



2026:AHC:178739

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 4999 of 2026

Debhi Kharwar

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Kapil Dev Dubey, Pratikdhar Dwivedi,
Rahul Kumar
Counsel for Opposite Party(s) : G.A., Ravi Yadav

Court No. - 67

HON'BLE JITENDRA KUMAR SINHA, J.

1. Heard Shri Pratikdhar Dwivedi, learned counsel for the applicant, Shri Ravi Yadav, learned counsel for the first informant and Shri B.P. Maurya, learned A.G.A. for the State and perused the record.

2. The instant bail application has been filed with a prayer to release the applicant on bail in Case Crime No. 80 of 2022, under Sections 396, 376-D, 412, 436, 120-B, 216A, 34, 201 of I.P.C., Police Station Tharwai, District Prayagraj, during the pendency of the trial.

3. Learned counsel for the applicant has submitted that the applicant has been falsely implicated in the present case though there is no incriminating material against him. It is further submitted that co-accused Akash Kharwar, Navla @ Lavla Kharwar and Rohit Kharwar have already been granted bail by the Co-ordinate Benches of this Court. It is further submitted that the first information report has been lodged against unknown and some of the co-accused, namely, Akash Kharwar, Monu Harijan, Rohit Kharwar, Navla @ Lavla Kharwar and Bheem Gautam are said to have been arrested in a separate case involving an attack on the police and they are said to have confessed their guilt and co-accused Akash Kharwar and Monu Harijan are said to have taken the name of the applicant, who have committed the said offence, however, in the statement of the co-accused recorded under Section 161 Cr.P.C., they have not taken the name of the applicant, during investigation, the applicant has also been arrested and he is said to have confessed his

guilt. It is further submitted that apart from the above confessional statement of the applicant, there is no other evidence against the applicant. It is further submitted that the applicant is having criminal history of 8 cases and all the cases were lodged on the same time and he is on bail in five cases out of 8 cases and his bail application is pending before the learned Sessions Court in two cases and the applicant has been languishing in jail since 03.09.2022 and trial is not likely to conclude in near future and as per report submitted by the learned trial Court, only six witnesses have been examined so far out of 95 witnesses proposed to be examined, in case, he is granted bail, he will not misuse the liberty of bail and would cooperate in the trial proceedings.

4. Per contra, learned counsel for the first informant and learned A.G.A. has vehemently opposed the prayer for bail and it has been submitted by them that the name of the applicant has surfaced in the recovery memo, in which, five co-accused persons are said to have been arrested, however, he does not dispute the fact that the name of the applicant does not find mention in the statement of the co-accused Akash Kharwar and Monu Harijan recorded under Section 161 Cr.P.C.

5. Co-accused Akash Kharwar, Navla @ Lavla Kharwar and Rohit Kharwar have already been granted bail by the Co-ordinate Benches of this Court. As per first information report, it is alleged that when the first informant entered into his house along with his maternal uncle, he saw his sister, mother, father, wife, her daughter aged about one year lying dead and the ladies were lying dead without their clothes. It is further submitted that during investigation, five persons, namely, Akash Kharwar, Monu Harijan, Rohit Kharwar, Navla @ Lavla Kharwar and Bheem Gautam are said to have been arrested in a separate case involving an attack on the police and they are said to have confessed their guilt and co-accused Akash Kharwar and Monu Harijan are said to have taken the name of the applicant, who have committed the said offence, however, in the statement of the co-accused recorded under Section 161 Cr.P.C., they have not taken the name of the applicant, during investigation, the applicant has also been arrested and he is said to have confessed his guilt. It is further submitted that apart from the above confessional statement of the applicant, there is no other evidence against the

applicant. It is further submitted that the applicant is having criminal history of 8 cases and all the cases were lodged on the same time and he is on bail in five cases out of 8 cases and his bail application is pending before the learned Sessions Court in two cases and the applicant has been languishing in jail since 03.09.2022 and trial is not likely to conclude in near future and as per latest report submitted by the learned trial Court, only six witnesses have been examined so far out of 95 witnesses proposed to be examined.

6. Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the nature of offence, evidence, complicity of the accused and taking into account overcrowded jails and heavy pendency of criminal cases before the trial courts as well as considering the mandate of the judgement of the Apex Court in the case of ***Kapil Wadhawan vs Central Bureau of Investigation*** reported in 2025 SCC OnLine SC 3038 as well as guideline of this Court in the case of ***Maya Tiwari Vs. State of U.P.*** reported in 2024 SCC Online All 6765 regarding grant of bail and without expressing any opinion on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Accordingly, the present application is **ALLOWED**.

8. Let the applicant- **Debhi Kharwar** involved in the aforementioned crime be released on bail, on his 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 not directly or indirectly make any 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 to any police officer or tamper with the evidence.
- (ii) The applicant shall cooperate in the trial/investigation sincerely without seeking any adjournment.
- (iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

(iv) The applicant shall attend in accordance with the conditions of the bond executed by him.

9. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

10. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted. Verification of mobile number and Aadhaar card of the applicant as well as sureties should be verified by the court concerned.

11. It is further directed that the trial court shall send the release order to the concerned jail through Bail Order Management System (BOMS) to ensure early release of the applicant.

12. Office is directed to send a copy of this order to the applicant through **Jail Superintendent**, Prayagraj via e-mail or e-prison portal within 24 hours in compliance of the order of the Apex Court in the case of **Policy Strategy for Grant of Bail, In Re: Suo Motu Writ Petition (Crl.) No.4 of 2021 decided on 31.01.2023** reported in (2024) 10 SCC 685.

(Jitendra Kumar Sinha,J.)

August 24, 2026
RKM