

Court No. - 5

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8744 of 2025

Applicant :- Tinku Bhargav @ Yatendra

Opposite Party :- State of U.P.

Counsel for Applicant :- Shantanu Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

This is the second bail application.

By means of this bail application the applicant has prayed to be enlarged on bail in Case Crime No. 576 of 2022 at Police Station-Sikandara, District-Agra under Sections 302, 201, 34 IPC. The applicant is in jail since 05.08.2022.

The first bail application of the applicant was rejected by this Court on 03.01.2024.

The following arguments made by Shri Shantanu Srivastava, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Paritosh Kumar Malviya, learned A.G.A.-I from the record, entitle the applicant for grant of bail:

1. The applicant is a law abiding citizen who cooperated with the police investigations and had joined the trial.
2. The applicant never influenced witnesses or tampered with the evidence.

3. The applicant did not adopt dilatory tactics or impede the trial proceedings.

4. Status report sent by the learned trial court records that all prosecution witnesses have been examined. The stage will shortly be set for proceedings under Section 313 Cr.P.C./defence evidence.

5. There is no possibility of the applicant influencing the said material witnesses or tampering with the evidence.

6. Continued incarceration of the applicant will disable him from crafting an effective defence strategy and prevent him from gathering evidence in his support thereof and tendering the same before the learned trial court to establish his innocence. Further detention of the applicant will be detrimental to his defence in the trial and inconsistent with the norms of fairness in criminal processual jurisprudence.

7. This Court in **Prabhat Gangwar v. State of U.P. (Criminal Misc. Bail Application No.2586 of 2023)** while enlarging an accused on bail examined the right of accused for preparing his defence and gathering evidence to tender the same before the learned trial court for establishing his innocence held:

"Nature and gravity of the offence is certainly liable to be considered by the court while considering grant of bail. The Court has also to factor the likelihood of whether the accused committed the offence while deciding a bail application. The court also has to determine in the facts of the case whether the accused needs to be set at liberty to frame his defence and gather evidence

to refute the prosecution case and establish his innocence. The bail court has to examine whether continued incarceration would disable the accused from tendering an effective defence of his case. This is a demand of processual fairness in criminal jurisprudence.

Setting an accused at liberty at large on this ground cannot be applied mechanically in all cases. The issue has to be considered in the facts and circumstances of each case while doing so. All relevant facts including the evidences in the record, the conduct of the accused during the investigation as well as trial have to be adverted to before a decision is made in this regard."

8. Considering the aforesaid parameters in light of the above facts of this case, I am of the opinion that **Prabhat Gangwar (supra)** is applicable to the facts of this case.

9. The applicant does not have any criminal history apart from the instant case.

10. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to cooperate with the court proceedings. There is no possibility of her influencing witnesses, tampering with the evidence or reoffending.

In wake of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant-**Tinku Bhargav @ Yatendra** be released on bail in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

(i) The applicant will not tamper with the evidence or

influence any witness during the trial.

(ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

The learned trial court is directed to fix the sureties after due application of mind in light of the judgement passed by this Court in Arvind Singh v. State of U.P. Thru. Prin. Secy. Home Deptt. (Application U/S 482 No.2613 of 2023).

The learned trial court shall ensure that the right of bail of the applicant granted by this Court is not frustrated by arbitrary demands of sureties or onerous conditions which are unrelated to the socioeconomic status of the applicant.

It is further directed that in case the accused does not cooperate in the trial or adopts dilatory tactics, the learned trial court shall record a finding to this effect and cancel the bail without recourse to this Court.

Order Date :- 26.5.2025

Dhananjai