

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10085 of 2024

Applicant :- Ranveer Singh @ Banti Singh

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.

Counsel for Applicant :- Ajay Veer Singh, Ajay Singh, Ripu Daman Shahi

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan, J.

1. Heard Sri R.D. Shahi, learned counsel for the applicant and Sri Ran Vijay Singh, learned A.G.A. for the State.
2. It has been contended by the learned counsel for the applicant that the applicant is in jail since 5.6.2024 in Case Crime No. 180 of 2024 u/s 147, 148, 149, 302, 201, 34, 120B IPC & section 3/25, 5/27 Arms Act, P.S. Tarun, District Ayodhya. It has been submitted that the applicant has been falsely implicated in this case as he has not committed any offence as alleged.
3. Attention has been drawn towards the impugned F.I.R. which was lodged on 2.6.2024 for the incident dated 30.5.2024 and the delay in lodging F.I.R. has not been explained. Sri Shahi has stated that against seven named accused persons charge-sheet has been filed only against two accused persons namely Abhishek @ Rishabh Singh and the present applicant. However, some more persons have been implicated in the charge-sheet.
4. As per the F.I.R. the sole eye witness is Praveen (Praveen Kumar Yadav). Attention has been drawn towards Annexure no. 1 of the supplementary affidavit dated 19.9.2024 which is a statement of Praveen Kumar Yadav. In his statement Praveen Kumar Yadav has not named the present applicant. The aforesaid eye witness named Abhishek Singh and Rohit Tiwari. Against Abhishek Singh the eye witness has stated that he put out his pistol and aimed at victim (since deceased) but he did not see the act of firing by any accused persons upon the victim (since deceased). In such statement Praveen Kumar Yadav has categorically stated that he apprised

the entire story to the father of the deceased on 30.5.2024. In the light of the aforesaid statement Sri Shahi has stated that when the eye witness has not levelled any allegation against the present applicant while apprising the story to the father of the deceased as to why the present applicant has been implicated in the present case is beyond any comprehension. The factum of prior enmity may not be ruled out.

5. Sri Shahi has stated that the present applicant has been implicated in the present case on the basis of his confessional statement which has been recorded within the police custody and in his confessional statement he admitted his guilt saying that he killed the deceased making fire upon him as he was having some prior enmity with the deceased. One incident was referred by the present applicant that once the deceased had fired upon the present applicant but that bullet had hit on the leg of the present applicant. Admittedly, no F.I.R. for that incident had been lodged by the deceased against the present applicant.

6. As per Sri Shahi the aforesaid story is concocted and since the aforesaid confessional statement was recorded within police custody, therefore, its evidentiary value maybe tested at the stage of trial, at this stage it loses its efficacy in view of section 27 of the Indian Evidence Act.

7. Further, attention has been drawn towards Annexure no. 3 which is a recovery memo prepared by the police and at the time of alleged recovery no independent witness was present. Sri Shahi has submitted that as per the aforesaid recovery memo one illegal pistol of .38 bore with two live cartridges has been recovered from the possession of the present applicant. As per learned counsel after making aforesaid alleged recovery the present applicant has been arrested and his confessional statement has been recorded.

8. Attention has been drawn towards para no. 24 and 25 of the dictum of Apex Court in re: **Ashish Jain vs. Makrand Singh and others** reported in **(2019) 3 Supreme Court Cases 770** wherein the Apex Court has

observed that if the confessional statement is recorded within police custody the factum of undue pressure and compulsion may not be ruled out and if the confessional statement of the accused on the fact is involuntary, it is hit by Article 20(3) of the Constitution of India. The relevant paragraph nos. 24 and 25 reads as under :

"24. We find from the totality of facts and circumstances that the confessions that led to the recovery of the incriminating material were not voluntary, but caused by inducement, pressure or coercion. Once a confessional statement of the accused on facts is found to be involuntary, it is hit by Article 20(3) of the Constitution, rendering such a confession inadmissible. There is an embargo on accepting self-incriminatory evidence, but if it leads to the recovery of material objects in relation to a crime, it is most often taken to hold evidentiary value as per the circumstances of each case. However, if such a statement is made d under undue pressure and compulsion from the investigating officer, as in the present matter, the evidentiary value of such a statement leading to the recovery is nullified.

25. It is noteworthy to reproduce the observations of this Court regarding the relationship between Section 27 of the Evidence Act and Article 20(3) of the Constitution in Selvi v. State of Karnataka: (SCC pp. 320 & 334-35. paras 102-03 & 133-35)

102. As mentioned earlier "the right against self-incrimination" is now viewed as an essential safeguard in criminal procedure. Its underlying rationale broadly corresponds with two objectives-firstly, that of ensuring reliability of the statements made by an accused, and secondly, ensuring f that such statements are made voluntarily. It is quite possible that a person suspected or accused of a crime may have been compelled to testify through methods involving coercion, threats or inducements during the investigative stage. When a person is compelled to testify on his/her own behalf, there is a higher likelihood of such testimony being false. False testimony is undesirable since it impedes the integrity of the trial and the subsequent verdict. Therefore, the purpose of the "rule against involuntary confessions" is to ensure that the testimony considered during trial is reliable. The premise is that involuntary statements are more likely to mislead the Judge and the prosecutor, thereby resulting in a miscarriage of justice. Even during the investigative stage, false statements are likely to cause delays and obstructions in the investigation efforts.

103. The concerns about the "voluntariness" of statements allow a more comprehensive account of this right. If involuntary statements were readily given weightage during trial, the investigators would have a strong incentive to compel such statements often through methods involving coercion, threats, inducement or deception. Even if such involuntary statements are proved to be true, the law should not incentivise the use of interrogation tactics that violate the dignity and bodily integrity of the person being examined. In this sense, "the right against self-incrimination" is a vital safeguard against torture and other "third-degree methods" that could be used to elicit information. It serves as a check on police behaviour during the course of investigation. The exclusion of compelled

testimony is important otherwise the investigators will be more inclined to extract information through such compulsion as a matter of course. The frequent reliance on such "short cuts" will compromise the diligence required for conducting meaningful investigations. During the trial stage, the onus is on the prosecution to prove the charges levelled against the defendant and the "right against self-incrimination" is a vital protection to ensure that the prosecution discharges the said onus.

133. We have already referred to the language of Section 161 CrPC which protects the accused as well as suspects and witnesses who are examined during the course of investigation in a criminal case. It would also be useful to refer to Sections 162, 163 and 164 CrPC which lay down procedural safeguards in respect of statements made by persons during the course of investigation. However, Section 27 of the Evidence Act incorporates the "theory of confirmation by subsequent facts" i.e. statements made in custody are admissible to the extent that they can be proved by the subsequent discovery of facts. It is quite possible that the content of the custodial statements could directly lead to the subsequent discovery of relevant facts rather than their discovery through independent means. Hence such statements could also be described as those which "furnish a link in the chain of evidence" needed for a successful prosecution. This provision reads as follows:

27. How much of information received from accused may be proved.

-Provided that, when any fact is proved to be discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved."

134. This provision permits the derivative use of custodial statements in the ordinary course of events. In Indian law, there is no automatic presumption that the custodial statements have been extracted through compulsion. In short, there is no requirement of additional diligence akin to the administration of Miranda warnings. However, in circumstances where it is shown that a person was indeed compelled to make statements while in custody, relying on such testimony as well as its derivative use will offend Article 20(3).

135. The relationship between Section 27 of the Evidence Act and Article 20(3) of the Constitution was clarified in *Kathi Kalu Oghad*. It was observed in the majority opinion by Jagannadhadas, J., at SCR pp. 33-34: (AIR pp. 1815-16, para 13)

13.... The information given by an accused person to a police officer leading to the discovery of a fact which may or may not prove incriminatory has been made admissible in evidence by that section. If it is not incriminatory of the person giving the information, the question does not arise. It can arise only when it is of an incriminatory character so far as the giver of the information is concerned. If the self- incriminatory information has been given by an accused person without any threat, that will be admissible in evidence and that will not be hit by the provisions of clause (3) of Article 20 of the Constitution for the reason that there has been no compulsion. It must, therefore, be held that the provisions of Section 27 of the Evidence Act are not within the prohibition aforesaid, unless compulsion [has] been used in obtaining the information.

(emphasis supplied)"

9. Sri Shahi has further submitted that two accused persons namely, Nitin Rana and Aditya Singh who were not named in the F.I.R. but the charge-sheet was filed

against them have been granted bail by this Court on the basis of confessional statement of the present applicant wherein he has given evidence against himself admitting his liability but the aforesaid confessional statement and alleged recovery may be tested during the course of the trial, particularly in view of the fact that the only sole eye witness who informed the incident to the father of the victim (since deceased) on 30.5.2024 without naming the present applicant but the father of the deceased implicated the present applicant in the F.I.R. which was lodged on 2.6.2024 for the reasons best known to him.

10. He has further submitted that there is no other eye witness account in the present case and the witness against the present applicant are the police personals who have allegedly recovered the weapon from the possession of the present applicant to whom the present applicant may not influence if he is released on bail. The present applicant has explained his criminal history in para 5 of the supplementary affidavit dated 19.2.2024.

11. Since the charge-sheet has been filed and the applicant undertakes that he shall cooperate in the trial proceedings and shall not misused the liberty of bail, therefore, he may be enlarged on bail.

12. Per contra, Sri Ran Vijay Singh, learned AGA has opposed the bail application by submitting that the present applicant has confessed his guilt in his confessional statement and on his pointing out the pistol has been recovered, therefore, he being the main accused should not be released on bail.

13. On being asked from the AGA as to whether the sole eye witness has named the present applicant in the offence in question, he has stated that on the basis of statement of the eye witness, so recorded by the police, the name of the present applicant is not there but the aforesaid statement may be tested during the trial and there is likelihood that the culpability of the present applicant be found in such trial proceedings. On being further confronted as to whether the independent witnesses were called at the time of making recovery and

preparing recovery memo, Sri Singh has stated that no independent public witness was called, however, one informant provided secret information to the police about the present case.

14. Having heard the the arguments of learned counsel for the parties, perusing the material available on record and without entering into the merits of the case and considering the contents and allegations of the F.I.R., the fact that sole witness Praveen (Praveen Kumar Yadav) has not named the present applicant, he narrated the entire story to the father of the deceased on the same date i.e. on 30.5.2024, meaning thereby he would not have named the present applicant but while lodging the F.I.R. on 2.6.2024 the father of the deceased implicated the present applicant, the confessional statement which was recorded during the custody and the recovery memo whereby the weapon was recovered from the possession of the present applicant would be tested during the course of the trial and the case law of the Apex Court in re: **Ashish Jain (supra)**, the co-accused persons namely Nitin Rana and Aditya Singh have already been granted bail by this Court as well the undertaking given on behalf of the applicant that he shall not misuse the liberty of bail and shall cooperate in the trial proceedings, the applicant is entitled to be released on bail in this case.

15. Bail application is **allowed**.

16. Let the applicant **Ranveer Singh @ Banti Singh**, involved in aforesaid case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) The applicant shall file an undertaking to the effect that he 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.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his 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 him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) 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 him in accordance with law.

(v) The applicant shall not leave the country without permission of the Court concerned.

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(Rajesh Singh Chauhan, J.)

Order Date :- 6.12.2024

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