



2026:AHC:67449

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 10937 of 2026

Shivam Gupta

.....Applicant(s)

Versus

.S.Tate Of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Ravi Shankar Tripathi
Counsel for Opposite Party(s)	:	Bharat Singh, G.A.

Court No. - 67

HON'BLE ARUN KUMAR SINGH DESHWAL, J.

1. Heard Sri Ravi Shankar Tripathi, learned counsel for the applicant, Sri Rahul Saxena, Advocate, holding brief of Sri Bharat Singh, learned counsel for the first informant and Sri Ram Kumar Verma, learned A.G.A. for the State and perused the record.
2. The instant bail application has been filed with a prayer to release the applicant on bail in Case Crime No.05 of 2026, under Sections-103(1), 309(6), 117(2), 61(2) of BNS, Police Station-Dataganj, District-Budaun, during the pendency of the trial.
3. Contention of learned counsel for the applicant is that in the FIR, the allegation of killing the deceased has been made on the basis of apprehension and doubt. Subsequently, the applicant was arrested and from the applicant, Rs.50,000/- and some jewellery was also recovered. However, from the co-accused, Himanshu Gupta, Rs.60,000/- was recovered. The police also arrested the co-accused, Wasim and Harigyan wherein they confessed that on persuasion of Himanshu Gupta and Shivam, they entered into the house of the deceased but the deceased awoke, therefore, Harigyan and Himanshu Gupta strangled her as she recognized Himanshu Gupta. It is further submitted that Himanshu Gupta to whom the role of strangulation has been assigned by the co-accused Himanshu Gupta, has already been released on bail by a coordinate Bench of this Court in Criminal Misc. Bail Application No. 7200 of 2026 vide order dated 25.02.2026. Therefore, the applicant is also entitled to be released on bail on the ground of parity. It is further submitted that there is no involvement of the applicant regarding killing of the deceased. Merely recovering certain jewellery which was allegedly identified by the first informant, applicant cannot be said to be

involved in the aforesaid incident as there is no proof that the alleged recovered articles belongs to the deceased. It is further submitted that the applicant has no criminal history. It is further submitted that charge sheet has been filed in the present case, therefore, there is no requirement of custodial interrogation. The applicant is a law abiding citizen and he is languishing in jail since 06.01.2026. In case, he is granted bail, he will not misuse the liberty of bail and would cooperate in the trial proceedings.

4. Learned counsel for the first informant has vehemently opposed the prayer for bail and submitted that as the stolen articles have been recovered from the possession of the applicant, therefore, applicant is also involved in loot and murdering the deceased. Therefore, applicant is not entitled to be released on bail.

5. Per contra, learned A.G.A. has also adopted the argument of learned counsel for the first informant.

6. Considering the aforesaid submission and taking into account that the co-accused Harigyan and Wasim clearly admitted this fact that on being persuaded by the present applicant and his brother, they entered into the house of the deceased for the purpose of committing theft and on awakening her, she was strangled by the co-accused Himanshu Gupta as well as the fact that except the recovery of certain articles, there is no incriminating material against the applicant and the co-accused Himanshu Gupta, who allegedly strangled the deceased has already been released on bail by the coordinate Bench of this Court and keeping in view the nature of offence, evidence, complicity of the accused and taking into account overcrowded jails and heavy pendency of criminal cases before the trial courts as well as considering the mandate of the judgement of the Apex Court in the case of **Kapil Wadhawan vs Central Bureau of Investigation** reported in **2025 SCC OnLine SC 3038** and without expressing any opinion on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant- **Shivam Gupta**, involved in the aforementioned 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, with the following conditions:-

i. The applicant shall not directly or indirectly make any inducement,

threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

ii. The applicant shall cooperate in the trial/investigation sincerely without seeking any adjournment.

iii. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

iv. The applicant shall attend in accordance with the conditions of the bond executed by him.

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

9. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

10. It is made clear that the applicant shall be released on the basis of computer generated copy of this order, downloaded from the official website of High Court Allahabad and verified by the concerned counsel with the undertaking that the certified copy will be filed within 15 days.

11. It is further directed that the trial court shall send the release order to the concerned jail through Bail Order Management System (BOMS) to ensure early release of the applicant.

12. Office is directed to send a copy of this order to the applicant through concerned Jail Superintendent via e-mail or e-prison portal in compliance of the order of the Apex Court in the case of **Policy Strategy for Grant of Bail, In Re: Suo Motu Writ Petition (Crl.) No.4 of 2021 decided on 31.01.2023** reported in **(2024) 10 SCC 685**.

March 31, 2026
S.C.

(Arun Kumar Singh Deshwal,J.)