



2025:AHC:172777

Reserved on 27.08.2025

Delivered on 24.09.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 4388 of 2025

Jugendra Singh Yadav

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Sameer Srivastava
Counsel for Respondent(s)	:	G.A., Rohit Shukla

Court No. - 82

HON'BLE SAMEER JAIN, J.

1. Heard Sri Sameer Srivastava, learned counsel for the appellant, Sri Manish Goyal, learned Additional Advocate General assisted by Sri Arvind Kumar, learned AGA for the State and Sri Rohit Shukla, learned counsel for the informant.

2. The instant criminal appeal has been filed under Section 14-A(2) of S.C. & S.T. (Prevention of Atrocities) Act by the appellant to set aside the order dated 2nd May, 2025 by which his bail application was dismissed by learned Special Judge [M.P./M.L.A.]/Special Judge (E.C. Act), Etah in Case Crime No.252 of 2023, under Section 376, 504, 506, 323, 354(B) I.P.C. and Sections 3(2)(V) of [S.C./S.T. (Prevention of Atrocities) Act, 1989, Amendment 2015] P.S. Jaithara, District Etah and with further prayer to enlarge him on bail in the aforesaid criminal case.

Brief facts of the case:-

3. FIR of the present case was lodged on 30th July, 2023 against the appellant and five others, under Sections 376, 504, 506, 323, 354(b) I.P.C. and Sections 3(2)(V) of S.C./S.T. Act and according to the FIR, financial condition of the informant was not good and therefore on 2nd February, 2022 at about 11:00 A.M. in the morning she went at the house of appellant, who was Ex-zila Panchayat Adhyaksha and he employed her for household works but next day in the afternoon noon at about 3:00 P.M. he committed

rape upon her and also threatened her by using caste related words. It is further mentioned in the FIR that after five days when informant tried to make complaint to the rest of the accused then they also threatened her and made sexual assault upon her. It is further mentioned in the FIR that due to the fear of the appellant and other accused, she earlier could not lodge FIR but when she came to know that appellant and co-accused Rameshwar Singh Yadav, Ex M.L.A. were in jail and at present there is Modi Government then she gathered courage to lodge FIR of the present case.

4. When appellant applied bail before the court concerned then his bail application was dismissed. Hence, instant appeal under the provisions of S.C./S.T. Act.

Argument advanced on behalf of the appellant:-

5. Learned counsel for the appellant submits that on the basis of false allegations, only due to political background of the appellant, he has been made accused in the present matter along with others including his brother co-accused Rameshwar Singh Yadav, Ex M.L.A.

6. He further submits that as per the FIR, appellant allegedly committed rape upon the informant on 3rd February, 2022 but FIR of the present case was lodged on 30th July, 2023 i.e. after almost one and half years and therefore, there is inordinate delay in lodging the FIR of the present case but inspite of that, his bail application has been dismissed by the court concerned vide impugned order dated 2nd May, 2025.

7. He further submits that actually informant herself did not lodge the FIR of the present case and the same was lodged after taking her signature on plain paper and when she came to know about the present FIR then she met with C.O. concerned and informed him that she never lodged the FIR of the present case against the appellant and she does not want to implicate any innocent person but inspite of that, learned court concerned dismissed his bail application vide impugned order dated 2nd May, 2025.

8. He further submits that however during investigation, as per the prosecution when statements of the prosecutrix i.e opposite party no.2 (informant) were recorded under Sections 161 and 164 Cr.P.C. then she supported the prosecution case and reiterated the version of the FIR but during trial when she was examined by the trial court on 9th January, 2025

then she did not support the prosecution case and has been declared hostile.

9. He further submits that from her statement recorded before the trial court, which has been annexed at page 189 of the paper book, it reflects, she categorically stated that she did not lodge the FIR of the present case and she gave her statement under Section 164 Cr.P.C. under the pressure of police and in this regard, she has also filed an affidavit.

10. He further submits that inspite of the above facts, court concerned rejected the bail application of the appellant vide impugned order dated 2nd May, 2025.

11. He further submits that however, apart from the present case, appellant is having criminal history of 102 cases but his entire criminal history has been duly explained in paragraph no.28 of the affidavit filed in support of the instant appeal.

12. He further submits that in 15 cases appellant has already been acquitted, in 31 cases final reports have been submitted, 10 cases have been withdrawn with the leave of the Court, 3 cases have been expunged and 7 cases have become infructuous due to efflux of time and in another 3 cases, he has been exonerated.

13. He further submits that in 4 cases proceedings pending against the appellant have been stayed by this Court and in 20 cases, he is on bail and in 5 cases investigation is still pending.

14. He further submits that however, appellant is having criminal history of more than 100 cases but even after considering his criminal antecedents and the facts of the case, his bail application ought not to be dismissed by the court concerned but court concerned dismissed his bail application.

15. He further submits that while rejecting the bail application of the appellant, court concerned also did not consider the fact that appellant is in jail in the present matter for last more than two years and therefore, again committed illegality.

16. He further submits that therefore impugned order dated 2nd May, 2025 is illegal and is liable to be set aside and appellant is entitled to be enlarged on bail.

Arguments advanced on behalf of the State:-

17. Per contra; learned A.A.G. opposed the prayer and submits that from the FIR as well as from the statements of the victim i.e. opposite party no.2 recorded under Sections 161 and 164 Cr.P.C., it is apparent that appellant committed rape upon her, therefore, allegations made against the appellant are quite serious.

18. He next submits that however FIR of the present case was lodged after one and half years but considering the fact that appellant is hardened criminal and he is having criminal history of as many as 102 cases, it cannot be said that there is delay in the FIR of the present case as earlier informant due to his fear could not lodge the FIR.

19. He further submits that however during trial victim i.e. opposite party no.2 (informant of the case) did not support the prosecution case and has been turned hostile but it appears, due to long criminal antecedents of appellant under his fear, she did not support the prosecution case during trial.

20. He further submits that appellant is having criminal history of more than 100 cases and however in many cases appellant has been acquitted but in number of cases, he has been acquitted because witnesses turned hostile and this fact also suggests that appellant is having terror in the society and nobody could give evidence against him.

21. He further submits that appellant is continuously committing offences since the year 1983 and considering his criminal antecedents, which also includes offences like rape and facts of the present case while rejecting his bail application, court concerned did not commit any illegality and therefore, instant appeal filed by appellant is devoid of merit and it should be dismissed.

Arguments advanced on behalf of opposite party no.2:-

22. Learned counsel for the opposite party no.2 submits that opposite party no.2 never lodged the FIR of the present case and during investigation, her statement under Section 161 Cr.P.C. has been noted by the I.O. on his own and she never gave such statement.

23. He further submits that however, before the learned Magistrate when her statement under Section 164 Cr.P.C. was recorded then she reiterated the

version of the FIR but she gave this statement under the pressure of police and during trial when she was examined by trial court as P.W.-1 then she disclosed this fact and during trial she did not support the prosecution case.

24. He further submits that appellant never committed rape upon the opposite party no.2 and she does not want to implicate any innocent person and she is having no objection, if appellant be enlarged on bail after setting aside the impugned order dated 2nd May, 2025.

Analysis:-

25. I have heard both the parties and perused the record of the case.

26. The instant appeal has been directed against the order dated 2nd May, 2025 passed by the court concerned by which bail application of the appellant has been dismissed under the provisions of S.C./S.T. (Prevention of Atrocities) Act.

27. From the record, it reflects that the FIR of the present case was lodged by the opposite party no.2 against the appellant and others with the allegation that appellant committed rape upon her and he also after committing rape abused and threatened her and used caste related words but it reflects that there is delay of one and half years in lodgement of the FIR of the present case .

28. Further, however, during investigation, informant i.e. opposite party no.2 (victim of the case) reiterated the version of the FIR and stated that appellant committed rape upon her on 3rd May, 2022 but during trial when she appeared as P.W.-1 and her statement was recorded on 9th January, 2025 then she did not support the prosecution case and has been declared hostile and according to her, she never lodged the FIR of the present case and she in her statement recorded before the trial court also stated that she under the pressure of the police gave statement under Section 164 Cr.P.C. and appellant never committed rape upon her.

29. Further, however, apart from the present case, appellant is having criminal history of more than 100 cases but his criminal history has been explained in the affidavit filed in support of the instant appeal and it reflects that 69 cases were from the year 1983-2018. In 15 cases appellant has been acquitted, in 31 cases final reports have been submitted and have accepted by the Court, in 10 cases proceedings pending against him have been

withdrawn with the leave of the Court, seven cases have become infructuous due to efflux of time and in 20 cases appellant is on bail.

30. Further, however, this Court finds merit in the arguments advanced by learned A.A.G. that at the time of deciding bail application, criminal history of an accused is relevant but law is settled, merely on the basis of criminal antecedents, bail application of an accused should not be dismissed if otherwise case of bail is made out. In case at hand, as there is delay of about one and half years in lodging the FIR and during trial informant i.e. opposite party no.2 turned hostile, therefore, it cannot be said that no ground of bail is made out but it reflects that court concerned while rejecting the bail application of the appellant did not consider these facts and thus committed illegality.

31. The Apex Court in case of **Ayub Khan Vs. State of Rajasthan 2024 SCC OnLine SC 3763** in para 10 observed as under:-

"10. The presence of the antecedents of the accused is only one of the several considerations for deciding the prayer for bail made by him. In a given case, if the accused makes out a strong prima facie case, depending upon the fact situation and period of incarceration, the presence of antecedents may not be a ground to deny bail. There may be a case where a Court can grant bail only on the grounds of long incarceration. The presence of antecedents may not be relevant in such a case. In a given case, the Court may grant default bail. Again, the antecedents of the accused are irrelevant in such a case. Thus, depending upon the peculiar facts, the Court can grant bail notwithstanding the existence of the antecedents."

32. Further, while rejecting the bail application of the appellant, court concerned also did not consider the fact that appellant is in jail in the present matter for last more than two years and therefore, again committed illegality.

33. Considering the observation made by Supreme Court in case of **Ayub Khan (supra)** and period of incarceration of appellant in the present case, in view of this Court, court concerned committed illegality by rejecting the bail application of appellant.

34. Therefore, considering the facts and circumstances of the case discussed above, in my view, impugned order dated 2nd May, 2025 passed by the court concerned by which bail application of the appellant has been rejected is illegal and is liable to be set aside.

35. Accordingly, impugned order dated 2nd May, 2025 is hereby set aside.

Appellant is directed to be enlarged on bail during trial.

36. Accordingly, without expressing any opinion on the merits of the case, the instant appeal is **allowed**.

37. Let the appellant- **Jugendra Singh Yadav**, be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The appellant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The appellant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The appellant shall not indulge in any criminal and anti-social activity.

38. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the appellant.

39. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of the appeal and the said observations shall have no bearing on the merits of the case during trial.

September 24, 2025
Zafar

(Sameer Jain,J.)