



2025:AHC:177989

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**CRIMINAL MISC. BAIL APPLICATION No. - 20849 of 2025**

Sadakat Khan

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

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|-------------------------------|---|---------------------------------|
| Counsel for Applicant(s)      | : | Sameer Uddin, Siddhartha Mishra |
| Counsel for Opposite Party(s) | : | G.A.                            |

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**Court No. - 73**

**HON'BLE SAMEER JAIN, J.**

1. Heard Sri Siddhartha Mishra, learned counsel for the applicant and Sri Rupak Chaubey, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 0086 of 2023, under Sections 147, 384, 506, 201, 120B, 195A, 34 IPC and under section 42 B of Jail Act and Section 8/13 of Prevention of Corruption Act and section 7 of Criminal Law Amendment Act, Police Station Bithari Chainpur, District Bareilly, during pendency of the trial in the court below.
3. Learned counsel for the applicant submitted that FIR of the present case was lodged on 7.3.2023 against seven persons (non applicants) and according to the FIR by illegal means accused persons alongwith Ashraf made planning to commit murder and they by illegal means made entry in the jail to meet with Ashraf but during investigation through the statement of one co-accused Lala Gaddi applicant has also made accused with the allegation that he also met with Ashraf in Bareilly jail but except this there is no other allegation against the applicant on record.
4. He further submitted that apart from the present case, applicant is having criminal history of four cases and his criminal antecedents have been explained in the affidavit and rejoinder affidavit.
5. He further submitted that out of four cases, one case is of murder but in that case applicant was not named and during investigation like present matter he has been made accused.
6. He further submitted that law is settled that if otherwise case of bail is made out then merely on the basis of criminal antecedents, bail application should not be rejected.
7. He further submitted that in the present matter, applicant is in jail since 29.11.2024 i.e. for last ten months.

8. Per contra, learned AGA opposed the prayer for bail and submitted that applicant was close associate of Ashraf who was hardened criminal and he although not named in the FIR but during investigation ample evidence against the applicant have been collected which also shows that he met with Ashraf in Bareilly Jail.

9. He further submitted that apart from the present case applicant is having criminal history of four cases including a case of section 302 IPC which relates to one Umeshpal one of the witness in another murder case and therefore, considering the background of the applicant, it is not proper to release him on bail.

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

11. As per allegation, applicant is associated with Ashraf who was hardened criminal and he met him alongwith others in Bareilly Jail but applicant was not named in the FIR and during investigation, his name was surfaced through the statement of one of the co-accused Lalla Gaddi.

12. Further, except the allegations that applicant illegally met with Ashraf in Bareilly Jail there is no allegation against him.

13. Further, however, apart from the present case, applicant is having criminal history of four other cases but entire criminal history of the applicant has been explained in the affidavit and rejoinder affidavit filed in support to the instant bail application.

14. However, it reflects out of four cases, one case relates to offence under section 302 IPC but it appears applicant is not named in the FIR and during investigation, he has been made accused.

15. Further, in the present matter applicant is in jail since 29.11.2024 i.e. for last ten months.

16. Further, this Court finds merit in the arguments advanced by learned counsel for the applicant that if otherwise case of bail is made out then ordinarily, merely on the basis of criminal antecedents bail application of an accused should not be withheld.

17. The Apex Court in the case of **Ayub Khan Vs. State of Rajasthan, 2024 SCC OnLine SC 3763** in paragraph-10 observed as follows:-

*"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....."*

18. Further, law is settled that bail is a rule while bail rejection is an exception and bail application should not be dismissed either for punitive or preventive purposes.

19. Further, law is also settled that unless proven guilty an accused is deemed to be innocent.

20. Therefore, considering the facts and circumstances of the case, discussed above as well as observation made by the Apex Court in the case of **Ayub Khan (supra)**, in my considered view, applicant is entitled to be released on bail.

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

22. Let the applicant-**Sadakat 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.

23. 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.

24. 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.

**October 7, 2025**  
Ankita

**(Sameer Jain,J.)**