



2026:AHC:170793

**HIGH COURT OF JUDICATURE AT ALLAHABAD**  
**CRIMINAL MISC. BAIL APPLICATION No. - 26095 of 2026**

Babu @ Mustakeem

.....Applicant(s)

Versus

State of U.P.

.....Opposite  
Party(s)

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Counsel for Applicant(s) : Anuj Kumar Gupta, Pankaj Kumar Gupta  
Counsel for Opposite Party(s) : G.A.

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**Court No. - 82**

**HON'BLE HARVIR SINGH, J.**

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
2. The instant bail application has been filed on behalf of the applicant with a prayer to release the applicant on bail during the trial in Case Crime No.08 of 2026, under Section 8/20 of Narcotic Drugs and Psychotropic Substances Act, P.S. Raysatti, District Sambhal.
3. This is the second bail application of the applicant. The first bail application of the applicant was rejected by this Court vide order dated 31.03.2026 passed in Criminal Misc. Bail Application no. 10046 of 2026 on the ground that the applicant has suppressed the material fact that the applicant is having criminal history of nine cases, which was pointed out by the learned A.G.A.
4. As per allegation in the F.I.R. contraband substance, i.e., 346 gram of charas is said to have been recovered from the possession of the applicant.
5. It is contended by learned counsel for the applicant that the applicant is innocent and he has been falsely implicated by the police. Contraband substance, i.e., 346 gram of charas, which is said to have been recovered from the possession of the applicant, is below the commercial quantity. There is no public eye witness of the alleged recovery. He submits that there is non-compliance of Section 50 and 52 of N.D.P.S. Act and in support of his contention, he has placed reliance upon the Judgment of the Apex Court rendered in the case of **Arif Khan @ Agha Khan vs. State of**

**Uttarakhand, (2018) 18 SCC 380** wherein it has been held that mandatory procedure of Section 50 of the N.D.P.S. Act has to be complied with in regard to search and recovery. There is criminal history of nine cases to his discredit of the applicant, which has specifically been explained in para 6 of the bail application. The applicant is in jail since 08.02.2026. In case, he is granted bail, he will not misuse the liberty of bail and would cooperate in the trial proceedings.

6. Per contra, learned A.G.A. opposed the prayer of bail and submits that applicant was involved in committing the aforesaid offence as contraband substance i.e., 346 gram of charas has been recovered from his possession and, as such, the applicant is not entitled to be released on bail.

7. Having heard the learned counsel for the parties and after perusal of record, it is evident that recovered contraband substance, i.e. 346 gram of charas is below the commercial quantity; there is no independent public eye witness of the alleged recovery; there is non compliance of Section 50 and 52 of the NDPS Act; the criminal history of the applicant has been explained in para 6 of the bail application; and the applicant is languishing in jail since 08.02.2026.

8. Considering the submissions of learned counsel of both sides, nature of accusation and severity of punishment in case of conviction, nature of supporting evidence, prima facie satisfaction of the Court in support of the charge, reformatory theory of punishment and considering larger mandate of the Article 21 of the Constitution of India and, without expressing any view on the merits of the case, I find it to be a case of bail.

9. Let the applicant **Babu @ Mustakeem** involved in the aforementioned crime be released on bail, on his furnishing a personal bond and two sureties each in the like amount, to the satisfaction of the court concerned, with the following conditions:-

(1) The applicant shall not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, or otherwise during the investigation or trial;

(2) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. He shall remain present before the trial court on each date

fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code;

(3) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C.; and

(4) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, the trial court shall initiate proceedings against him, in accordance with law under Section 174-A of the Indian Penal Code.

10. The identity, status and residential proof of sureties will be verified by the court concerned and in case of breach of any of the above conditions, the court below shall be at liberty to cancel the bail and send the applicant to prison.

11. It is clarified that the observations made in this order are strictly confined to the disposal of this bail application and must not be construed to have any reflection on the merits of the case.

**August 13, 2026**  
Mini

**(Harvir Singh,J.)**