



2026:AHC:6955

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**CRIMINAL MISC. BAIL APPLICATION No. - 44282 of 2025**

Santosh

.....Applicant(s)

Versus

State of U.P.

.....Opposite  
Party(s)

Counsel for Applicant(s) : Rajesh Kumar Yadav, Sunil Kumar  
Upadhyay

Counsel for Opposite Party(s) : G.A.

**Court No. - 66**

**HON'BLE KRISHAN PAHAL, J.**

1. List has been revised. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
2. Heard Sri Sunil Kumar Upadhyay, learned counsel for the applicant, Sri Ram Mohit Yadav, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in Session Trial No.783 of 2023, arising out of Case Crime No.790 of 2023, under Section 302 I.P.C., Police Station- Sahibabad, District- Ghaziabad, during the pendency of trial.
4. As per prosecution story, the applicant is stated to have assaulted the deceased person with *danda* and had committed his murder on 6.8.2023 at about 07:00 a.m.
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 FIR is delayed by more than one and a half days and there is no explanation of the said delay caused.
6. Learned counsel for the applicant has further stated that the wife of the deceased person is stated to have come all the way from Nepal but no other person cared to institute the FIR. The eye-witnesses have been garnered subsequently. The star witness Babu had stated that applicant had suddenly assaulted the deceased person with *danda*, as such, the applicant is entitled for bail.
7. It is further argued by learned counsel for the applicant that there is no

motive assigned in the FIR or by the eye-witness. The said statement has been garnered as an afterthought. There is no criminal antecedent of the applicant. The applicant is languishing in jail since 14.8.2023 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

8. Learned A.G.A. has vehemently opposed the bail application.

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 no motive has been assigned in the FIR or by the witness, 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- **Santosh**, 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 12, 2026**

Vikas Verma