



2026:AHC:22683

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 42956 of 2025

Neeraj

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Ganga Bhushan Mishra
Counsel for Opposite Party(s)	:	G.A., Shiv Kumar Singh

Court No. - 68

HON'BLE ASHUTOSH SRIVASTAVA, J.

Heard Shri Ganga Bhushan Mishra, learned counsel for the applicant, Shri Puneet Kumar Singh, learned AGA for the State Respondent, Shri Shiv Kumar Singh, learned counsel for the first informant and perused the record.

The instant bail application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 has been moved on behalf of accused-applicant, Neeraj, seeking enlargement on bail in Case Crime No. 05 of 2025, under Sections 191(2), 191(3), 190, 126(2), 352, 351(3), 103(2) of the Bharatiya Nyaya Sanhita, 2023, Police Station Lahchura, District Jhansi during the pendency of the trial before the Court below. The bail application of the applicant before the Court below was rejected by the Special Judge (SC/ST Act), Jhansi vide order dated 11.08.2025, and the applicant has been languishing in jail since 24.01.2025.

It has been argued that the applicant is entirely innocent and has been falsely implicated in this very case crime number for ulterior motive. The FIR was lodged nominating as many as 08 named accused persons including the applicant under Sections 191(2), 191(3), 190, 126(2), 103(2), 352, 351(3) of BNS and Sections 3(2)(v), 3(2)(va), 3(1) (Da), 3(1)(Gha) of the SC&ST Act, 1989 (as amended) with the allegation that due to a pending land dispute, the co-accused Manoj, Neeraj (the applicant) and their associates, namely, Akhilesh Rai and Suresh Rai were having enmity with the informant's husband. On 5.1.2025 at around 5:00 PM, the husband of the informant, namely, Govind Das Ahirwar @ Raju (deceased) was returning home from his field, when he was assaulted by all the named accused persons including

the applicant by Lathi, Danda, Rod and Kulhadi in a pre planned manner in which the husband received grievous injuries and later succumbed to the injuries. The incident was witnessed by the informant Smt. Sheela Ahirwar, Pushpendra and Anju. It was further alleged in the FIR that the co-accused Akhilesh Rai and Suresh Rai hurled caste based abuses upon the husband of the informant.

It has been argued by learned counsel for the applicant that as per the prosecution case itself, the deceased was taken to the CHC, Mauranipur at 7:00 PM on 5.1.2025 by one Pushpendra Singh (neighbour of the informant), but no injuries were noted and the deceased was referred to Medical College, Jhansi for further treatment. The deceased was also not admitted to the Medical College, Jhansi as advised nor any MLR or X-ray was conducted upon the deceased and the deceased left against medical advice. It has also been argued that the inquest was conducted on the next date i.e. 06.01.2025 at 15:40 hours which lasted only 20 minutes and is ante timed inasmuch as the inquest report discloses that information was received by the Police on 06.01.2025 at 15:38 hours and the inquest was carried out within two minutes of receiving information, which is quite improbable. Besides no visible injuries were noticed on the person of the deceased. The post mortem examination conducted subsequently, however, reveals as many as 10 external injuries. One injury of contusion swelling over the left fronto parietal scalp 7 cm x 5 cm reddish in colour and rest injuries noted are on the lower limb of the body. The cause of death opined is shock and hemorrhage due to ante mortem head injury caused by hard and blunt object.

Learned counsel for the applicant has vehemently argued that though the post-mortem of the deceased has revealed the cause of death to be solitary head injury, it is surprising that CHC where the injured (deceased) was initially brought for medical aid did not take stock of the injuries (particularly the head injury) upon the body of the deceased. The Medical College, Jhansi also where the injured (deceased) was taken also did not take stock of the injuries and the injuries were noted only at the time of conducting the post-mortem. An adverse inference is liable to be drawn against the prosecution and in favour of the applicant inasmuch as occurrence of head injury which was not noticed either by the CHC or even by the Medical College which advised x-ray of both limbs and legs which too was not got carried out and the deceased was got discharged from the Medical college against medical advice, the false implication of the

applicant for causing the death of the deceased cannot be ruled out. Further, the allegations in the FIR are omnibus and no specific role has been assigned to the applicant for the commission of the crime. The ocular version of the eye witnesses contain material contradictions and presence of the applicant at the place of occurrence is also under a cloud. In the opinion of the Court, the provisions of Sections 190, 191 (2), 191 (3) BNS, prima facie, do not stand attracted to the case at hand inasmuch as the three essential elements i.e. (i) there must be unlawful assembly; (ii) commission of offence may be by any member of unlawful assembly and (iii) such offence must have been committed in prosecution of a common object of the assembly or must be such as member of the assembly knew to be likely to be committed. Considering the nature of the injuries inflicted upon the person of the deceased (i.e. one solitary injury on the head and other injuries on non vital parts of the body) it cannot be said that the unlawful assembly was with the common object of causing death of the deceased. It is further submitted that on the similar footing the co-accused persons namely Amol Alias Ammu Alias Ramnaraya and Baladeen Ahirwar have been granted bail by the Court vide order dated 17.09.2025 passed in Criminal Misc. Bail Application Nos. 23750 of 2025 and 19887 of 2025, respectively therefore, the applicant is also entitled to be released on bail. Lastly, it has been submitted that applicant undertakes to abide by the conditions imposed by this Court for bail and further undertakes to cooperate in the trial. Hence, prayer for bail has been made.

Per contra, learned AGA as well as counsel for the informant have vehemently opposed the bail plea, but could not controvert the submissions made by the learned counsel for the applicant. Considering all above facts and circumstances, the nature of accusations, severity of the punishment in the case of conviction and nature of supporting evidence, reasonable apprehension of tampering with the witness and prima facie case, but without commenting on merit of case, a case for bail is made out.

Accordingly, the bail application is **allowed**.

Let the accused-applicant, **Neeraj**, involved in above mentioned case crime number be released on bail, on his executing a personal bond and two reliable sureties each, in the like amount to the satisfaction of the court concerned, subject to the following conditions:

1. The applicant will not tamper with the evidence.
2. The applicant will not indulge in any criminal activity.
3. The applicant will not pressurize/intimidate the prosecution witnesses and co-operate in the trial.
4. The applicant will appear regularly on each and every date fixed by the trial court, unless his personal appearance is exempted through counsel by the court concerned.

In the event of breach of any of the aforesaid conditions, the court below will be at liberty to proceed to cancel his bail.

January 20, 2026

pks

(Ashutosh Srivastava,J.)