



2026:AHC:15568

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 11554 of 2025

Kiranpal Alias Babli

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Gaurav Kakkar, Harshit Gupta,
Raghvendra Prakash, Ramanand Gupta
Counsel for Opposite Party(s) : G.A., Vikas Sharma

Court No. - 66

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Heard Sri Gaurav Kakkar, learned Senior Advocate assisted by Sri Raghvendra Prakash, learned counsel for applicant, Sri Vikas Sharma, learned counsel for the informant as well as Sri R.P. Patel, learned State Law Officer and perused the material placed on record.
3. The present bail application has been filed by the applicant in Case Crime No. 265 of 2024, under Sections 103(1) BNS and 3/25/27 Arms Act, Police Station Gangoh, District Saharanpur, with the prayer to enlarge him on bail.

PROSECUTION STORY:

4. There was a land dispute between the applicant and Kuldeep regarding the division of 2 bighas land. On 4.7.2024, at about 6.30 pm, the applicant is stated to have barged into the house of the informant carrying country-made pistol and shot at Kuldeep Singh and caused his death on the spot. Immediately thereafter, he ran away from the place of occurrence. It is also mentioned in the FIR that the details of occurrence have been given to the informant by niece Prachi.

ARGUMENTS ON BEHALF OF APPLICANT:

5. It stands established from the FIR itself that the informant is not an eye-witness. He has narrated the story, as was told by one Prachi.

6. The site plan of the place of occurrence indicates the place from where the applicant is stated to have shot at the deceased person, which happens to be about 15 paces and the presence of eye-witness especially, Prachi has not been mentioned in the site plan.

7. The inquest proceedings of the deceased were started after the information was furnished at the police station by one Neeraj, who made a phone call and the said fact has been entered as GD no. 47 on 4.7.2024. Subsequently, the inquest proceedings were completed in the same night at 9.40 pm.

8. There is only one eye-witness i.e. Prachi and her statement has been recorded by the investigating officer after an inordinate delay of two months and eleven days i.e. on 15.9.2024. The said delay has not been explained anywhere.

9. The said eye-witness Prachi has stated that she had called Sanjay, who was in Haryana and only then Sanjay reached the place of occurrence and is a panch witness in the inquest proceedings. In several parts of the statements of the eye-witness Prachi recorded during trial as PW-2, the timing does not match with the presence of the said panch witness Sanjay.

10. The eye-witness Prachi has stated that the accused had fired at the deceased from a distance of about 6 feet and if the fire is made by him, then at the time of firing, the distance may also go below 3 feet or 4 feet. There is no blackening and tattooing found at the dead body of the deceased, which implies that Prachi is not an eye-witness, as the site plan indicates that it is 15 paces, which implies that the deceased may be at a distance of 30-35 feet, as such, there is material inconsistency in the statements of the witnesses to the material on record. There are 24 witnesses mentioned in the charge-sheet while only two witnesses have been examined to date.

11. The applicant is in jail since 5.7.2024, as such, the period of incarceration is about one year and six months and there is no likelihood of conclusion of trial in the near future. The star witness PW-2 has been examined, as such, there is no possibility of applicant tampering with the evidence. He is not a flight risk. In case, the applicant is released on bail, he will not misuse the liberty of bail.

12. The criminal history of two cases assigned to the applicant has been explained and the orders have been annexed. He has been acquitted in both the cases. The material inconsistency is in the statements of the witnesses and even the contradiction in the statements of PW-2 make it a fit case for grant of bail to the applicant.

ARGUMENTS ON BEHALF OF STATE/INFORMANT:

13. The minor contradictions and inconsistencies are bound to creep in the statements of the natural witnesses. It is but natural that the rustic witnesses belonging to village may give inconsistent statement.

14. As far as the delay in recording the statement of the eye-witness Prachi is concerned, that does not help the case of defence either, as Prachi being the eye-witness, is mentioned in the FIR itself. She has not been made an eye-witness subsequently.

CONCLUSION:

15. In the case of ***Prabhakar Tewari Vs. State of U.P. and another, (2020) 11 SCC 648***, the Supreme Court has observed that pendency of several criminal cases against an accused by itself cannot be a basis for refusal of bail.

16. After hearing learned counsel for the parties and taking into consideration the fact that there are minor inconsistencies in the statements of the witnesses but under these circumstances, I do not find it a fit case for grant of bail to the applicant. The bail application is found devoid of merits and is, accordingly, ***rejected***.

17. However, it is directed that the aforesaid case pending before the trial court be decided expeditiously as early as possible in view of the principle as has been laid down in the recent judgments of the Supreme Court in the cases of ***Vinod Kumar vs. State of Punjab; 2015 (3) SCC 220*** and ***Hussain and Another vs. Union of India; (2017) 5 SCC 702***, if there is no legal impediment.

18. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the

said observations shall have no bearing on the merits of the case during trial.

(Krishan Pahal,J.)

January 21, 2026
Shalini