



2026:AHC:173508

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 27217 of 2026

Diwan

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Mohammad Abid Ali, Shan Md
Counsel for Opposite Party(s) : Diwakar Kumar Tiwari, G.A.,
Mithilesh Kumar Ojha

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Supplementary affidavit filed by the applicant is taken on record.
2. However, alongwith the instant bail application free true copy of the bail rejection order passed by the court concerned has not been annexed but considering the explanation given by the applicant in the supplementary affidavit filed today, the instant bail application is being heard on merit.
3. None appeared on behalf of the informant even in the revised call.
4. Heard Sri Mohammad Abid Ali, learned counsel for the applicant and Sri R.N. Srivastava, learned AGA for the State.
5. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No.337 of 2025, under Sections 137(2), 103(1), 238(Ka), 61(2)Ka BNS, Police Station Dhanari, District Sambhal, during pendency of the trial.
6. Learned counsel for the applicant submits, however it is a case of double murder but applicant was not named in the FIR and FIR of the present case was lodged against his brother Dhanveer and during investigation very casually he has also been roped in the present matter.
7. He next submits, as per prosecution after 58 days when statements of witnesses were recorded then they stated that in front of them applicant

came alongwith his brother Dhanveer and father for surrender of Dhanveer and merely on this basis he has been made accused in the present matter. He next submits, from the statements of above witnesses prima facie complicity of applicant in the present matter could not be revealed.

8. He next submits, as per the prosecution when applicant was arrested then from his possession motorcycle of co-accused Dhanveer was recovered but as applicant was real brother of co-accused Dhanveer therefore it cannot be an incriminating circumstance.

9. He further argued, actually Dhanveer was having affair with the sister of the deceased but it appears, they witnessed both of them therefore he eliminated them and therefore even motive to commit the alleged crime was also only against co-accused Dhanveer, the brother of the applicant.

10. He further submits, it reflects, as applicant is the real brother of co-accused Dhanveer who was principal accused therefore applicant has also been made accused in the present matter during investigation.

11. He further argued, applicant is not having any criminal history and in the present matter he is in jail since 18.03.2026.

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

13. I have heard both the parties and perused the record of the case.

14. However, it is a case of double murder but applicant was not named in the FIR and FIR of the present case was lodged against co-accused Dhanveer who was brother of the applicant. It reflects, after 58 days applicant has been made accused in the present matter on the basis of statements of four witnesses who stated that applicant alongwith his father Netrapal and co-accused Dhanveer came for the purpose of surrender of named accused Dhanveer and it reflects, merely on the basis of above allegation he has been made accused in the present matter. This Court finds merit in the argument advanced by learned counsel for the applicant

that merely on the basis of above statements prima facie complicity of the applicant could not be revealed in the instant matter.

15. Further, however as per prosecution when applicant was arrested then from his possession motorcycle of co-accused Dhanveer was recovered but as co-accused Dhanveer was his real brother therefore this cannot be incriminating circumstance against the applicant.

16. Further, even it is a case of circumstantial evidence and motive to commit crime was not against applicant and it was against co-accused Dhanveer who was though brother of the applicant. Considering the overall facts and circumstances of the case, prima facie it could not be reflected that applicant also involved in the present crime alongwith his brother Dhanveer and possibility at this stage cannot be ruled out that as applicant is real brother of co-accused Dhanveer who appeared to be principal accused therefore during investigation he has also been made accused in the present matter.

17. Further, even applicant is not having any criminal history and in present matter he is in jail since 18.03.2026.

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

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

20. Let the applicant - **Diwan** 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.

21. 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.

22. 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.

(Sameer Jain,J.)

August 14, 2026
Shahroz