



2026:AHC:167903

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 27924 of 2026

Hardesh Raghav

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Yogesh Kumar Tripathi
Counsel for Opposite Party(s)	:	G.A.

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Supplementary affidavit filed by the applicant is taken on record.
2. Heard Sri Yogesh Kumar Tripathi, learned counsel for the applicant and Sri Ajay Singh, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 628 of 2019, under Sections 120B, 411, 302, 328, 394 IPC, Police Station Bilari, District Moradabad during pendency of the trial.
4. Learned counsel for the applicant submits, it is a case of circumstantial evidence and nobody was named in the FIR but during investigation on the basis of confessional statement of applicant and recovery of country made pistol, he has been made accused in the present matter.
5. He further submits, except above evidence there is no cogent evidence against the applicant on record. He further submits, till date the alleged recovered country made pistol could not be connected with the instant crime.
6. He further submits, apart from the present case applicant is having criminal history of 22 other cases, therefore, during investigation police implicated him in the present matter.
7. He further submits, police is highly inimical with the applicant and majority of case were of theft. He further submits, however, two cases were of Section 302 IPC but in one case of murder he has been acquitted. He

further submits, out of 22 cases in 9 cases applicant has been acquitted.

8. He further submits, considering the evidence available against the applicant on record merely on the basis of his criminal history it is not proper to reject the bail application of the applicant.

9. He further submits, in the present matter applicant is in jail since 13.01.2020 i.e. for last more than six and half years and till date trial of the case could not be concluded.

10. He further submits, as there is no evidence that applicant is causing delay in trial in any manner, therefore, prima facie it reflects, fundamental right of speedy trial of the applicant has been violated.

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

12. Per contra, learned AGA opposed the prayer for bail and submits, applicant is a hardened criminal who is having criminal history of 22 cases including two cases of murder but could not dispute the fact that in nine cases including a case of murder applicant has been acquitted and number of cases were of theft.

13. Learned AGA further could not dispute the fact that in the present matter applicant has been made accused during investigation on the basis of confessional statement recorded by the Investigating Officer and recovery of country made pistol and till date alleged recovered country made pistol could not be connected with the instant crime.

14. Learned AGA further could not dispute the fact that in the present matter applicant is in jail since 13.01.2020 i.e. for last more than six and half years and there is no evidence that he is delaying the trial in any manner.

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

16. It is a case of circumstantial evidence and FIR of the present case was lodged against unknown persons but it reflects, during investigation on the basis of confessional statement of applicant and recovery of country made pistol he has been made accused in the present matter. It also reflects, except above evidence there is no cogent evidence against the applicant on record.

17. Further, even from the record it reflects, till date the alleged recovered country made pistol could not be connected with the instant crime.

18. Further, however, apart from the present case applicant is having criminal history of 22 cases but his criminal history has been explained and in nine cases including a case of Section 302 IPC he has been acquitted.

19. Further, however, apart from the present case and one case of Section 302 IPC in which he has been acquitted applicant is also having criminal history of one case of murder but it also reflects, majority of cases were of theft and considering the criminal history of the applicant, the argument advanced by learned counsel for the applicant that only due to previous criminal history during investigation without any cogent evidence he has been made accused in the present matter, cannot be ruled out.

20. Further, law is settled that if otherwise case of bail is made out then ordinarily merely on the basis of criminal history bail application of an accused should not be withheld.

21. Further, in the present matter applicant is in jail since 13.01.2020 i.e. for last more than six and half years and till date trial of the case could not be concluded. There is no evidence that applicant is causing delay in trial.

22. 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 long incarceration of the applicant of more than six and half years, it cannot be said that his fundamental right of speedy trial has not been infringed.

23. 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 in a case 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.

24. 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....."

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

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

27. Let the applicant - **Hardesh Raghav** 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.

28. 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.

29. 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 11, 2026
AK Pandey

(Sameer Jain,J.)