



2026:AHC:6832

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 15842 of 2025

Bittu Sagar @ Bhanja

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Mukesh Joshi
Counsel for Opposite Party(s)	:	G.A.

Court No. - 66

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Heard learned counsel for the applicant, and Sri Sunil Kumar, learned A.G.A. for the State and perused the material placed on record.
3. This is the second bail application filed on behalf of the applicant. The first one was rejected by a co-ordinate Bench of this Court vide order dated 30.7.2024 passed in Criminal Misc. Bail Application No. 7482 of 2023 for want of prosecution. The said order is not on merits.
4. Applicant seeks bail in Case Crime No. 145 of 2021, under Sections 302, 376, 201 I.P.C., Police Station Majhola, District Moradabad, during the pendency of trial.
5. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case. He has nothing to do with the said offence. He is not named in the FIR. His name has come up on the basis of CCTV footage, whereby the applicant was seen with the deceased person on 13.2.2021 at about 8.50 pm. The said time does not match with the post-mortem report. As per the post-mortem report the time of death was eighteen hours before the examination, which was conducted on 14.2.2021 at 4.30 pm, as such the applicant is entitled for bail. This Court had called for the status of trial. The status report dated 13.11.2025, four witnesses have been examined to date. The said report also indicates that no adjournment was taken by the defence in the said case. The

trial is moving at a snail's pace,

6. Learned counsel for the applicant has further argued that there is a criminal history of six cases, which stands explained. The applicant is languishing in jail since 20.2.2021 i.e. the period of incarceration comes out to be about one month less than five years, as such, the fundamental rights of the applicant enshrined under Article 21 of the Constitution of India stands violated. There is no likelihood of conclusion of trial in the near future. The applicant has a criminal history of six cases, which stands explained. In case, the applicant is released on bail, he will not misuse the liberty of bail.

7. Learned A.G.A. has vehemently opposed the bail application but the submissions raised by the learned counsel for the applicant could not be disputed.

8. The Supreme Court in ***Prabhakar Tewari vs. State of U.P. And Another, (2020) 11 SCC 648*** has observed that pendency of several criminal cases against an accused itself cannot be a basis for refusal of bail, if otherwise his case for bail is made out.

9. Granting the bail to the accused in ***Javed Gulam Nabi Shaikh Vs. State of Maharashtra and Another 2024 INSC 645***, the Supreme Court has observed:

7. Having heard the learned counsel appearing for the parties and having gone through the materials on record, we are inclined to exercise our discretion in favour of the appellant herein keeping in mind the following aspects:

- (i) The appellant is in jail as an under-trial prisoner past four years;
- (ii) Till this date, the trial court has not been able to even proceed to frame charge; and
- (iii) As pointed out by the counsel appearing for the State as well as NIA, the prosecution intends to examine not less than eighty witnesses.

8. Having regard to the aforesaid, we wonder by what period of time, the trial will ultimately conclude. Howsoever serious a crime may be, an accused has a right to speedy trial as enshrined under the Constitution of India.

9. Over a period of time, the trial courts and the High Courts have forgotten a very well settled principle of law that bail is not to be withheld as a punishment.

10. In the aforesaid context, we may remind the trial courts and the High Courts of what came to be observed by this Court in ***Gudikanti Narasimhulu & Ors. v. Public Prosecutor, High Court*** reported in **(1978) 1 SCC 240**. We quote:

"What is often forgotten, and therefore warrants reminder, is the object to keep a person in judicial custody pending trial or disposal of an appeal. Lord Russel, C.J., said [R v. Rose, (1898) 18 Cox]:

"I observe that in this case bail was refused for the prisoner. It cannot be too strongly impressed on the, magistracy of the country that bail is not to be withheld as a punishment, but that the requirements as to bail are merely to secure the attendance of the prisoner at trial."

10. The same principle was reiterated by the Supreme Court in *Gurbaksh Singh Sibba v. State of Punjab* reported in (1980) 2 SCC 565; *Hussainara Khatoon v. Home Secy., State of Bihar* (1980) 1 SCC 81; *Kadra Pahadiya & Ors. v. State of Bihar* (1981) 3 SCC 671 and *Abdul Rehman Antulay v. R.S. Nayak* (1992) 1 SCC 225; *Mohd Muslim @ Hussain v. State (NCT of Delhi)* 2023 INSC 311; *A Convict Prisoner v. State* 1993 Cri LJ 3242; *Union of India v. K.A. Najeeb* (2021) 3 SCC 713; *Indrani Pratim Mukerjea v. CBI*, 2022 SCC OnLine SC 695.

11. In the money laundering case of ***V. Senthil Balaji V. The Deputy Director, Directorate of Enforcement 2024 INSC 739***, the accused was incarcerated for more than 15 months as such the Supreme Court declared *"inordinate delay in the conclusion of the trial and the higher threshold for the grant of bail cannot go together"*.

12. In ***Satender Kumar Antil v. Central Bureau of Investigation*** reported in **(2022) 10 SCC 51**, prolonged incarceration and inordinate delay engaged the attention of the court, which considered the correct approach towards bail, with respect to several enactments, including Section 37 NDPS Act.

13. The Supreme Court in its latest judgement passed in ***SLP (Crl.) Nos.10455-10456/2025 Ramnath Mishra @ Ramanath Mishra v. Central Bureau of Investigation*** reiterated that issues of personal liberty must be addressed with utmost speed by Courts. The accused had already been incarcerated for more than three and a half years, in the instant and connected matters. Releasing accused on bail due to excessive delays by the High Court in deciding his application also took into account lengthy pre-trial confinement, emphasizing speedy decision-making for matters of personal liberty.

14. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, taking into consideration the period of incarceration and the fact that only four witnesses have been examined to date, and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is ***allowed***.

15. Let the applicant- **Bittu Sagar @ Bhanja**, who is involved in aforementioned case 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 subject to following conditions. Further, before issuing the release order, the sureties be verified.

- (i) The applicant shall not tamper with evidence during trial.
- (ii) The applicant shall not pressurise/intimidate with the prosecution witnesses.
- (iii) The applicant shall appear before the trial court on the date fixed.

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

17. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Krishan Pahal,J.)

January 12, 2026\Shalini