



2026:AHC:14856

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 46666 of 2024

Sumit

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Brij Lal Shukla, Raghuvansh Misra
Counsel for Opposite Party(s)	:	G.A., Vidit Narayan Mishra

Court No. - 66

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.

2. Heard Sri Ashwani Tripathi, Advocate holding brief of Sri Raghuvansh Misra, learned counsel for the applicant, Sri Vidit Narayan Mishra, learned counsel for the informant as well as Sri Ram Mohit Yadav, learned A.G.A. for the State and perused the material placed on record.

3. Applicant seeks bail in Case Crime No.182 of 2024, under Sections 191(2), 190, 110, 115(2), 127(2), 103(1) B.N.S., Police Station- Dankaur, District- Gautam Budha Nagar, during the pendency of trial.

PROSECUTION STORY:

4. The applicant alongwith five other co-accused persons is stated to have assaulted and abducted the injured persons Kamal and Jitendra on 9.7.2024 at about 11:00 a.m. and thereupon took them to their house and again beat them up, thereby injuring them grievously.

5. The informant and other persons reached the house of co-accused person Mindar, whereby they found the injured Jitendra and Kamal and rushed them to hospital, whereby the doctor declared Kamal as brought dead and Jitendra was admitted in the hospital.

ARGUMENTS ON BEHALF OF APPLICANT:

6. The applicant is absolutely innocent and has been falsely implicated in the present case. Though the applicant is named in the FIR, but he has nothing to do with the said offence.

7. The FIR is delayed by about sixteen hours and there is no explanation of the said delay caused. The allegations are *per se* false.

8. The injured person Jitendra, who happens to be star witness has been examined by the Investigating Officer after a delay of about thirteen days from the date of institution of FIR. The said delay in examination indicates that it is a clear cut case of false implication and the story has been cooked up after legal consultation.

9. The injured Jitendra in his statement has stated that on the fateful day of the incident the deceased seated as his pillion rider started talking to Banshi while driving his motorcycle, whereby he was intercepted by Harsh and Shivam who forcibly asked them to accompany them and started quarreling with them. In the meantime, Harsh is stated to have called Abhishek, whereby Abhishek alongwith Raj and one unknown person reached there in a swift car, whereby they took them to village Nawada in the Gher of Abhishek. Thereafter, Harsh is stated to have called his other friends also and in the meantime his other friends, namely, Kapil, Gaurav @ Bangali, Saurabh, Ashu, Vikas, Narendra @ Bagheera, Mohit, Arpan and cousin of Harsh, Sanjay reached there and all of them are stated to have beaten them up. Subsequently, the injured and deceased persons went unconscious and they are stated to have regained consciousness in the house of co-accused person Mindar, whereby the applicant and co-accused person Mindar are also stated to have reached there and assaulted them.

10. No overt act has been assigned to the applicant by the star witness Jitendra in his statement. As such, the case of applicant is at different footing to the main accused persons, Harsh and Shivam. The role of other accused persons has been subsequently added just to implicate all the members of the family. The FIR version has been changed drastically by him in his statement made U/s 180 BNSS.

11. The applicant did not carry any motive to commit the said offence rather the applicant is stated to have joined the other accused persons at the fag end of the incident. The initial act, if any, was committed by co-accused persons Harsh and Shivam only.

12. The inquest report of the deceased person was prepared well before the institution of FIR and the informant is Panch witness no.2 in it, but he did not nominate any person at that time. The FIR was instituted after legal consultation in the morning at 03:02 hours.

13. It is further argued by learned counsel for the applicant that there is no criminal antecedent of the applicant. The applicant is languishing in jail since 28.8.2024 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

ARGUMENTS ON BEHALF OF STATE/OPPOSITE PARTY:

14. The bail application has been vehemently opposed on the ground that the trial is going on and the statement of PW-1 was recorded and his cross-examination has not been completed as yet.

15. Even the other accused persons had threatened the injured person Jitendra and an FIR was instituted by him against the co-accused persons, in which final report (charge-sheet) has been submitted against them.

16. The deceased person had sustained ten injuries on the vital part of the body and the injured person had sustained four injuries in all, as such, the applicant is not entitled for bail.

CONCLUSION:

17. ***The case of the applicant stands distinguished to main accused persons Harsh and Shivam.***

18. 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.

19. 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.***

20. 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*".

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

22. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, taking into consideration the fact that FIR is delayed by about sixteen hours coupled by the fact that no particular overt act has been assigned to the applicant by the star witness Jitendra in his statement, 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***.
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23. Let the applicant- **Sumit**, 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.

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

25. 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