



2026:AHC:163233

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 26244 of 2026

Pawan Rajbhar

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	: Manoj Kumar Singh Vats, Rajeev Kumar Singh
Counsel for Opposite Party(s)	: G.A.

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Supplementary affidavit filed by the applicant is taken on record.
2. Heard Sri Rajeev Kumar Singh, learned counsel for the applicant and Sri Shatruhan Yadav, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 874 of 2025, under Sections 103(1), 3(5), 61(2) BNS and Section 29 Arms Act, Police Station Pipraich, District Gorakhpur during pendency of the trial.
4. Learned counsel for the applicant submits, applicant was not named in the FIR but during investigation he has been made accused in the present matter through the statement of co-accused recorded by the Investigating Officer.
5. He further submits, from the statement of eye witness Shahid it reflects, co-accused Chhotu @ Dayanand who was named in the FIR is the principal accused who by causing firearm injury committed the murder of the deceased.
6. He further submits, as per prosecution, applicant provided country made pistol to the principal accused but except the bald and verbal allegation and statement of co-accused and confessional statement of applicant before police there is no cogent evidence against the applicant on record in this regard.
7. He further submits, apart from the present case applicant is having

criminal history of eleven other cases but his criminal history has been explained in the instant bail application and majority of cases were of minor nature. He next submits, in all the cases applicant is on bail.

8. He further submits, as applicant was having previous criminal history of eleven other cases, therefore, during investigation Investigating Officer implicated him in the present matter as police is highly inimical with him.

9. He further submits, in the present matter applicant is in jail since 31.12.2025.

10. Per contra, learned AGA opposed the prayer for bail and submits, apart from the present case applicant is having criminal history of eleven other cases but could not dispute the other argument on facts advanced by learned counsel for the applicant.

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

12. Applicant was not named in the FIR and it reflects, name of applicant was surfaced through the statement of co-accused recorded by the Investigating Officer.

13. Further, however, as per prosecution, applicant provided pistol to accused person who caused injury to the deceased but it reflects, except statement of co-accused and confessional statement of applicant before police there is no other cogent evidence against the applicant on record in this regard.

14. Further, even from the statement of eye witnesses it reflects, co-accused Chhotu @ Dayanand is the principal accused who committed the murder of the deceased by causing firearm injury to him.

15. Further, apart from the present case applicant is however having criminal history of eleven other cases but his criminal history has been explained and in all the cases he is on bail. It further reflects, except two cases, all the cases were minor in nature.

16. Further, considering the criminal history of the applicant and the manner in which he has been made accused in the present matter during investigation, the argument advanced by learned counsel for applicant that

local police is highly inimical with the applicant and only due to this reason during investigation he has been made accused in the present matter cannot be ruled out at this stage.

17. Further, even 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.

18. The Apex Court in the case of **Ayub Khan Vs. State of Rajasthan 2024 SCC OnLine SC 3763** in paragraph-10 also 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....."

19. Further, even in the present matter applicant is in jail since 31.12.2025 i.e. for last more than six months.

20. Therefore, considering the facts and circumstances of the case discussed above, in my 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 - **Pawan Rajbhar** 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.

August 5, 2026
AK Pandey

(Sameer Jain,J.)