

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 5059 of 2025

Applicant :- Bhola Alias Iqbal

Opposite Party :- State of U.P.

Counsel for Applicant :- Sushil Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. List revised.
2. Heard Sri Manish Tiwari, learned Senior Advocate assisted by Sri Sushil Kumar Pandey, learned counsel for the applicant, Sri Pradeep Kumar Mishra, learned counsel for the first informant and Sri Ajay Singh, Sri V.D. Ojha, learned counsels for the State and perused the material on record.
3. This fourth bail application under Section 483 BNSS has been filed by the applicant **Bhola @ Iqbal**, seeking enlargement on bail during trial in connection with Case Crime No.28 of 2019, under Sections 147, 149, 323, 325, 326-A, 452, 307, 506 IPC, registered at Police Station Mahawan, District Mathura.
4. The first, second and third bail applications of the applicant were rejected by this Court vide orders dated 19.06.2020, 07.09.2021 and 02.04.2024 respectively passed in Criminal Misc. Bail Applications Nos. 27841 of 2019 (Bhola @ Iqbal Vs. State of U.P.), 14217 of 2021 (Bhola @ Iqbal Vs. State of U.P.) and 46702 of 2023 (Bhola @ Iqbal Vs. State of U.P.). The said orders are annexed as annexure 1 to the affidavit.
5. It is common ground between learned counsel for the applicant and learned counsel for the first informant that the trial in the present matter has concluded and 19th August, 2025 is fixed for delivery of judgment.
6. Learned counsel for the State submits that since the trial is going to be completed, there would be no useful purpose in deciding the present bail application.
7. The records show that previous bail applications have been

decided by orders on merits. The last order passed in the third bail application of the applicant is dated 02.04.2024 passed in CrI. Misc. Bail Application No. 46702 of 2023 (Bhola @ Iqbal Vs. State of U.P.) which reads as under:.

"1. List revised.

2. Heard Sri Sushil Kumar Pandey, learned counsel for the applicant, Sri Pradeep Kumar Mishra, learned counsel for the first informant and Sri Devendra Nath Mishra, learned counsel for the State and perused the records.

3. This third bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Bhola @ Iqbal, seeking enlargement on bail during trial in connection with Case Crime No. 28 of 2019, under Sections 147, 149, 323, 325, 326-A, 452, 307, 506 IPC, registered at P.S. Mahawan, District Mathura.

4. The first bail application of the applicant was rejected by this Court vide order dated 19.06.2020 passed in CrI. Misc. Bail Application No. 27841 of 2019 (Bhola @ Iqbal Vs. State of U.P.). The same reads as under:

"Heard Sri Ali Hasan, learned counsel for the applicant, Sri Pradeep Kumar Mishra, Advocate holding brief of Sri Vijay Singh, learned counsel for the first informant, learned AGA for the State and perused the material on record.

This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- Bhola@Iqbal, seeking enlargement on bail during trial in connection with Case Crime No. 28 of 2019, under Sections 147, 149, 323, 325, 326A, 452, 307, 506 I.P.C., registered at P.S. Mahawan, District Mathura.

Learned counsel for the applicant argues that although the applicant along with five other persons is named in the F.I.R. but there is a specific recital that co-accused Hazi Chunnu reached at the place of occurrence along with acid in a container and other accused persons were armed with danda and sariya and participated in the occurrence as a result of which Imran and Shakeem received injuries. It is further argued that in the statement of the injured Imran recorded under Section 161 Cr.P.C., copy of which has been annexed as annexure no. 3 to the affidavit, the role of throwing acid has been attributed to Hazi Chunnu by him but Shakeem in his statement (Annexure no. 3) has stated that co-accused Ballu was present with acid. It is further argued that the injuries received by Imran are simple in nature. In so far it relates to the injuries received by Shakeem it is argued that four accused persons have been assigned the role of danda and sariya and assaulting him but he has received injuries lesser in number as per medical examination report, which is annexure no. 2 to the affidavit, specifically at page-27 of the paper book. The criminal history of the applicant said to be of six cases apart from the present case is explained in para-20 of the affidavit. It is stated that two more cases were reported against the applicant but they have been wrongly shown for which specific averment has been made in para-21 of the affidavit. It is thus prayed that bail be granted on the that grounds and arguments.

Learned counsel for the first informant on the other hand argued that the applicant has been assigned the role along with other co-accused for participation in the matter. Even the injured persons have not in any manner either changed the version relating to the applicant or they give no role to the applicant. So far as the injuries of Imran is concerned, it is argued that he has received burn due to use of Acid which is said to have been thrown on him. Further it is argued that Shakeem received serious injuries which is also evident from the discharge summary, which is at page 30 of the paper book. The prayer for bail is thus opposed.

Learned A.G.A. also while adopting the arguments of learned counsel for the first informant, has further argued that as per his instructions the applicant is involved in six other cases and the nature of cases are all identical to that of the present case. The applicant has been the habit of repeating the offences since 2012 as per reported criminal antecedents. It is further

argued that the discharge summary, which is at page-30, specifically mentions the opinion of doctor that the injuries received by Shakeem are grievous and dangerous to life.

Looking to the facts and circumstances of the case and the arguments advanced, I do not find it to be a fit case for bail.

The bail application is accordingly rejected."

5. The second bail application of the applicant was also rejected by this Court vide order dated 07.09.2021 passed in Crl. Misc. Bail Application No. 14217 of 2021 (Bhola @ Iqbal Vs. State of U.P.) which reads as under:

"Heard Sri A.K. Mishra, learned counsel for the applicant, Sri Pradeep Kumar Mishra, learned counsel for the first informant and Sri Akhilesh Kumar Tripathi, learned counsel for the State and perused the material on record.

This is second bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Bhola @ Iqbal, seeking enlargement on bail during trial in connection with Case Crime No. 28 of 2019, under Sections 147, 149, 323, 325, 326-A, 452, 506, 307 IPC, registered at P.S. Mahawan, District Mathura.

The first bail application of the applicant was rejected by this Court vide order dated 19.06.2020 passed in Crl. Misc. Bail Application No. 27841 of 2019 (Bhola @ Iqbal Vs. State of U.P.).

Learned counsel for the applicant argued that the charges in the present case have been framed on 13.09.2019 but till date no witness has been examined before the trial court. It is argued that in spite of summoning of the witnesses, they are not appearing before the trial court for giving statements. He has placed before the Court the certified copy of the order sheet of Sessions Trial No. 457 of 2020 (State of U.P. Vs Bhola Iqbal and one another) pending in the court of Additional Sessions Judge, Court No. 6, Mathura which is annexed as annexure S.A.-1 to the supplementary affidavit which is from 22.08.2019 to 22.07.2021.

It is further argued that co-accused Hakimuddin @ Patley has been granted bail by a co-ordinate Bench of this Court vide order dated 09.06.2021 passed in Crl. Misc. Bail Application No. 13506 of 2021 (Hakimuddin @ Patley Vs. State of U.P.), copy of the order is annexed as annexure S.A.-2 to the supplementary affidavit. It is argued that the said co-accused was granted bail in his second bail application after his first bail application was rejected vide order dated 15.10.2020 by a co-ordinate Bench of this Court. It is further argued that the criminal history of the applicant has been disclosed and explained in para 18 of the affidavit in support of the bail application and in all the eight cases, the applicant is falsely implicated. It is argued that as such the applicant be released on bail. The applicant is in jail since 14.03.2019.

Per contra, learned counsel for the first informant and the learned counsel for the State opposed the prayer for bail and argued that the first bail application of the applicant was rejected on merits by a detailed order by this Court. It is argued that in so far as the bail of co-accused Hakimuddin @ Patley is concerned, the second bail application was allowed on the ground that he is an old person aged about 62 years and suffering from old age ailments which was the new ground in the second bail application of the co-accused. Learned counsel for the first informant has stated that although the witnesses did not appear in the trial but now they will religiously appear before the trial court and co-operate with the trial so that the same may be concluded at the earliest.

I have heard learned counsels for the parties and perusing the records, it is evident that the first bail application of the applicant was rejected by a detailed order by this Court. The bail of co-accused which has been granted and is being pressed as a parity is not binding upon this Court. Parity as per the settled principles of law may have a persuasive value but is not binding. No fresh and new ground is made out. I do not find it a fit case for bail.

Considering the totality of the case in particular, nature of evidence available on record, I am

not inclined to release the applicant on bail.

The bail application is, accordingly, rejected.

However, it is directed that the trial of the aforesaid case pending before the concerned court below be concluded, as expeditiously as possible, strictly in accordance with Section 309 Cr.P.C. and in view of the principles as has been laid down in the judgement of Apex Court in the cases of Shailendra Kumar Vs. State of Bihar: (2002) 1 SCC 655; Vinod Kumar Vs. State of Punjab: (2015) 3 SCC 220 and Hussain and Another Vs. Union of India: (2017) 5 SCC 702, subject to any legal impediment, and further subject to the fact that the working of the trial court is not disturbed by the modalities of working of court due to pandemic Covid-19, the abstinence of work by lawyers and leave of the Presiding Officer.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad.

The computer generated copy of such order shall be self attested by the counsel of the party concerned.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing."

6. Against the said order dated 07.09.2021 passed in the second bail application, the applicant filed Special Leave to Appeal (Criminal) No. 2127 of 2022 (Bhola @ Ikbal Vs. State of U.P. and another) which was dismissed vide order dated 05.09.2022, however it was made open for the petition to renew the request for bail after the eye witnesses namely Haji Shamiuddin, Imran, Shakim and Shabir are examined by the trial court. The trial court was directed to examine the said witnesses. The said order reads as under:

"Having heard learned counsel for the petitioner, the present Special Leave Petition is not entertained at this stage.

However, it will be open for the petitioner to renew the request for bail after the eye-witnesses, namely, Haji Shamiuddin S/o Imamuddin, Imran S/o Shamiuddin, Shakim S/o Imamuddin and Shabir S/o Imamuddin are examined by the Trial Court. All endeavor shall be made by the trial court to examine the aforesaid witnesses at the earliest. It is the duty cast upon the State to see that the eye-witnesses remain present for deposition.

With this, the present Special Leave Petition stands dismissed.

Pending applications stand disposed of."

7. Subsequently the present third bail application has been filed before this Court.

8. Learned counsel for the applicant submits that the statements of the three prosecution witnesses namely Haji Shamiuddin/first informant, Imran/injured and Shakim/injured have been examined before the trial court as PW-1, PW-2 and PW-3. The said statements are annexed as annexure 7 to the affidavit. It is submitted that subsequently the statement of Shabir has also been examined as PW-4 before the trial court, the said statement is annexure S.A.1 to the supplementary affidavit dated 18.11.2023. It is submitted that as such the said four witnesses have been examined who were directed to be examined at the earliest by the Apex Court and then the applicant was granted liberty to renew his prayer for bail and thus he is filing the present third bail application. It is submitted that the said four witnesses have not assigned any specific role to the applicant of assault and even of throwing acid but the role of throwing acid has been assigned to co-accused Haji Chunnu. It is submitted that general and omnibus allegations have been levelled against the applicant without any specific overt act. Further while placing para 14 of the affidavit it is submitted that in the charge sheet 12 witnesses have been shown who are to be examined but as of now only four witnesses have been examined and as such the trial will take time to conclude the same. It is

submitted while placing para 29 of the affidavit that due to political influence the applicant has been implicated in the following cases: (i) Case Crime No. 326 of 2018 under Sections 147, 148, 149, 188, 336 IPC and 7 Criminal Law Amendment Act (ii) Case Crime No. 305 of 2016 under Sections 147, 148, 149, 307, 504, 506, 353, 324, 323, 336, 452 IPC and 7 Criminal Law Amendment Act (iii) Case Crime No. 133 of 2016 under Sections 147, 148, 149, 436, 452, 352, 506 IPC (iv) Case Crime No. 23 of 2016 under Sections 147, 148, 149, 332, 336, 353, 307, 427, 452, 504 IPC (v) Case Crime No. 217 of 2015 147, 148, 149, 323, 353, 336, 504 IPC and 7 Criminal Law Amendment Act (vi) Case Crime No. 101 of 2012 under Sections 147, 148, 149, 307, 332, 333, 353, 336 IPC and 7 Criminal Law Amendment Act and 5 Explosive Act. It is next submitted that the applicant is in jail since 14.03.2019.

9. Per contra, learned counsel for the State opposed the prayer for bail and argued that this is the third bail application of the applicant. It is submitted that the first and second bail application of the applicant were rejected by this Court on merits in a detailed orders vide orders dated 19.06.2020 and 07.09.2021. It is submitted that in so far as the testimony of four witnesses examined before the trial court is concerned, the same does not in any manner exonerate the applicant. The applicant is named as an accused therein and there are allegations against him. It is submitted that looking to the statements of the said witnesses before the trial court, the nature of incident, the injuries as received, the fact that there is throwing acid in the matter due to which one person has received injury of acid and also the criminal history of the applicant which goes to show that repetition of offences since the year 2012 it is not a fit case for bail and thus the bail application is rejected.

10. After having heard learned counsel for the parties and perusing the records, it is evident that the first bail application of the applicant was rejected by this Court vide order dated 19.06.2020. The second bail application of the applicant was also rejected by this Court vide order dated 07.09.2021. Against the said order dated 07.09.2021 the applicant preferred Special Leave to Appeal before the Apex Court which was dismissed but he was granted liberty to renew his prayer for bail after the examination of eye witnesses. The testimony of the said four witnesses have been recorded before the trial court. Perusal of the same goes to show that the same are not in any manner of any help to the applicant. They have named the applicant and have stated of his participation in the present matter. In the present matter, one person has received severe acid burnt whereas another person has received serious injury which are grievous and dangerous to life.

11. Considering the totality of the case in particular, nature of evidence available on record, I am not inclined to release the applicant on bail.

12. The bail application is, accordingly, rejected."

8. Since the trial has concluded and the judgment is to be pronounced after seven days, this bail application is disposed of with the direction to the trial court to ensure that the matter is not further adjourned and is concluded at the earliest without granting undue adjournments to either of the parties.

9. The bail application stands **disposed of**.

10. Pending application(s), if any, stands disposed of.

(Samit Gopal, J.)

Order Date :- 11.8.2025
M. ARIF