



2026:AHC:13315

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 1653 of 2026

Kaushal Mishra

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Kapil Tyagi
Counsel for Opposite Party(s)	:	G.A.

Court No. - 66

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.

2. Heard Sri P.C. Srivastava, learned Senior Advocate assisted by Sri Kapil Tyagi, learned counsel for the applicant, Sri Rajendra Prasad Singh, learned State Law Officer for the State and perused the material placed on record.

3. Applicant seeks bail in Case Crime No.772 of 2025, under Section 103(1) B.N.S., Police Station- Bisrakh, District- Gautam Buddha Nagar, during the pendency of trial.

4. Learned Senior counsel for the applicant has argued that the applicant was granted bail in the instant case U/s 105, 3(5) BNS by the court of Additional District and Sessions Judge, Gautam Buddha Nagar vide order dated 20.11.2025. The applicant has not misused the opportunity granted to him earlier on, but subsequently on the basis of an application given by the informant Section 103(1) BNS has been added.

5. Learned Senior counsel for the applicant has further stated that the applicant is not named in the FIR and his name has come up in the statement co-accused person and on the basis of CCTV footage. In the said CCTV footage, the applicant is not clearly visible, but subsequently on the basis of several footages, which went viral on social media, the applicant is stated to be present at the place of occurrence.

6. It is further argued by learned Senior counsel for the applicant that the criminal history assigned to the applicant has been explained. The applicant is languishing in jail since 9.10.2025 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

7. Learned State Law Officer has vehemently opposed the bail application.

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 of bail is made out.

9. The well-known principle of "*Presumption of Innocence Unless Proven Guilty*" gives rise to the concept of bail as a rule and imprisonment as an exception.

10. A person's right to life and liberty, guaranteed by Article 21 of the Indian Constitution, cannot be taken away simply because the person is accused of committing an offence until the guilt is established beyond a reasonable doubt. Article 21 of the Indian Constitution states that no one's life or personal liberty may be taken away unless the procedure established by law is followed, and the procedure must be just and reasonable. The said principle has been reiterated by the Supreme Court in ***Satender Kumar Antil Vs. Central Bureau of Investigation and another, (2022) 10 SCC 51***.

11. Reiterating the aforesaid view, the Supreme Court in the case of ***Manish Sisodia Vs. Directorate of Enforcement, 2024 INSC 595***, has again emphasized that the very well-settled principle of law that bail is not to be withheld as a punishment is not to be forgotten. It is high time that the Courts should recognize the principle that "*bail is a rule and jail is an exception*".

12. Learned A.G.A./State Law Officer could not bring forth any exceptional circumstances which would warrant denial of bail to the applicant.

13. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, taking into consideration the delay in institution of FIR coupled by the fact that applicant is not clearly visible in the CCTV footage, and without expressing any opinion on the merits of the case, *prima faice*, the Court is of the view that the applicant has made out a case for bail. The bail application is ***allowed***.

14. Let the applicant- **Kaushal Mishra**, 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 pressurize/intimidate the prosecution witnesses.
- (iii) The applicant shall appear before the trial court on the date fixed.

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

16. 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 20, 2026
Vikas Verma