



2026:AHC:167163

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 27723 of 2026

Jaswant

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Ravi Prakash Mishra
Counsel for Opposite Party(s)	:	G.A.

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. However, along with instant bail application free true copy of bail rejection order has not been annexed and according to the applicant the same was misplaced somewhere but considering the fact that bail rejection order passed by the court concerned was of the year 2021, the explanation given by the applicant in this regard cannot be completely ruled out, therefore, instant bail application is being heard.

2. Heard Sri Rahul Gaur, learned Advocate holding brief of Sri Ravi Prakash Mishra, learned counsel for the applicant and Sri Imran Khan, learned AGA for the State.

3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 160 of 2021, under Sections 302 IPC, Police Station Purkaji, District Muzaffarnagar during pendency of the trial.

4. Learned counsel for the applicant submits, however, applicant is named in the FIR along with co-accused Dushyant and according to the FIR applicant and co-accused Dushyant on 28.07.2021 at about 5.00 PM in the evening made assault upon the son of the informant through iron rod and knife due to which he sustained serious injuries and died but entire allegation leveled against applicant is totally false.

5. He further submits, the motive as alleged by the prosecution prima facie appears to be improbable as it is hard to believe that on such minor issue a person would commit the murder of a person.

6. He further submits, even in the present matter applicant is in jail since

31.07.2021 i.e. for last more than five years and till date out of 20 witnesses only 5 witnesses could be examined. He further submits, there is no allegation that applicant is delaying the trial in any manner.

7. He further submits, right of speedy trial is a fundamental right of an accused and on its violation even in serious cases he can be released on bail. He further submits, applicant was not having any previous criminal history.

8. He further submits, therefore, considering the facts of the case particularly the long incarceration of the applicant of more than five years and sluggish speed of trial, he may be enlarged on bail.

9. Per contra, learned AGA opposed the prayer for bail and submits, incident has been witnessed by number of witnesses and all the witnesses categorically stated that applicant along with co-accused Dushyant made assault upon the deceased due to which he sustained injuries and died but could not dispute the fact that applicant was not having any previous criminal history and in the present matter he is in jail for last more than five years and till date out of 20 witnesses only 5 witnesses could be examined.

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

11. However, applicant is named in the FIR along with co-accused Dushyant and as per prosecution he along with co-accused made assault upon the deceased due to which he sustained injuries and died and even incident has been witnessed by number of witnesses but it reflects, in the present matter applicant is in jail since 31.07.2021 i.e. for last more than five years and till date out of 20 witnesses only 5 witnesses could be examined and there is no evidence that applicant is delaying the trial.

12. The law is settled that right of speedy trial is a fundamental right of an accused and on its violation even in serious cases he can be released on bail. Considering the fact that in the present matter applicant is in jail for last more than five years and even there is no material on record which can suggests that he is causing delay in trial, it cannot be said that his fundamental right of speedy trial has not been infringed.

13. The Apex Court in the case of **Sahil Manoj Machare Vs. The State of Maharashtra 2026 SCC OnLine SC 810** while dealing with bail matter of

an accused who was in jail for four years relating to offence under Section 302 IPC observed in paragraph No. 6 as under:-

"6. We are mindful of the fact that the petitioner is charged with the offence of murder but time and again, we have said that howsoever serious the crime may be, if the right of speedy trial is infringed, then Court must consider the plea for bail appropriately.

14. Further, applicant was not having any previous criminal history.

15. Therefore, considering the facts and circumstances of the case discussed above particularly the long incarceration of the applicant of more than five years and sluggish pace of the trial, in my view, applicant is entitled to be released on bail.

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

17. Let the applicant - **Jaswant** 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.

18. 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.

19. 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 10, 2026
AK Pandey

(Sameer Jain,J.)