



2025:AHC:166903

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 19696 of 2025

Reserved on 21.08.2025

Delivered on 18.09.2025

Mohd. Azam Khan

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Mohammad Khalid
Counsel for Opposite Party(s)	:	G.A.

Court No. - 82

HON'BLE SAMEER JAIN, J.

1. Supplementary counter affidavit filed by the State-respondent and supplementary rejoinder affidavit filed on behalf of the applicant are taken on record.

2. Heard Sri N. I. Jafri, learned Senior Advocate assisted by Sri Mohd. Khalid, Sri Zubair Ahmad and Sri Imran Ullah, learned counsel for the applicant and Sri Manish Goyal, learned Additional Advocate General assisted by Sri Roopak Chaubey, learned Additional Government Advocate for the State-respondent.

3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 943 of 2019, under Sections 420, 467, 468, 471, 201, 120B IPC, Police Station Civil Lines, District Rampur during pendency of the trial.

Brief facts of the case:

4. FIR of the present case was lodged on 21.11.2019 under Sections 420, 467, 468, 471 IPC against co-accused Syed Jafar Ali Jafri, Smt. Tanzeen Fatima (wife of applicant) and Abdullah Azam Khan (son of applicant) and according to the FIR on 25.07.2013, applicant the then Urban Development Minister of State of U.P. presided a meeting and in consequence thereof on 13.03.2014 a meeting of District Cooperative Corporation was held which was chaired by co-accused Syed Jafar Ali Jafri, the then Chairman and a

portion of Gata No. 55 was let on rent to Smt. Tanzeen Fatima, the wife of applicant at the rate of Rs. 1,200/- per month.

5. It is further mentioned in the FIR, on 22.07.2021¹⁴ again a meeting was held wherein the name of Abdullah Azam Khan (son of applicant) was added along with the name of Smt. Tanzeen Fatima as co-tenant. It is further mentioned in the FIR that in this meeting 302 square meter land have also been let out at the rate of Rs. 300/- per month.

6. It is further alleged that on 24.09.2019 a joint report was submitted by the Assistant Commissioner and Assistant Registrar Cooperative Rampur that there was no record available regarding the property situated at Gata No.55.

7. As per FIR the above property was under the administration of District Magistrate but by conspiracy the same was let on rent and therefore FIR be registered against co-accused Syed Jafar Ali Jafri, the then Chairman District Cooperative Society Rampur, Smt. Tanzeen Fatima (wife of applicant) Abdullah Azam Khan (son of applicant).

Arguments advanced on behalf of applicant:

8. Learned Senior Advocate appearing on behalf of applicant submits, applicant was not named in the FIR and after investigation when charge-sheet has been submitted on 16.05.2020 then also name of applicant could not be disclosed and till that time he has not been made accused in the present matter.

9. He further submits, on 07.11.2024 after five years from the FIR during pendency of trial S.P. Rampur directed for further investigation only with intention to implicate the applicant in the present matter and during further investigation the name of applicant was surfaced in the present matter and during further investigation after five years from the date of lodgement of the FIR of the present case he has been made accused in the present matter. He further submits, the present case is a classic example of high handedness of the investigating agency. He next argued, after further investigation charge-sheet has also been filed against applicant on 21.03.2025.

10. He further submits, as per prosecution, applicant was Urban Development Minister of the State of U.P. and due to his influence, the property in question which although belonged to the Government, has been let out to his kith and kin on a very meager rent and thus applicant along with them grabbed the government property but entire allegations are false and baseless.

11. He further submits, the property in question belonged to the Society and after proper meeting chaired by its Chairman the property was let out to Smt. Tanzeen Fatima, the wife of applicant and Abdullah Azam Khan, the son of applicant and it cannot be said that on the behest and due to the influence of applicant, the property has been wrongly and illegally let out to them.

12. He further submits, even from the FIR it reflects, the allotment was made in favour of co-accused Smt. Tanzeen Fatima and Abdullah Azam Khan in the year 2014 but FIR was lodged on 21.11.2019 i.e. after five year. He further submits, therefore, applicant has been made accused in the instant matter after ten years from the alleged allotment made in favour of his wife and son and after about five years from the date of lodgement of the FIR of the present case.

13. He further submits, the manner by which very belatedly during further investigation applicant has been made accused in the present matter clearly suggests that entire further investigation was tainted and was conducted only with intention to falsely implicate him.

14. He further submits, as applicant was Minister in the previous government and was member of Samajwadi Party, therefore, when regime was changed in the State of U.P. then only due to political vendetta firstly wife and son of the applicant have been made accused in the present matter in the year 2019 and thereafter in the year 2024 under the garb of further investigation applicant has also been made accused in the present matter.

15. He further submits, even all the alleged offences are triable by Magistrate and in the present matter applicant is in jail since 14.01.2025 i.e. for last more than eight months and he is aged about 77 years.

16. He further submits, however, apart from the present case applicant is having criminal history of 110 cases but entire criminal history of the applicant has been duly explained in the instant bail application.

17. He further submits, even from the criminal antecedents of the applicant, it reflects, majority of cases were of the year 2019 and however 20 cases were before the year 2019 but these cases related to minor offences and proceedings of number of cases have already been withdrawn by the State itself.

18. He further submits, as in the year 2017 new Government has been formed therefore since the year 2019 applicant who was member of Samajwadi Party and was Minister in the previous Government, is being continuously falsely made accused in criminal cases only due to political

vendetta. He next argued, in all the pending cases applicant is on bail except the present one.

19. He further submits, however, in five cases applicant has been convicted but his appeal is pending and during pendency of appeal he is on bail.

20. He further submits, law is settled that if otherwise case of bail is made out then ordinarily merely on the basis of criminal history bail application of an accused should not be withheld.

21. He further submits, therefore, considering the above facts, applicant should be enlarged on bail.

Arguments advanced on behalf of the State:

22. Per contra, learned Additional Advocate General vehemently opposed the prayer for bail and submitted that applicant being Urban Development Minister of the State misused his position and he grabbed the State land with the connivance of the other accused persons and only due to his influence the said allotment was illegally made in favour of the wife and son of the applicant by ignoring rules.

23. He further submits, however, allotment was made in the year 2014 and FIR was lodged in the year 2019 but at the time of allotment applicant was Urban Development Minister and entire fraud has been committed on his behest, therefore, under his pressure and influence FIR could not be immediately lodged and when government changed and it was found that during previous regime fraud and cheating has been committed then FIR of the present case was lodged and therefore it cannot be said, there is inordinate delay in lodging the FIR.

24. He further submits, as allotment was in the name of wife and son of the applicant, therefore, initially applicant has not been made accused as authorities did not want to falsely implicate him but during further investigation when it was revealed that on the behest and direction of the applicant allotment was made by adopting illegal means then he has been made accused in the present matter and this shows bona fide on the part of the State and investigating agency and it cannot be said that only due to political vendetta on false allegations after five years from the lodgement of the FIR applicant has been made accused in the present matter.

25. He further submits, from the entire materials available on record it is apparent that by forgery even the minutes of the meeting of alleged Society were prepared and during investigation it was found, even the signatures of

the members were forged and therefore, it cannot be said that applicant did not commit the alleged offences.

26. He further submits, apart from the present case applicant is having criminal history of as many as 110 cases and out of 110 cases number of cases were of similar nature and therefore it reflects, applicant used to commit crime of similar nature and used to grab the Government properties for his personal gains. He next submits, even in five cases applicant has been convicted.

27. He further submits, law is by far now settled that criminal antecedents of an accused is having its own importance while deciding the bail application and considering the fact that it appears, applicant misused his position as a Minister of the State and he is having criminal antecedents of more than 100 cases, it is not desirable to release him on bail.

Analysis:

28. I have heard learned counsel for the parties and perused the record of the case.

29. As per allegations, in the year 2014 applicant was Cabinet Minister in the previous Government and under his influence and on his direction the land which belonged to the Society has been illegally allocated to his wife and son by committing cheating and forgery in the minutes of the meeting of the Society but it reflects, applicant was not the accused in the FIR and even during investigation his complicity could not be revealed and after investigation when charge-sheet was filed in May, 2020 then also till date of filing of the charge-sheet he has not been made accused and charge-sheet was filed only against named accused persons including wife and son of the applicant.

30. Record further suggests that in the year 2024 when S.P. concerned ordered for further investigation then during further investigation applicant has been made accused and therefore it reflects applicant has been made accused in the present matter after five years from the date of lodgment of the FIR of the present case during further investigation.

31. Further, the alleged allotment was made in favour of the wife and son of applicant in the year 2014 and FIR of the present case was lodged in the year 2019 i.e. after five years. However, as per prosecution, as applicant was Cabinet Minister in previous government therefore FIR of the case earlier could not be lodged but State Government had changed in the year 2017 and therefore, prima facie it appears, there is delay in lodging the FIR. Further,

during further investigation applicant has been made accused after about a decade from the date of alleged illegal allotment.

32. Further, even from the record, it reflects, all the alleged offences are triable by Magistrate and in the present matter applicant is in jail for last more than eight months and he is about 77 years old.

33. Further, however apart from the present case applicant is having criminal history of 110 cases but his entire criminal history has been explained in the instant bail application and after perusing the same, it reflects, majority of cases were of the year 2019 after the formation of new Government and change of regime. Considering this fact and political background of the applicant, the argument advanced by learned counsel for applicant that only due to political vendetta after change of the government applicant has been made accused in these cases cannot be completely brushed aside at this stage.

34. Further, however, it reflects, 20 cases were before the year 2019 but these cases relate to minor offences and majority of the cases have been withdrawn by the State Government. Further, it appears, in all the pending cases applicant has already been enlarged on bail except the instant one.

35. Further, however, in five cases it appears, applicant has been convicted but his appeal is pending and he is on bail during pendency of his appeal.

36. Further, however, this Court is not oblivious to the fact that while deciding the bail application of an accused his criminal history is relevant but this Court also could not lost the sight, merely on the basis of criminal history bail application of an accused should not be withheld if otherwise case of bail is made out.

37. Further, while considering the criminal antecedents of an accused at the time of his bail application, the Court should also consider the manner in which he has been made accused in these cases and merely on the basis of criminal antecedents of an accused without considering the attending circumstances his bail application should not be dismissed.

38. The Apex Court in the case of **Ayub Khan Vs. State of Rajasthan 2024 SCC OnLine SC 3763** observed as:-

"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." (See paragraph-10).

39. Further, applicant is having long political career and he was Ex-M.L.A. and was also Minister in the previous Government, therefore, he is not at flight risk.

40. Further, law is settled, bail is a rule while jail is an exception and unless proven guilty an accused is deemed to be innocent and bail application should not be dismissed either for preventive or punitive purposes.

41. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

42. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

43. Let the applicant - **Mohd. Azam Khan** 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 applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant 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 applicant shall not indulge in any criminal and anti-social activity.

44. 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 applicant.

45. 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.

September 18, 2025
AK Pandey

(Sameer Jain,J.)