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Reserved on : 16.08.2021

Delivered on : 08.09.2021

Court No. - 52

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 24591 of 2021

Applicant :- Kamlesh Yadav And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Aditya Narayan Singh

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. The present bail application under Section 439 of the Code of Criminal Procedure purports to have been filed on behalf of the applicants Kamlesh Yadav and Rajesh Chauhan in Case Crime No. 104 of 2020, under Sections 328, 302 IPC, Police Station Bahariyabad, District Ghazipur who are stated to be in jail since 09.04.2021.
2. Sri Abhishek Kumar, Advocate (Advocate Roll No. A/A-0060/2012) has appeared in the matter.
3. No one appears on behalf of the applicants to press this bail application even when the matter has been taken up in the revised list.
4. Sri B.B. Upadhyay, learned Additional Government Advocate for the State is present.
5. Sri Amit Srivastava, Advocate appears on behalf of Saurabh Singh Chauhan the purported deponent of the present bail application.
6. The present bail application is an example of a mischievous filing of a case before a Court of law by fictitious person(s).
7. This matter was initially taken up on 26.07.2021 and the following order was passed by this Court:-

“Matter taken up in the revised list.

No one appears on behalf of the applicants to press this bail application. Sri Sanjay Singh, learned A.G.A. is present for the State.

Sri Abhishek Kumar, Advocate has appeared in this matter and informed the court that although he is not a counsel in the present matter but the present bail application has been shown to be filed by Sri Aditya Narayan Singh Advocate having Roll No. A/A-0132/12 and Sri Rajesh Chandra Tiwari having Advocate Roll No. A/R-1202/12 and states that same is a mischief by some one as Sri Aditya Narayan Singh has expired around two years back and as per the Advocate Roll No. A/R-1202/12 the same is some one else and not of Sri Rajesh Chandra Tiwari.

Stamp Reporter has reported that the certified copy of first information report and free copy of bail rejection order is required.

From perusal of bail application it is apparent that the mobile number of Sri Aditya Narayan Singh Advocate as mentioned has 11 digits which is not possible even the memo of appearance/parcha has filed with the bail application is hand written parcha which has the same details as have been mentioned in the bail application.

Registrar General of this Court is directed to give a report regarding the details of both the counsels as printed in the bail application within three days from today.

Let the matter be listed on 30.07.2021 as fresh.”

8. The Registrar General of this Court gave a report dated 29.07.2021 which reads as under:-

“

In compliance to the above directions, the details regarding above mentioned Advocates-on-Roll nos. A/A0132/12 and A/R1202/12 have been sought from the AOR Section and in response, AOR Section has submitted three pages in which following details are mentioned:

1. Roll no. A/A0132/2012 (Flag- ‘B’) is assigned on the name of Aditya Narayan Singh, S/o Udai Narayan Singh, Chamber No. 118 and Mobile No. 9450611089. The office peon went to the above Chamber No. 118 where Sri Anil Kumar Aditya (A/A0745/2012 s/o Sri Aditya Narayan Singh, Advocate found. Sri Anil Kumar Aditya came in my chamber and informed me that his father Sri Aditya Narayan Singh had died on 16.05.2014 and submitted his father’s death certificate (Flag- ‘C’).

2. Roll No. A/R1202/2012 (Flag- ‘D’) is assigned on the name of Ravi Tiwari S/o Madhu Sudan Tiwari, Chamber No. 17

and Mobile No. 9335113219. I personally called on the Mobile No. 9335113219 and asked him about this Bail Application. Sri Ravi Tiwari came in my chamber and informed me that he has not submitted any Bail Application in this matter.

On page no. 75 of this Bail Application, the name of two Advocates are mentioned. The Name, AOR No., Chamber no. and Mobile no. of the one advocate is mentioned as Sri Aditya Narayan Singh, A/A0132/2012, 111 and 94450611089, respectively and the Name, AOR No and Chamber no. of another advocate is mentioned as Rajesh Chandra Tiwari, A/R1202/2012 and 111.

Page No. 04 of this Bail Application is having same name of Sri Rajesh Chandra Tiwari with same AOR but Chamber no. is different which is mentioned as Chamber No. 127, Old Building, High Court, Allahabad.

The office peon went to the above mentioned Chamber Nos. 111 and 127, Old Building, High Court, Allahabad but none of advocate having name Rajesh Chandra Tiwari is found in both the Chambers.

In this regard, an information about the purchasing authority of the Welfare Stamp having serial number S.R. No. HCBA 0167796 affixed on the back of page no. 75 from the Secretary, High Court Bar Association, Allahabad and in response, the Hony. Secretary, High Court Association, Allahabad has submitted that the Welfare stamp has been taken by Sri Aditya Narayan Singh, Advocate having Advocate Roll No. A/A0132/2012 on 22.06.2021 (**Flag- 'E'**).

On the perusal of the above facts, it is clear that advocate Aditya Narayan Singh has passed away long back and AOR no. A/R1202/2012 is assigned to Sri Ravi Tiwari instead of Sri Rajesh Chandra Tiwari. On being search on the official website of Allahabad High Court, no record found on the name of Rajesh Chandra Tiwari (**Flag- 'F'**).

9. The matter was then taken up on 30.07.2021 and the following order was passed by this Court:-

“Sri Abhishek Kumar, Advocate has appeared in the matter. No one appears on behalf of the applicants to press this bail application even when the matter has been taken up in the revised list.

Sri B.B. Upadhyay, learned A.G.A. is present for the State.

This Court on 26.7.2021 has passed the following order:-

“Matter taken up in the revised list.

No one appears on behalf of the applicants to press this bail application. Sri Sanjay Singh, learned A.G.A. is present for the State.

Sri Abhishek Kumar, Advocate has appeared in this matter and informed the court that although he is not a counsel in the present matter but the present bail application has been shown to be filed by Sri Aditya Narayan Singh Advocate having Roll No. A/A-0132/12 and Sri Rajesh Chandra Tiwari having Advocate Roll No. A/R-1202/12 and states that same is a mischief by some one as Sri Aditya Narayan Singh has expired around two years back and as per the Advocate Roll No. A/R-1202/12 the same is some one else and not of Sri Rajesh Chandra Tiwari.

Stamp Reporter has reported that the certified copy of first information report and free copy of bail rejection order is required.

From perusal of bail application it is apparent that the mobile number of Sri Aditya Narayan Singh Advocate as mentioned has 11 digits which is not possible even the memo of appearance/parcha has filed with the bail application is hand written parcha which has the same details as have been mentioned in the bail application.

Registrar General of this Court is directed to give a report regarding the details of both the counsels as printed in the bail application within three days from today.

Let the matter be listed on 30.07.2021 as fresh."

A report of the Registrar General of this Court has been submitted. The said report is on record. A perusal of the said report goes to show that Sri Aditya Narayan Singh, Advocate, who is shown as one of the counsels in the bail application, has died on 16.5.2014. His death certificate has been provided by his son which is on record. It is further reported that the Advocate Roll No. A/R1202/2012 is assigned on the name of Sri Ravi Tiwari, Advocate, having his chamber in Chamber No. 17 and not to Sri Rajesh Chandra Tiwari who is also shown as another counsel in the bail application. Even a report from Hony. Secretary, High Court Bar Association, Allahabad was called for verification about the details of purchasing authority of Welfare Stamp having Serial No. HCBA 0167796 which is affixed on the back of page-75 being the memo of appearance/purcha filed on behalf of the applicant and a report has been submitted stating that the said Welfare Stamp has been taken by Sri Aditya Narayan Singh, Advocate, having Advocate Roll No. A/A0132/2012. It is again reiterated that Sri Aditya Narayan Singh has been reported to have died on 16.5.2014 but the said Welfare Stamp has even then been purchased in his name.

Even the free copy of bail rejection order has not been filed in this bail application.

The deponent in the present bail application is Saurabh Singh Chauhan whose details are mentioned as under:-

"Affidavit of Saurabh Singh Chauhan, Aged about 22 years, Son of Amrendra Singh Chauhan, Resident of Semaria, Bhikhaipur, Police Station Bahariyabad, District Ghazipur.

Religion:- Hindu

Occupation:- student

Adhar Card No. 7752 5693 3901

Mob. No. 9792990709."

He in para No. 1 of the affidavit claims himself to be the son of the applicant which is also incorrect as he states himself to be the son of Amrendra Singh Chauhan, but the present bail application has been filed on behalf of Kamlesh Yadav the applicant no. 1 and Rajesh Chauhan the applicant no. 2. The photocopy of Aadhar Card of the said deponent is annexed at page-15 of the paper book.

Issue notice to Saurabh Singh Chauhan, son of Sri Amrendra Singh Chauhan for his appearance before this Court at 10.00 A.M. on 10.8.2021 through C.J.M., Ghazipur, to be served on him through concerned police station for which office shall taken appropriate steps within four days from today.

The said action be taken by the office through Fax.

The matter being urgent in nature as the two applicants are in jail be put up before this Court on 10.8.2021 at 10.00 A.M. as fresh.

C.J.M., Ghazipur shall send his compliance report by fastest mode to this Court before the next date fixed."

10. Subsequently, on the matter being taken up on 10.08.2021 the following order was passed by this Court:-

"Sri Abhishek Kumar, Advocate appears in the matter.

No one appears on behalf of the applicant to press this bail application evenwhen the matter is taken in the revised list.

Sri B.B. Upadhyay, learned A.G.A. for the State is present.

Sri Prabha Shanker Mishra, Honorary Secretary of the High Court Bar Association, Allahabad is present on behalf of the Bar Association.

The deponent of the present bail application, Saurabh Singh Chauhan is present before the Court in compliance of the order dated 30.07.2021.

Sri Amit Kumar Srivastava, Advocate appears in the matter and states that the deponent who has been summoned vide order dated 30.07.2021 is present and as he is the deponent in the bail application of co-accused Amrendra Singh Chauhan, as such, he is appearing on his behalf.

Sri Amit Kumar Srivastava prays for and is granted 04 days time to file an affidavit in the matter of the summoned person.

Sri Prabha Shanker Mishra, Honorary Secretary of the High Court Bar Association states that he may be granted 05 days time to ascertain certain facts regarding Sri Rajesh Chandra Tiwari who is shown as a counsel appearing in the present bail application and also the other counsel who has been allotted Advocate Roll No. A/R1202/2012 which is assigned in the name of Sri Ravi Tiwari, Advocate.

Time as prayed is allowed to take necessary steps at his end.

In the meantime, the Registrar General of this Court is directed to accept the bail application of the applicants which as per the statement of Sri Abhishek Kumar, Advocate has been presented for reporting in the office on behalf of Kamlesh Yadav and Rajesh Chauhan and present the same before the Court having roster.

List this case on 16.08.2021 as fresh for further arguments.

In the meantime, Sri Amit Kumar Srivastava shall file the said affidavit and Sri Prabha Shanker Mishra may produce the relevant report which he proposes to prepare and provide it to the Court on the next date.

The deponent of the present bail application, Saurabh Singh Chauhan shall remain present, when the matter is listed next.”

- 11.** An affidavit dated 13.08.2021 has been filed by Saurabh Singh Chauhan the so called deponent of the present bail application. Paras 2 to 12 of the said affidavit are quoted hereinbelow:-

“2. That the deponent in the present affidavit has been shown to be the deponent of present Criminal Misc. Bail Application, although he is not the deponent in the said bail application nor he ever instructed any counsel including Sri Aditya Narayan Singh and Sri Rajesh Chandra Tiwari, Advocates to file the present bail application on behalf of Kamlesh Yadav and Rajesh Chauhan. It is also relevant to mention here that the deponent has never been authorized by the accused/applicants to file the present bail application before this Hon’ble Court on their behalf.

3. That it is relevant to mention here that the deponent does not know Sri Aditya Narayan Singh and Sri Rajesh Chandra Tiwari, Advocates nor he ever met with them despite that the present bail application has been filed mentioning his particulars and annexing his Adhar Card, as the deponent in the present bail application, although the deponent has never instructed them to file the present bail application.

4. That the deponent has come to Allahabad and to engage Sri Amit Kumar Srivastava, Advocate for filing the bail application of his father Amrendra Chauhan which was filed by

Sri Amit Kumar Srivastava, Advocate as Criminal Misc. 1st Bail Application No. 28431 of 2021 which was allowed by the order dated 12.08.2020 passed by this Hon'ble Court.

5. *That it appears that the present bail application has been filed on behalf of Kamlesh Yadav and Rajesh Chauhan mischievously to keep them behind the bars indefinitely and it also appears that for filing the present bail application no instruction has been given by the accused applicants as neither certified copy of the First Information Report nor the free/certified copy of rejection order passed by court below has been annexed along with present bail application. It transpires that the copy of Criminal Misc. 1st Bail Application No. 28431 of 2021 (Amrendra Chauhan Vs. State of U.P.) has been obtained by someone and photocopy of the documents / annexures have been annexed in the said bail application which can be verified by this Hon'ble Court after perusing the annexures of present bail application and of Criminal Misc. 1st Bail Application No. 28431 of 2021.*

6. *That the averments in paragraph Nos. 1 to 22 and 24 of the affidavit filed in support of present bail application are exactly same as averred in paragraph Nos. 1 to 22 and 24 of affidavit filed in support of Criminal Misc. 1st Bail Application No. 28431 of 2021. For kind perusal of this Hon'ble Court a photo copy of the Criminal Misc. 1st Bail Application No. 28431 of 2021, Amrendra Chauhan Vs. State of U.P. is being filed herewith and marked as **ANNEXURE NO. 1** to this affidavit.*

7. *That the Aadhaar Card of the deponent has been annexed alongwith Criminal Misc. 1st Bail Application No. 28431 of 2021 and therefore the same was obtained and mischievously been used annexing alongwith present bail application, although the deponent never provided his Aadhaar Card to the counsel or any other persons for filing the present bail application, rather same was misused after obtaining the copy of Criminal Misc. 1st Bail Application No. 28431 of 2021, Amrendra Chauhan Vs. State of U.P.*

8. *This mischief while filing the present bail application would also apparent from the perusal of the bail application which would reveal that eleven digit mobile number of Sri Aditya Narayan Singh Advocate has been mentioned, who has already died on 16.05.2014, but mobile number of Sri Rajesh Chandra Tiwari, Advocate, who has mentioned his wrong advocate roll number, has not been mentioned in the bail application. In these circumstances, it is apparent that at the behest of persons inimical to the applicants the present bail application has been filed while showing the deponent as the deponent in the present bail application.*

9. *That the deponent has no concern with the applicant no.1 Kamlesh Yadav but it has been mentioned in paragraph-1 of the present bail application that the deponent is the son of applicant, although the deponent is the son of Amrendra Singh Chauhan. The aforesaid averments also show that the*

deponent has never instructed any person to file the present bail application on behalf of Kamlesh Yadav and Rajesh Chauhan.

*10. That the deponent is a young boy, aged about 22 years and he is a student of B.Sc. He is having absolutely clean antecedent, despite that he has been falsely and mischievously shown as deponent in the present bail application although he has no concern at all with the applicants in the present bail application. In support of aforementioned averments the photo copies of educational certificates of deponent are being filed herewith and marked as **ANNEXURE NO.2** to this affidavit.*

11. That there was no occasion for the deponent to file the present bail application. He came to Allahabad only for the pairvi of his father. He was never authorized to do pairvi on behalf of Kamlesh Yadav and Rajesh Chauhan nor he ever did any pairvi on their behalf. His Aadhaar Card which has been annexed alongwith Criminal Misc. 1st Bail Application No. 28431 of 2021 has surreptitiously been obtained and filed along with the present bail application. The deponent has not made his signature in the bail application nor is signatures are available in the present bail application. Under these circumstances it is apparent that he has not been involved in filing the present bail application in any manner, despite that he is being harassed unnecessarily.

12. That is is most respectfully stated here that the deponent has not been involved in filing of present bail application in any manner. The present bail application has been filed by some person mischievously in order to keep the applicants behind bars for indefinite period as no counsel ever appeared before this Hon'ble Court and whenever bail application was taken up. The deponent is wholly innocent and he was not aware about the present bail application. His Aadhaar Card has been misused for oblique purposes regarding which he had no knowledge."

12. Sri Abhishek Kumar, Advocate has produced before the Court an order dated 23.11.2020 passed in Criminal Misc. Anticipatory Bail Application (U/s 438 Cr.P.C.) No. 7610 of 2020 (Gram Pradhan Rajesh Chauhan and two others Vs. State of U.P. and two others), a perusal of which goes to show that the said anticipatory bail application was filed on behalf of Rajesh Chauhan, Amarendra Chauhan and Kamlesh Yadav in which an order has been passed on 23.11.2020 granting them anticipatory bail till submission of police report, if any, under Section 173(2) Cr.P.C. before the competent Court. The said application also purports to have been filed by Sri Aditya Narayan Singh Advocate.

Further, an order dated 19.01.2021 has been produced before the Court which has been passed in Criminal Misc. Application (U/s 482 Cr.P.C.) No. 135 of 2021 (Gram Pradhanpati Rajesh Chauhan and two others Vs. State of U.P.), a perusal of which goes to show that none appeared in the matter when it was taken up and as such the case was directed to be listed in the ordinary course vide order dated 19.01.2021. The said petition also purports to have been filed by Sri Aditya Narayan Singh Advocate.

Further, another order dated 28.09.2020 has been produced before the Court which has been passed in Criminal Misc. Writ Petition No. 7968 of 2020 (Rajesh Chauhan and two others Vs. State of U.P. and 3 others), a perusal of which goes to show that even in the said writ petition no one had appeared on behalf of the petitioners when the matter was called up in the revised list. The said writ petition was dismissed for want of prosecution vide order dated 28.09.2020. The same was purported to have been filed by Sri Aditya Narayan Singh and Sri Rajesh Shukla, Advocates in which Sri Ram Yash Chauhan, Advocate had appeared on behalf of the private respondent apart from the learned Additional Government Advocate for the State.

The said three orders have been taken on record.

13. The common feature in all the three above petitions is that Sri Aditya Narayan Singh, Advocate (who is reported to have died on 16.05.2014) has been the sole counsel in two matters and one of the counsels in the writ petition.

14. From perusal of the entire records, the report of the Registrar General of this Court and the affidavit filed by Saurabh Singh Chauhan, it is apparent that the present bail application has been filed in a clandestine manner for the reasons best known to the person(s) who have played mischief by filing the same and then not appearing before the Court to press the same. The present bail application is a bogus bail application and

this Court thus cannot shut its eye to the said issue and let the same go by after prima facie coming to the opinion that the filing of the present bail application on behalf of the two applicants Kamlesh Yadav and Rajesh Chauhan is in a clandestine manner. The present case is a sham litigation. This Court is resourceful enough to take appropriate action in the matter and as such deems it appropriate to take action in the present matter pertaining to the bogus filing of the present bail application of which notice was given in the office of the learned Government Advocate, High Court, Allahabad on 22.06.2021 which was allotted Notice No. 22575 of 2021 and the bail application was presented for reporting in the office of the Stamp Reporter (Criminal) of this Court on 28.06.2021 and then the same was presented in the concerned office for being placed before the Court on 02.07.2021 and is thus before this Court.

15. The Registrar General of this Court is thus directed to register a First Information Report in the present matter for which an investigation is needed to be done seriously so as to cull out the truth and appropriate action be taken against person(s) involved in the bogus and clandestine filing of the bail application before this Court. The needful be done within one month from today.

16. The Senior Superintendent of Police, Prayagraj is directed to ensure that the investigation is done by a responsible and a competent police officer efficiently.

17. A copy of this order be forwarded by the office to the learned Additional Government Advocate for its compliance.

18. Let the matter be listed on 25.10.2021 before this Court along with a compliance report of the Registrar General and the learned Additional Government Advocate for further orders.

Order Date :- 08.09.2021

M. ARIF

(Samit Gopal, J.)