



2026:AHC:170047

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 27379 of 2026

Manish Rajbhar

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Abhishek Kumar Jaiswal, Sandeep Kumar Patel

Counsel for Opposite Party(s) : G.A., Raghvendra Pratap Rajan

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Short counter affidavit filed on behalf of informant is taken on record.
2. Heard Sri Abhishek Kumar Jaiswal, learned counsel for the applicant, Sri Raghvendra Pratap Rajan, learned counsel for the informant and Sri Vijay Kumar, learned AGA-I, for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 132 of 2026, under Sections 190, 191(2), 103(2), 324(5) and 3(5) BNS, Police Station Phoolpur, District Varanasi during pendency of the trial.
4. Learned counsel for the applicant submits that however, FIR of the present case was lodged on 27.4.2026 against as many as eight accused including the applicant and their unknown associates and according to the FIR on 26.4.2026 when at about 10.00 PM in the night the nephew of the informant was coming from his four wheeler then on the way applicant and other accused intercepted him and made assault through bricks and committed his murder but entire allegations levelled against the applicant are totally false. He next submits that admittedly informant of the case was not the eye witness.
5. He further argued that after about one month, i.e., on 25.5.2026 Investigating Officer recorded the statements of five eye witnesses including witnesses Ankur and Chandresh and they however, stated that in front of them assault was made and applicant and co-accused Ashish Rajbhar made assault through bricks upon the deceased but as their

statements were recorded after about one month, therefore, they do not appear to be eye witnesses. He next submits that except about five witnesses, there is no other eye witness account.

6. He further submits, it appears that nobody could see the real incident which occurred in the night at 10.00 PM on 26.4.2026 but due to previous enmity applicant has been roped in the present matter along with others.

7. He further submits that however, applicant was not having any previous criminal history to his credit but when he was arrested then Police made him accused in a case relating to Section 109(1) BNS, which is police encounter case and thereafter on the basis of present case he has also been made accused under the provisions of U.P. Gangsters Act.

9. He further submits, applicant is not having any previous criminal history and in the present matter he is in jail since 5.5.2026, i.e., for the last more than three months.

10. Per contra, learned AGA as well as learned counsel for informant opposed the prayer for bail and submitted that applicant was named in the FIR and from the statements of eye witnesses, it is apparent that applicant and co-accused Ashish Rajbhar were the prime accused, who made assault through bricks upon the deceased.

11. They further submitted that there are five eye witnesses and out of five witnesses, three witnesses namely, Sumeet, Prince and Chandresh also stated that deceased also informed that applicant and others made assault upon him but they could not dispute the fact that statements of these witnesses were recorded after about one month and there is no explanation in this regard. They also could not dispute the fact that except above eye witnesses there is no other eye witness account.

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

13. However, applicant is named in the FIR along with others and according to the FIR, applicant along with seven others and some unknown persons made assault upon the nephew of the informant through bricks due to which he sustained injuries and died but admittedly

informant of the case was not the eye witness.

14. Record further suggests that on 25.5.2025, i.e., after about one month Investigating Officer recorded the statements of five witnesses including Ankur and Chandresh and they claimed themselves to be eye witnesses and stated that applicant along with other accused made assault upon the deceased and they also stated that applicant and co-accused Ashish Rajbhar made assault through bricks upon the head of the deceased. and even three witnesses Suneet, Prince and Chandresh also disclosed the fact that before death deceased also informed that applicant along with others made assault upon him but as their statements were recorded after one month, therefore, prima facie they do not appear to be eye witnesses especially considering the fact that the prosecution could not give any explanation with regard to delay of one month in recording the statements of these witnesses.

15. Further, even out of above five eye witnesses, two witnesses Ankur and Mahesh were also the witnesses of inquest and this fact again casts serious doubt whether they witnessed the real incident.

16. Further, applicant is not having any previous criminal history and in the present matter he is in jail since 5.5.2026, i.e., for the last more than three months. However, it reflects that when applicant was arrested then he has been made accused in a case under Section 109(1) BNS which is police encounter case and on the basis of present case applicant has also been made accused in a case relating to Provisions of U.P.Gangsters Act.

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

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

19. Let the applicant-**Manish 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.

20. 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.

21. 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 13, 2026
SKM