



2026:AHC:12702

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 35623 of 2025

Abhay Alias Dev

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Kapil Kumar, Nitika Sharma
Counsel for Opposite Party(s)	:	G.A.

Court No. - 66

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Heard Sri Kapil Kumar, learned counsel for the applicant, Sri Jai Kishan Chaurasia, learned State Law Officer for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No.149 of 2020, under Sections 147, 148, 302, 307, 324, 504 I.P.C., Police Station- Khekada, District- Baghpat, during the pendency of trial.
4. As per prosecution story, the applicant and five other accused persons are named in the murder of a jail inmate and the injury to another caused on 2.5.2020 at about 03:20 p.m. within the jail premises.
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. The applicant is languishing in jail since 2.5.2020, as such, the period of incarceration comes out to be more than five years.
6. It is further argued by learned counsel for the applicant that there is no likelihood of conclusion of trial in near future, as such, the fundamental rights of the applicant enshrined under Article 21 of the Constitution of India stand violated. The criminal history assigned to the applicant has been explained. He is ready to cooperate with trial. In case, the applicant is

released on bail, he will not misuse the liberty of bail.

7. Per contra, 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. This Court had called for the status of trial from the concerned trial court. As per the said status report dated 13.11.2025, only one witness PW-1, Deputy Jailer Nirbhay Kumar Singh has been examined. The co-accused persons are languishing in different jails as it has been a problem for trial court to continue with the trial.

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 precarious condition of the trial and the period of incarceration being more than five years coupled by the fact that only one witness has been examined to date, 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***.

15. Let the applicant- **Abhay Alias Dev**, 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.

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 19, 2026
Vikas Verma