

**A.F.R.**

Neutral Citation No. - 2025:AHC:131610

**Court No. - 65**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 14940 of 2023

**Applicant :-** Rana Pratap Singh

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Pradeep Kumar Mishra, Sr. Advocate

**Counsel for Opposite Party :-** G.A., Shambhavi Nandan

**Hon'ble Krishan Pahal, J.**

1. List has been revised.
2. Heard Sri Amrendra Nath Singh and Sri Vinay Saran, learned Senior counsels assisted by Sri Pradeep Kumar Mishra, learned counsel for applicant and Dr. S.B. Singh, Advocate holding brief of Sri Shambhavi Nandan, learned counsel for the informant as well as Sri Sunil Kumar, learned A.G.A. for the State and perused the material placed on record.
3. The present bail application has been filed by the applicant in Sessions Trial No.237 of 2019, arising out of Case Crime No.81 of 2019, under Sections 147, 148, 149, 504, 506, 302, 307, 336/34 I.P.C. and 27/30 Arms Act, Police Station- Devgaon, District- Azamgarh with the prayer to enlarge him on bail.
4. This is the second bail application on behalf of the applicant. The first bail application was rejected by the Coordinate Bench of this Court vide order dated 14.11.2022 passed in Criminal Misc. Bail Application No.55798 of 2019 and the following order was passed:-

*"Supplementary affidavit filed today is taken on record.*

*Before arguing on the bail application, learned counsel for the first informant placed before this court an order dated 07.09.2020 passed by the coordinate bench of this Court, wherein it is mentioned that in presence of both the parties after conclusion of arguments on the bail application, the bail application came to be rejected. Thereafter, on the same day, an application was handed over to the Private Secretary of the Court at about 4.45 p.m. requesting for rehearing the matter citing glitches in the video conferencing. The objection was not raised during the course of the argument. The copy of that application was supplied without serving a copy of the same to the learned A.G.A. or the learned counsel for the first informant, so it was observed by that bench that the practice adopted by the learned counsel for the applicant was objectionable and it was found that as the court had expressed its opinion, it would not be proper for the court to rehear the matter afresh and the matter was fixed for 15th September, 2020 before the appropriate court. It was also noted that the matter shall not be treated as part heard or tied up to the bench.*

*When I went through the record, it was found that there is no bail order on record. It was admitted by both the counsel that though, the order was dictated to the Private Secretary but it was not typed and before the order being typed the application was moved for rehearing of the matter and on that application the above order dated 07.09.2020 was passed.*

*Thus, it is clear that the bail application was not disposed of and as the bench has been changed and the bail application is being heard afresh, so the application moved in this regard on 07.09.2020 shall be considered disposed of.*

*With the consent of learned counsel for the applicant and learned counsel for the first informant, the bail application of the applicant - Rana Pratap Singh is heard afresh.*

*The bail application under Section 439 Cr.P.C. has been moved by the applicant - Rana Pratap Singh to enlarge him on bail in Case Crime No. 81 of 2019 under Sections 147, 148, 149, 504, 506, 302, 307, 336/34 I.P.C. and 27/30 Excise Act, Police Station Devgaon, District Azamgarh.*

*It is submitted by the learned counsel for the applicant that the incident is dated 07.04.2019 at 10.00 am, the FIR has been lodged on the same day at 21.18 hours. This delay of 11 hours is not properly explained. As per FIR the present applicant is said to have fired at Anil Singh, which resulted into his death and the fire of Nitesh Singh is said to have hit Divyanshu, who got injured by that fire. Admittedly, out of nine named accused persons, three persons Veer Bahadur Singh, Durgesh Singh and Pappu Singh have been exonerated during investigation and out of rest accused persons, who have been chargesheeted, except the present applicant, all have been bailed out by the coordinate bench of this Court. So, it is argued that as three accused persons have been exonerated at the stage of investigation, the evidence of the informant was not found reliable by the Investigating Officer. It is also argued that as per site plan, the distance between the house of the parties is 30-35 paces and as per post mortem report, on injury no. 1 blackening is found. If the fire was made from a distance of 30-35 paces the blackening on the wound was not possible. Again, it was a sudden quarrel. There was no intention to cause the death of any person. Maximum the case can be considered under Section 304 IPC. It is further argued that during incarceration period of the applicant lost his one son-in-law who died during Covid. The marriage of his second daughter is fixed on 2nd December, 2022. His criminal history of one case has been well explained that he has been acquitted in that case on 12.04.2022. The statements of the witnesses of fact have been recorded in the trial court. The accused is languishing in jail since 09.04.2019. Hence, prayer for bail is made.*

*The prayer of bail is opposed by the learned counsel for the first informant. It is submitted by him that the case of the present accused is*

*distinguishable from all the other accused persons, as this is the main assailant, who had made the fire from his licensee gun and the fire hit Anil Singh resulting into his death. This licensee gun has been recovered by the police from the possession of the applicant. The FSL report is available on record. It is pointed out by the learned counsel for the first informant that four empty cartridges which were marked as EC 1, 2, 3 and 4, were found to be discharged from the licensee gun of the present applicant. The statement of the injured Divyanshu is also on record, wherein he has stated that when the construction was in progress in the house of the first informant, the present applicant along with his brother tried to intervene and when the matter was resisted, the present applicant and all the accused persons started abusing and pelting stones. During this period, when all the accused started firing, the present applicant ran towards his house and from his roof top he made a fire from his licensee gun aiming Anil, who fell down on the ground. The injured was taken to the hospital, he was referred for Varanasi and there he was declared brought dead.*

*Further, the attention of the court is drawn towards the site plan of Original Civil Suit No. 1082 of 1992, Rana Pratap Singh Vs. Shiv Murat and Ram Murat, wherein the pathway between both the houses is shown to be 09 feet wide. It is argued that this mid way of 09 feet with the connivance of the applicant, who happens to be lawyer, is shown in the site plan as 35 paces. Just to create pressure upon the first informant and his family members on 13.05.2019 an FIR No. 133/2019 was lodged against them by the accused Shailendra Pratap Singh. On the basis of judgement of Apex Court in Sadayappan @ Ganesan Vs. State, represented by Inspector of Police, 2019 3 SCC (Cri) 843, it is argued that as the post mortem report and chemical analysis report confirm the gun shot, the ownership of the alleged gun, which was recovered at the instance of the applicant, is not disputed, hence bail application is prayed to be rejected.*

*It is, however, argued by the learned counsel for the first informant that as per FIR, only single fire is attributed to the present applicant, while as per*

*FSL report, four empty cartridges were produced there. As per post mortem report, total six injuries were found on the person of the deceased including five fire arm entry wounds, so the prosecution cannot take benefit of the FSL report.*

*From perusal of the record, the case of present applicant appears to be distinguishable from that of the other accused persons as the role of causing death of Anil is attributed to the present applicant only. Out of five fire wounds, as per post mortem report, blackening is found only on one injury, while in the rest fire injuries, no blackening or tattooing is found. As per FSL report, the empty cartridge is found to be fired from the licensee gun of the present applicant. Divyanshu, the injured person, whose presence cannot be denied on the spot, has also confirmed the version of the first information report. The present applicant is the main assailant.*

*Thus, after perusing the record in the light of submission advanced at the bar, taking overall view of the facts and circumstances of the case, the nature of accusation and the period of detention already undergone without commenting on the merit of the case, I do not find it a fit case for bail.*

*The bail application is hereby rejected."*

#### **ARGUMENTS ON BEHALF OF APPLICANT:**

5. The present bail application is being pressed on the new ground of period of incarceration as the applicant is languishing in jail since 9.4.2019, as such, he is incarcerated for about 06 years and 04 months. The fundamental rights of the applicant enshrined under Article 21 of the Constitution of India stand violated.

6. Much reliance has been placed on the judgment of the Supreme Court in the case of **Union of India vs. K.A. Najeeb, AIR 2021 SC 712**, wherein it has been observed as under:-

*"We are conscious of the fact that the charges levelled against the respondent are grave and a serious threat to societal harmony. Had it been a case at the threshold, we would have outrightly turned down the respondent's prayer. However, keeping in mind the length of the period spent by him in custody and the unlikelihood of the trial being completed anytime soon, the High Court appears to have been left with no other option except to grant bail."*

7. The applicant is an advocate and his criminal antecedents have been explained which were minor offences. He is neither a hardened criminal nor a flight risk.

8. The witnesses of fact have already been examined and there is no likelihood of the applicant tampering with evidence. Only the Investigating Officer, PW-9 remains to be cross-examined by the counsel of the applicant.

9. As far as merits of the case are concerned, it is alleged that applicant had fired from a distance of 30-35 paces, as such, the distance must be about 70-75 feet. The postmortem report falsifies the said story of the prosecution as the injury no.1 indicates blackening from which it can be inferred that the distance of firing must be less than 8-10 feet.

10. The Investigating Officer was examined as PW-6 in trial. The opportunity to cross-examine him by several accused persons has been closed by the trial judge. The counsel for the applicant had filed an application to recall the said witness PW-6 by invoking powers U/s 231(2) and 311 Cr.P.C. and the same has been rejected by the trial court vide order dated 4.8.2025.

11. The applicant has to challenge the said order dated 4.8.2025 as the valuable right of the applicant to cross-examine one of the

most important witness, who happens to be the Investigating Officer, stands violated.

12. There were three other injured persons in the instant case, namely, Arun, Divyanshu and Shivchand Saroj and the star eye-witnesses have been withheld by the prosecution as they have been discharged by moving an application on 10.3.2022.

13. The applicant is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

**ARGUMENTS ON BEHALF OF INFORMANT:**

14. The present bail application has been opposed by learned counsel for the informant on the ground that in the instant case the first charge-sheet was filed on 8.7.2019 against five accused persons including the applicant. The second charge-sheet was filed against two other accused persons. The charge was framed on 8.8.2019 against the accused persons mentioned in the first charge-sheet including the applicant and the charge against the other accused persons mentioned in the second charge-sheet was framed on 4.1.2021.

15. The applicant and other accused persons had repeatedly tried to interfere in the administration of justice as they had adopted every dilatory tactics to get the matter adjourned on one pretext or another. The statement of witnesses could not be completed as the case was adjourned at the behest of counsel of the applicant and other accused persons.

16. The cross-examination of PW-1 was adjourned on 13 occasions and even the statement of other witnesses were also not recorded due to the adjournments at the behest of counsel of

accused persons. The cross-examination of PW-9 was complete on 31.7.2025 and the case was fixed for recording of statement of accused persons U/s 313 Cr.P.C. on 2.8.2025.

17. An application no.158-Kha was moved U/s 231(2) and 311 Cr.P.C. for re-examination of PW-6, Sunil Chandra Tiwari (Investigating Officer). The said application was dismissed by the trial court vide order dated 4.8.2025 and the case has been fixed for recording of statement of accused U/s 313 Cr.P.C. on 6.8.2025, i.e. tomorrow.

18. The applicant is a notorious person with criminal state of mind as he used to threat witnesses and other persons by using his mobile in jail premises and an FIR No.364 of 2022 was instituted against the applicant U/s 42 & 43 of the Prisons Act, 1894 for the reason that applicant used to call several persons from jail, as such, he was transferred from Azamgarh jail to Pilibhit jail. This forced the prosecution to give up their injured witnesses.

19. The prosecution evidence is complete and the witnesses have deposed against the applicant, as such, he is not entitled for bail rather the trial may be expedited stipulating some fixed time period for its disposal.

**ARGUMENTS ON BEHALF OF STATE:**

20. It is argued by learned A.G.A. that the trial is at its conclusive end and the case is fixed for recording of statement of accused u/s 313 Cr.P.C. and much reliance has been placed on the judgment of the Supreme Court in case of *X vs. State of Rajasthan & Anr.* reported in **2024 INSC 909**, wherein it has been held that once the trial has commenced, it should be allowed to reach to its final conclusion, which may either result



in conviction or acquittal of the accused. The bail should not be normally granted to the accused after the charge has been framed. It should also not be granted by looking into the discrepancies here or there in the deposition.

21. It is further argued by learned A.G.A. that the said arguments regarding distance and blackening of injury no.1 were argued at the time of adjudication of first bail application of the applicant and there is no new ground for granting bail to the applicant.

22. It is also argued that the application for discharging the three injured witnesses as mentioned by learned Senior Counsel for the applicant was also filed by the prosecution well before the disposal of said bail application dated 14.11.2022.

**STATUS OF TRIAL:**

23. This Court had called for status report of trial from the concerned trial court. The report of Special Judge (E.C. Act)/Additional Session Judge, Azamgarh dated 25.7.2025 indicates as follows:-

(i). The examination-in-chief of PW-1 was recorded on 31.10.2019 and he was partially cross-examined on 17.1.2020. After the committal of another Session Trial No.109 of 2020 and the instant Session Trial No.237 of 2019 were consolidated and de-novo trial was started. As such, examination-in-chief of PW-1 was again recorded on 7.9.2021. The cross-examination of PW-1 by the counsel of the applicant was done on 14.10.2021, 26.10.2021, 28.10.2021, 8.11.2021, 15.11.2021, 23.11.2021, 24.11.2021, 3.12.2021 and it could be concluded on 6.12.2021.

(ii). The statement PW-2 was recorded on 22.2.2022, 23.2.2022 and 24.2.2022.

(iii). The statement of PW-4 was recorded on 9.5.2022 and then on 17.6.2022 and 5.12.2022.

(iv). The statement of PW-6, Sunil Chandra Tiwari (Investigating Officer) was recorded on 26.4.2023, 7.3.2024, 1.4.2024, 24.6.2024, 7.5.2025 and 16.5.2025.

(v). The said report also indicates that the case was fixed for cross-examination of PW-9, Vimlesh Kumar Maurya (Inspector) on 28.7.2025.

#### **CONCLUSION:**

24. The aforesaid status report of trial indicates that the trial was delayed primarily due to the dilatory tactics of the counsel for the applicant. Although the delay can be attributed to the prosecution also.

25. As argued by learned counsel for informant and learned A.G.A., the prosecution evidence is complete and the same has been closed. The case is fixed for recording of statement of accused U/s 313 Cr.P.C. on 6.8.2025, which indicates that trial is at its conclusive end.

26. Learned Senior Counsel for the applicant has argued that the application no.158-Kha moved by the applicant U/s 231(2) and 311 Cr.P.C. for re-examination of PW-6, Sunil Chandra Tiwari (Investigating Officer) was rejected by the trial court vide order dated 4.8.2025 and it has to be challenged before this Court. The said act shall further delay the adjudication of trial but the said delay cannot be attributed to the prosecution.

27. After hearing learned counsel for the parties, taking into consideration the rival submissions and the fact that there is no new ground to grant bail to the applicant coupled by the fact that trial is at its conclusive end and dilatory tactics were adopted by the counsel of applicant during trial and the applicant having

criminal antecedents to his credit including one filed by the jail authorities against him during trial, I do not find it a fit case for grant of bail to the applicant.

28. The bail application is found devoid of merits and is, accordingly, ***rejected***.

29. However, it is directed that the aforesaid case pending before the trial court be decided expeditiously in view of the principle as has been laid down in the recent judgments of the Supreme Court in the cases of ***Vinod Kumar vs. State of Punjab; 2015 (3) SCC 220*** and ***Hussain and Another vs. Union of India; (2017) 5 SCC 702***, if there is no legal impediment.

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

**Order Date :- 5.8.2025**  
Vikas

**(Justice Krishan Pahal)**