35 criminal cases against the applicant and therefore, he does not deserve bail. He further submits that as per the supplementary medical report, 12 injuries were found on the body of the injured and the injury was grievous in nature. He further submits that in the statement under section 161 Cr.P.C., the applicant has confessed his crime and also confessed that he produced the forged AADHAR card for taking loan from the bank and to obtain SIM card. He further submits that on the basis of the evidence collected during investigation, it is clear that the applicant was involved in the conspiracy along with other accused persons. He further submits that the applicant was a conspirator of threat and on his direction, attempt to murder was made by the hired accused persons. He further submits that the interim protection from the Apex Court has been obtained by the applicant by concealing the material facts as the applicant was already in jail.

11. Learned AAG further submits that the applicant is a person who will be benefited in case the case is withdrawn. Learned AAG further submits that the criminal antecedents of the accused cannot be ignored while deciding the bail application. It is further submitted that the applicant is a habitual offender having 35 criminal history. The criminal history of the accused applicant is emerging after releasing him on bail. In support of his submissions, he has placed reliance on the judgement of the Apex Court in *Neeru Yadav Vs. State of U.P. & Another* [(2014) 16 SCC 508] as well as the judgement of this Court in *Pankaj Tripathi Vs. State of U.P.* [Criminal Misc. Bail Application NO. 8537/2023, decided on 03.04.2023].

12. In the case of **Neeru Yada** (supra), the Apex Court has held as under:-

“17. Coming to the case at hand, it is found that when a stand was taken that the 2nd respondent was a history sheeter, it was imperative on the part of the High Court to scrutinize every aspect and not capriciously record that the 2nd respondent is entitled to be admitted to bail on the ground of parity. It can be stated with absolute certitude that it was not a case of parity and, therefore, the impugned order clearly exposes the non- application of mind. That apart, as a matter of fact it has been brought on record that the 2nd respondent has been charge sheeted in respect of number of other heinous offences. The High Court has failed to take note of the same. Therefore, the order has to pave the path of extinction, for its approval by this court would tantamount to travesty of justice, and accordingly we set it aside.”

13. Learned AAG further submits that there is every likelihood that after release on bail in the present case, the accused – applicant will again indulge in heinous crime as has been done in the earlier occasions. He prays for rejection of the bail application.
14. Learned counsel for the applicant submits that the bail application shall not be rejected only on the ground of criminal history. In support of his contention, he has placed reliance on the judgement of the Apex Court in **Prabhakar Tewari Vs. State of U.P. & Another** [2020 (11) SCC 648]. He further submits that the protection granted by the Apex Court on various occasions still holds good. The State has not brought on record any material to show that applications have been moved for recalling/modifying/reviewing the orders passed by the Apex Court. He further submits that it is incorrect on the part of the State to submit that the interim order has been obtained by

concealing material facts before the Apex Court and the State is put to strict proof of the same.

15. Considering the facts and circumstances of the case, perusing the records and also considering the nature of allegations, arguments advanced by the learned counsel for the parties and without expressing any opinion on the merit of the case, I find it to be a fit case for granting bail.
16. Let applicant, namely, Vinod Bihari Lal, be released on bail in the aforesaid Case Crime Number on furnishing personal bond and two heavy sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant will surrender his passport, if any, and not to leave the country without permission of the trial court concerned. In case, he has no passport or in case he has already surrendered his passport, he will file an affidavit to that effect before the trial court prior to release him on bail.

(ii) The applicant will deposit of Rs. 10 lacs before the trial court prior to release him on bail and the same shall be kept in an interest bearing account of some nationalized bank and shall be forfeited in case of violation of any of the conditions imposed by this order.

(iii) The applicant shall file an undertaking to the effect that the applicant shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant shall remain present before the trial court on each date fixed, either personally or through counsel. In case of absence, without sufficient cause, the trial court may

proceed against the applicant under Section 229-A of the Indian Penal Code.

(v) In case the applicant misuse the liberty of bail during trial and in order to secure the applicant's presence, proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against the applicant, in accordance with law, under Section 174-A of the Indian Penal Code.

(vi) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If, in the opinion of the trial court, absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against the applicant in accordance with law.

(vii) The applicant shall appear in person before the court concerned on any date in the 1st week of every month.

17. In case of breach of any of the above conditions, the bail of the applicant shall be deemed to be cancelled without any further reference of this Court and the court concerned shall release the amount of Rs. 10 lacs deposited by the applicant in favour of the State, forthwith.

18. The instant bail application stands disposed of.

Order Date :-19/03/2024

Amit Mishra