



2026:AHC:15012

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 1794 of 2026

Zakir

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Ankit Srivastava, Ch. Dil Nisar
Counsel for Opposite Party(s)	:	G.A.

Court No. - 66

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Heard Sri Ch. Dil Nisar, learned counsel for the applicant, Sri V.K.S. Parmar, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No.215 of 2025, under Sections 103(1), 127(2), 3(5), 238, 308(4), 61(2) B.N.S., Police Station- Parikshitgarh, District- Meerut, during the pendency of trial.
4. As per prosecution story, on 18.7.2025 the cousin of the informant Aas Mohammad @ Aashu had gone with one Mohseen son of Abdul Kayum to do his work of tiles. Subsequently, on 19.7.2025 the said Mohseen returned but the cousin of the informant was not traceable. It is also mentioned in the FIR that he was sure that applicant and five other accused persons have committed the said offence.
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 about two days and there is no explanation of the said delay caused. Even it is delayed by one day from the date when the said Mohseen had returned to the village.
6. Learned counsel for the applicant has further stated that the name of the applicant has come up in his own confessional statement before the police,

which has no evidentiary value in the eyes of law. The applicant has simply been made an accused on the basis of suspicion only. A false recovery of motorcycle has been foisted on him.

7. Learned counsel for the applicant has next contended that the statement of Mohseen indicates that he knew the complete circumstances of the death of the deceased person, but did not care to inform the informant about the said offence and he himself did not get the FIR instituted. The informant had given missing report on 19.7.2025 and had not nominated any person in it whatsoever. As such, the nomination of applicant is an afterthought.

8. 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 22.7.2025 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

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

10. 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.

11. 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.***

12. 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*".

13. Learned A.G.A./State Law Officer could not bring forth any exceptional

circumstances which would warrant denial of bail to the applicant.

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 delay in institution of FIR coupled by the fact that applicant has been nominated in the case on the basis of suspicion only and the missing report also does not mention the name of the applicant, 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- **Zakir**, 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 21, 2026

Vikas Verma