



2026:AHC:21736

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 2442 of 2026

Suraj Diwakar

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Sharique Ahmed
Counsel for Opposite Party(s)	:	G.A.

Court No. - 46

HON'BLE SIDDHARTH, J.

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Heard learned counsel for the applicant and learned A.G.A for the State.

This is the second bail application. The first bail application of the applicant was rejected by this court vide order dated 7.5.2025.

Learned counsel for the applicant submits that two prosecution witnesses have been examined before the trial court. P.W.2 has stated that he has been informed by his deceased son that applicant and other co-accused, Ankul Sani, Lalit Nishad had threatened him of .life. In pursuance of the threat extended deceased's son was murdered. The statement of P.W.2 was recorded by the investigating officer under section 161 Cr.P.C. wherein he has not stated anything in this regard. There is improvement in the statement of P.W.2 before the trial court. The applicant is in jail since 11.12.2023 and has no criminal history to his credit.

On the other hand learned A.G.A has opposed the prayer for bail.

Keeping in view the nature of the offence, evidence, complicity of the accused, submissions of the learned counsel for the parties noted above, finding force in the submissions made by the learned counsel

for the applicant, larger mandate of the Article 21 of the Constitution of India, recent judgment dated 11.07.2022 of the Apex Court in the case of ***Manish Sisodia vs. Directorate of Enforcement, 2024 LawSuit (SC) 677.*** and considering 5-6 times overcrowding in jails over and above their capacity by the under trials 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.

Let the applicant, Suraj Diwakar , involved in Case Crime No.217 of 2023 , under Section- 302 IPC, Police Station- Nawabganj, District- Kanpur Nagar, 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 the evidence or threaten the witnesses.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) In case the applicant misuses the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the Court on the date fixed in such proclamation then the Trial Court shall initiate proceedings against him in accordance with law under Section 174-A of the Indian Penal Code.

(v) The applicant shall remain present in person before the Trial Court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

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

The trial court is directed to conclude the trial against the applicant as expeditiously as possible, as per section 309 Cr.P.C.(New Section 346 B.N.S.S.)

(Siddharth,J.)

January 30, 2026

Atul kr. sri.