



2026:AHC:180170

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 30062 of 2026

Wahid

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Moeez Uddin
Counsel for Opposite Party(s)	:	G.A.

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. This is second bail application filed on behalf of the applicant and his first bail application was dismissed by Hon'ble Sudhir Agarwal,J., on 15.7.2019 passed in Criminal Misc.Bail Application No. 45288 of 2017 but as Hon'ble Sudhir Agarwal,J. has already demitted his office and this Court is dealing with such matters, therefore, instant second bail application is listed today before this Bench.
2. Heard Sri Moeez Uddin, learned counsel for the applicant and Dr. S.B.Maurya, learned AGA-I, for the State.
3. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.165 of 2016, under Section 302 IPC, Police Station Garhi Pukhta (now in District Shamli), District Muzaffar Nagar during pendency of the trial.
4. Learned for the applicant submits that however, this is second bail application filed on behalf of the applicant but his first bail application has not been decided on merit and it was dismissed because his counsel could not appear on the date fixed.
5. He further submits that nobody was named in the FIR but during investigation through the second statement of the informant applicant has been made accused in the present matter and this fact shows his innocence.
6. He further argued that after considering the entire facts in detail co-accused Haider has been released on bail by this Court vide order dated 29.7.2026 and his bail order has been annexed at page 112 of the paper book and on facts case of applicant is at par with him.

7. He further submits that apart from the present case applicant is having criminal history of 13 other cases but his criminal history has been explained in the instant bail application.

8. He further submits that out of 13 cases, however, one case was of Section 302 IPC and one case was of Section 395 IPC and in case of murder applicant has also been convicted by trial court but in the case of murder after conviction he filed his appeal before this Court and his appeal is still pending and during pendency of appeal he is on bail.

9. He further argued that even in the present matter applicant is in jail since 6.4.2017, i.e., for the last more than nine years.

10. He further submits that considering the facts of the case including long incarceration of applicant it is not proper to withhold the bail application of the applicant on the ground of his criminal history especially considering the fact that co-accused Haider, who was also having similar criminal history, has been released on bail by this Court.

11. He next submits, therefore, considering the facts of the case applicant may be enlarged on bail.

12. Per contra, learned AGA opposed the prayer for bail and submits, applicant appears to be hardened criminal and apart from the present case he is having criminal history of 13 other cases including one case of murder in which he has also been convicted by the trial court but could not dispute the fact that entire criminal history of the applicant has been explained in the instant bail application and in previous case of murder, his appeal is pending before this Court and by order of Division Bench of this Court he is on bail during pendency of his appeal.

13. Learned AGA also could not dispute the fact that co-accused Haider, who was also having criminal history of similar nature, has already been released on bail by this Court and even on facts case of applicant is at par with him.

14. He also could not dispute the fact that in the present matter applicant is in jail for the last more than nine years.

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

16. However, this is second bail application filed on behalf of the applicant but first bail applicant of the applicant has not been dismissed

on merit.

17. As far as merit of the case is concerned, it reflects, nobody was named in the FIR and during investigation when second statement of the informant was recorded by Investigating Officer then he disclosed the name of the applicant and other accused including co-accused Haider. Considering this fact the argument advanced by the learned counsel for the applicant that during investigation applicant has falsely been made accused, cannot be ruled out at this stage.

18. Further, even co-accused Haider has been released on bail by this Court and the case of applicant is at par with him.

19. Further, even in the present matter applicant is in jail since April, 2017, i.e., for the last more than nine years.

20. Further, however, apart from the present case applicant is having criminal history of 13 other cases including a previous case of murder in which he has also been convicted by trial court but his entire criminal history has been explained in the instant bail application and in previous case of murder after conviction his appeal is pending before this Court and during pendency of his appeal he is on bail. Further, even co-accused Haider, who has been released on bail, was also having criminal history of similar nature.

21. Further, considering long incarceration of the applicant of more than nine years and facts of the case, in view of this Court, it is not proper to withhold the bail application of the applicant merely on the basis of his criminal history.

22. Further, even considering the long incarceration of the applicant for more than nine years it cannot be said that his fundamental right of speedy trial has not been infringed.

23. 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....."

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

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

26. Let the applicant-**Wahid** 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 her 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 her 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.

27. 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.

28. 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 31, 2026

SKM