



2026:AHC-LKO:41128

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. BAIL APPLICATION No. - 4185 of 2026

Pramod Kumar Upadhyay

.....Applicant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Virendra Kumar Shukla
Counsel for Opposite Party(s)	:	G.A.

Court No. - 11

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri Virendra Kumar Shukla, the learned counsel for the applicant and Sri Rajesh Kumar Pathak, the learned A.G.A. for the State and Sri Alok Kumar Singh, Advocate who has filed vakalatnama on behalf of complainant today in Court which is taken on record.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.459 of 2025, under Sections 316(5), 111(2)(b) and 61(2) B.N.S., registered at Police Station Mohanlalaganj, District Lucknow.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 15.11.2025, stating that the informant had purchased a plot of land measuring 1250 square feet from H.K. Infra Vision Pvt. Ltd. through its authorized signatory Vinod Kumar Upadhyay (co-accused) on 19.10.2016 but possession of the property was not given to him. Through the F.I.R., the informant had prayed for handing over possession of the property to him.
4. The narration made in the F.I.R prima facie indicates that the informant has treated the F.I.R as a suit for recovery of possession of an immovable property. A dispute regarding non delivery of an immovable property purchased through a registered sale deed is a dispute which is essentially

of a civil nature. A person aggrieved from non delivery of possession of property purchased ought to have filed a suit for recovery of possession, obviously after payment of requisite Court fee which would enure to the benefit of the public at large. By filing an F.I.R requesting for delivery of possession of the land purchased, prima facie it appears that the informant has abused the process of criminal justice system.

5. In the affidavit filed in support of the bail application, it has been stated that the applicant is an innocent person and he has been falsely implicated in the present case. The applicant's has a long criminal history, which has been explained in para 11 of the bail application.

6. In ***Gajanan Dattatray Gore vs. The State of Maharashtra & Anr: 2025 SCC OnLine SC 1571***, the Hon'ble Supreme Court has directed the Courts to stop the practice of putting such conditions in orders granting bail. The relevant extract of the aforesaid judgement is as follows:-

"19. By this order, we make it clear and that too in the form of directions that henceforth no Trial Court or any of the High Courts shall pass any order of grant of regular bail or anticipatory bail on any undertaking that the accused might be ready to furnish for the purpose of obtaining appropriate reliefs.

20. The High Courts as well as the Trial Courts shall decide the plea for regular bail or anticipatory bail strictly on the merits of the case. The High Courts and the Trial Courts shall not exercise their discretion in this regard on any undertaking or any statement that the accused may be ready and willing to make.

21. This practice has to be stopped. Litigants are taking the courts for a ride and thereby undermining the dignity and honor of the court.

22. We hope and trust that the High Courts as well as the Trial Courts across the country do not commit the same mistake again."

Although, the aforesaid directions have been issued in respect of order granting bail/anticipatory bail, the principles laid down in the judgment of ***Gajanan Dattatray Gore*** (supra) would apply to the prayer for stay of arrest also.

7. Having considered the aforesaid facts and circumstances of the case, I am of the view that the aforesaid facts are sufficient for making out a case for enlargement of the applicant on bail.

8. Accordingly, this bail application stands **allowed**.

9. Let the applicant- **Pramod Kumar Upadhyay** be released on bail in aforementioned case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of Magistrate/Court concerned, subject to the following conditions: -

- (i) the applicant shall not tamper with the prosecution evidence;
- (ii) the applicant shall not pressurize the prosecution witnesses;
- (iii) the applicant shall appear on each and every date fixed by the trial court.

(Subhash Vidyarthi,J.)

June 15, 2026

Arti/-