

Court No. - 2

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3698 of 2025

Applicant :- Vivek Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Anurag Vajpeyi, Praveen Kumar Singh

Counsel for Opposite Party :- Vatsala, G.A.

Hon'ble Neeraj Tiwari, J.

1. This is fourth bail application.
2. Heard Sri Praveen Kumar Singh, learned counsel for the applicant and Sri Santosh Kumar Pandey, learned AGA for the State.
3. The fourth bail application has been filed for enlarging the applicant on bail in Case Crime No. 100 of 2019, under Sections 302, 506 I.P.C. and 7 Criminal Law Amendment Act, Police Station Gauri Bazar, District Deoria.
4. Being confronted by learned counsel for the applicant about another ground for bail, he submits that except pendency of trial, he could not demonstrate any new ground. In support of his contention, he placed reliance upon the judgment of the Hon'ble Apex Court in the case of **Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari vs. State of Uttar Pradesh** passed in **Criminal Appeal No.2790 of 2024**, **Paras Ram Vishnoi vs. The Director, Central Bureau of Investigation** passed in **Criminal Appeal No.693 of 2021**, **Union of India vs. K.A. Najeel** reported in **(2021) 3 SCC 713** and **Mohd. Muslim @ Hussain vs. State of (NCT of Delhi)** reported in **2023 SCC Online SC 352**.
5. Per contra, learned A.G.A. has vehemently opposed the submissions made by learned counsel for the applicant and submitted that applicant is having criminal history of nine cases and out of which, one is criminal history of extortion during his detention in jail. It is next submitted that applicant has demanded Rs. 50,000/- as extortion from the deceased and on his refusal, given threat to kill him in case money is

not given within one week. He also threatened not to inform police personnel. After this, deceased has lodged FIR on 9.3.2019 in P.S. Gauri Bazar. After getting information of FIR, applicant has again threatened the deceased on his Mobile No. 9956908580, which was also recorded in the mobile of deceased. After one week as threatened by him, applicant fired upon deceased at his shop around 6 P.M. in open market which resulted into his death. Therefore, in case bail is granted to the applicant, he may influence the witnesses.

6. Learned A.G.A. submitted that long detention of applicant-accused cannot be the ground for enlarging him on bail. In support of his contention, he has placed reliance upon the judgments of the Hon'ble Apex Court as well as this Court in the case of **Rajesh Ranjan Yadav vs. CBI through its Director** reported in **2007 (1) SCC 70**, **Pramod Kumar Saxena vs. Union of India and others** reported in **2008 (63) ACC 115**, **Anees Miya vs. State of U.P.** passed in **Criminal Appeal No.3495 of 2009**, **Kalyan Chandra Sarkar vs. Rajesh Ranjan @ Pappu Yadav & Anr. (Appeal (Crl.) 1129 of 2004)**, **Madhya Pradesh vs. Kajad**, vide judgment dated **06.09.2001** in **Appeal (Crl.) 907 of 2001**.

7. In the matter of **Rajesh Ranjan Yadav (supra)**, the Hon'ble Apex Court has held as under:

".....None of the decisions cited can be said to have laid down any absolute and unconditional rule about when bail should be granted by the Court and when it should not. It all depends on the facts and circumstances of each case and it cannot be said there is any absolute rule that the mere fact that the accused has undergone a long period of incarceration by itself would entitle him to be enlarged on bail".

8. Further, the Hon'ble Apex Court in the case of **Pramod Kumar Saxena (supra)** has held that *"mere long period of incarceration in jail would not be per se illegal. If the accused has committed an offence, he has to remain behind bars. Such detention in jail even as an under trial prisoner would not be violative of Article 21 of the Constitution."*

9. Division Bench judgment of the Lucknow Bench of this Court in the case of **Anees Miya (supra)** has turned down the plea of long incarceration in jail. In the aforesaid case,

the appellant was in jail since 17.07.2007 and at the time of final disposal of the aforesaid case by the Division Bench of this Court vide order dated 25.04.2018, about 11 years period had lapsed but this Court, referring the various dictums of Hon'ble Apex Court, has held that mere long detention in jail does not entitle a convict of bail pending appeal. The Court further held that "however, the fact remains that the Hon'ble Supreme Court in a number of cases has taken a consistent view that ignoring the facts and circumstances of the case mere long period of incarceration in jail by itself will not make out a case for grant of any indulgence.

10. The Hon'ble Apex Court dated 18th January, 2005 passed in the case of **Kalyan Chandra Sarkar (supra)** has held that the second bail application can only be entertained if there are fresh grounds or events which have been emerged after disposal of the first bail application. The Hon'ble Apex Court has also turned down the plea of the period of long incarceration in jail by observing that "this Court held since the above factors go to the root of the right of the accused to seek bail, non consideration of the same and grant of bail solely on the ground of long incarceration vitiated the order of the High Court granting bail."

11. Further, the Hon'ble Apex Court in the case of State of **Madhya Pradesh (supra)** has held as under:-

"It has further to be noted that the factum of the rejection of his earlier bail application bearing Misc. Case No.2052 of 2000 on 05.06.2000 has not been denied by the respondent. It is true that successive bail applications are permissible under the changed circumstances. But without the change in the circumstances the second application would be deemed to be seeking review of the earlier judgment which is not permissible under criminal law as has been held by this Court in Hari Singh Mann v. Harbhajan Singh Wajwa & Anr (2001 (1) SCC 169] and various other judgments."

12. I have considered the submissions of learned counsel for the parties, perused the record as well as judgment relied upon. There are judgments for both the sides i.e. against the detention and in favour of detention for granting bail, but in such circumstances, all other relevant factors are also required to be seen. So far as the present case is concerned, as per prosecution story, applicant has

demanded Rs.50,000/- as extortion from the deceased and on his refusal, applicant has threatened for dire consequences. After lodging FIR, applicant has again threatened the deceased on his mobile phone, which was also recorded and later on, applicant killed the deceased in open market around 6:00 P.M. The postmortem report has also supported the prosecution story. In case, applicant is enlarged on bail at this stage, may threaten the witnesses and tamper with the evidence, therefore, until completion of testimony of all prosecution witnesses, he cannot be enlarged on bail. Hence, present fourth bail application is liable to be rejected.

13. Therefore, in light of the law laid down by the Court as well as facts of the case, I do not find any good to enlarge the accused-applicant on bail.

14. Thus, this fourth bail application stands **rejected**.

Order Date :- 9.4.2025

Amit