



2026:AHC:163729

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 27083 of 2026

Mehtab

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Prabhakant Singh, Sunil Kumar Dubey
Counsel for Opposite Party(s)	:	G.A.

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Heard Sri Prabhakant Singh, learned counsel for the applicant and Dr. S. B. Maurya, learned AGA for the State.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 152 of 2025, under Sections 191(2), 191(3), 190, 131, 125, 121(2), 132, 109(1), 103(1), 61(2), 50, 351(3) BNS and Section 7 Criminal Law Amendment Act, Police Station Masuri, District Ghaziabad during pendency of the trial.
3. Learned counsel for the applicants submits, however, it is a case in which due to the fire opened by the mob one police personal died and one police personal sustained firearm injuries but applicant was not named in the FIR and in the FIR only co-accused Kadir has been named along with his brother but during investigation when the statement of co-accused Kadir was recorded by the police then he disclosed the name of applicant and except the statement of co-accused Kadir and confessional statement of applicant before police there is no evidence against the applicant on record.
4. He further submits, however, bail application of co-accused Kadir has been dismissed by the co-ordinate Bench of this Court vide order dated 16.04.2026 passed in Criminal Misc. Bail Application No. 3706 of 2020 but case of applicant is distinguishable from him as he was named in the FIR and he appears to be principal accused and he was also wanted in another case.
5. He further submits, during investigation alongwith the applicant number of other accused persons were also made accused including co-accused Abdul Khaliq and they have been released on bail by this Court and co-accused Abdul Khaliq has been released on bail vide order dated 16.7.2026 passed in Crl. Misc. Bail Application No. 31909 of 2025 and case of applicant is exactly, at par with him.
6. He further submits, however, apart from the present case, applicant is having criminal history of four other cases but his criminal history has been explained and in all the cases, police falsely made him accused.
7. He further submitted that law is settled that if otherwise case of bail is made out then merely on the basis of criminal antecedents of an accused his bail application should not be rejected.
8. He further submitted that in the present matter applicant is in jail since 19.6.2025 i.e. for last more than a year.

9. Per contra, learned AGA opposed the prayer for bail but could not dispute the arguments on facts advanced by learned counsel for the applicant.

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

11. However, it is a case in which as per allegation, when police arrived to arrest the co-accused Kadir then on his instigation mob opened fire due to which police personnel Saurabh died and one police personnel sustained firearm injuries but it reflects, applicant was not named in the FIR.

12. Further, record also suggests that during investigation name of applicant has been surfaced in the present matter through the statement of co-accused Kadir and except the statement of co-accused and confessional statement of applicant before police there is no evidence against applicant on record.

13. Further, even it reflects, there is no CCTV footage of the incident on record. Neither learned AGA could place any such evidence during the course of argument.

14. Further, however, it reflects, bail application of co-accused Kadir has been dismissed by the co-ordinate Bench of this Court after considering the severity of the matter but case of applicant is distinguishable from him as he was named in the FIR.

15. Further, even law is settled that statement of co-accused and confessional statement of applicant before police is not admissible even at the stage of bail. (***See: P. Krishna Mohan Reddy Vs. State of Andhra Pradesh 2025 SCC OnLine SC 1157***).

16. Further, even it reflects, during investigation alongwith the applicant number of other co-accused were made accused on the basis of statement of co-accused including co-accused Abdul Khaliq and co-accused Abdul Khaliq has been released on bail by this Court and case of applicant is at par with him.

17. Further, however, apart from the present case, applicant is having criminal history of four other cases but his criminal history has been explained.

18. 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.

19. Further, in the present matter he is in jail since 19.6.2025 i.e. for last more than a year.

20. 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....."

21. 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.

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

23. Let the applicant-**Mehtab**, 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.

24. 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.

25. 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

Ankita

(Sameer Jain,J.)