



2026:AHC:54434

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 5447 of 2026

Niyaj Ahmed

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Satya Prakash Rai, Yogesh Kumar Singh

Counsel for Opposite Party(s) : G.A., Gunjan Sharma

Court No. - 66

(Sr. No.102 out of 121)

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.

2. Heard Sri Yogesh Kumar Singh, learned counsel for applicant, Ms. Gunjan Sharma, learned counsel for the informant and Sri Sunil Kumar, learned A.G.A. for the State.

3. The present bail application has been filed by the applicant in Case Crime No.126 of 2020, under Sections 147, 148, 149, 352, 302, 307, 504 and 34 IPC, Police Station Mundali, District Meerut with the prayer to enlarge him on bail.

ARGUMENTS ON BEHALF OF APPLICANT:

4. This is the second bail application on behalf of the applicant. The first one was allowed by a coordinate Bench of this Court vide order dated 04.08.2022 passed in Criminal Misc. Bail Application No.4555 of 2022.

5. The informant challenged the said order, and the order dated 04.08.2022 was set aside by the Supreme Court by its order dated 30.09.2022, by a detailed order. The relevant paragraph 19 of the said bail rejection order is reproduced hereinbelow as under:-

"The High Court has failed to notice the facts bearing on the seriousness and gravity of the offence. The incident has led to the murder of two sons of the appellant as a result of firearm injuries. The name of the first

respondent has clearly emerged during the course of the investigation in the statement recorded under Section 161 of CrPC. As a matter of fact, the cross case alleging that the first respondent was injured during the course of the investigation would indicate prima facie, his presence at the scene of the incident. Once the role of the first respondent has emerged during the course of the investigation, followed by the filing of a charge-sheet, we are clearly of the view that no case for the grant of bail was made out before the High Court. The first respondent has undergone about two years and two months of custody. That apart, the Additional Sessions Judge at Meerut in his order dated 23 August 2022 adverted to the fact that the first respondent upon being granted bail has consistently remained absent from the trial and has sought repeated adjournments as a result of which the cross-examination of the witnesses has remained to be concluded. As a result, it is evident that the first respondent upon being released on bail has failed to cooperate in the expeditious disposal of the trial despite the directions given by the High Court in its order dated 7 April 2022. He is evading the conclusion of the trial."

6. It is pertinent to note that the main ground on which the bail order of the applicant was set aside by the Supreme Court was that the counsel for the applicant did not advert to the cross-examination of the witnesses.

7. After the said order, the counsel for the applicant filed an application under Section 362 Cr.P.C. before the Trial Court, indicating that the averments made in the order sheet may be corrected, as the Court was not present on certain dates and adjournment by the counsel for the applicant was taken only on one date, i.e., 23.08.2022. The order sheet regarding the three dates, i.e., 04.08.2022, 08.08.2022 and 18.08.2022, may be corrected.

8. The counsel for the applicant is cooperating in the trial and is regularly engaged in cross-examining the witnesses.

9. The co-accused person, whose case stands on a similar footing to that of the applicant, namely Gayyur, has been enlarged on bail by a Coordinate Bench of this Court vide order dated 26.09.2023 passed in Criminal Misc. Bail Application No.36427 of 2023.

10. The said order was also challenged by the informant before the Supreme

Court by filing a Special Leave Petition (Criminal) Diary No.33688 of 2024, and the same was dismissed by the Supreme Court vide its order dated 25.11.2024, thereby affirming the said order of the Coordinate Bench.

11. There is a cross-case to the instant case, and the informant has not applied for bail in the said case, as the trial is at its inception and has not started as yet. As such, there is no likelihood of the conclusion of trial in the near future, as it is settled law that cross-cases are to be decided by one and the same court.

12. The case of the applicant being at par with that of the co-accused person, the applicant is entitled to bail.

13. There is no criminal history of the applicant. He is in jail since 14.10.2022 and is ready to cooperate with the trial.

ARGUMENTS ON BEHALF OF STATE/INFORMANT:

14. The applicant has not approached the Court with clean hands.

15. The instant case is a case of double murder, and the counsel for the applicant has filed an application under Section 311 Cr.P.C. on 20.01.2026, just to delay the trial. They are making every endeavour to delay it and just to seek bail from this Court on the ground of the period of incarceration.

16. The informant has challenged the said order of this Court dated 27.02.2026 before the Supreme Court, and it is not a cross-case.

17. The counsel for the applicant did not appear before the Trial Court yesterday, i.e., 16.03.2026; as such, the opportunity for cross-examining the witness was closed. The trial is at its conclusive end.

18. The *modus operandi* of the counsel for the applicant is that he turns up in court at about 3:45 p.m. and then partially cross-examines the witnesses and gets it adjourned when the court time expires at 4:00 p.m.

CONCLUSION:

19. This Court had called for the status of the trial from the concerned Trial Court. As per the said status report dated 27.02.2026, 10 witnesses have

already been examined. The cross-examination of PW-10, Dr. Antesh Kumar, is ongoing. He was first examined on 09.02.2026, and his cross-examination continued on 27.02.2026. The next date fixed is 23.03.2026.

20. The Supreme Court in case of *X vs. State of Rajasthan & Anr., 2024 INSC 909*, has held that once the trial has commenced, it should be allowed to reach to its final conclusion, which may either result in conviction or acquittal of the accused. The bail should not be normally granted to the accused after the charge has been framed. It should also not be granted by looking into the discrepancies here or there in the deposition.

21. After hearing the rival submissions advanced by learned counsel for the parties and taking into consideration the fact that two persons were put to death in the instant case and there is one injured witness, who is a natural eye-witness to the incident, coupled with the fact that the bail granted to the applicant was set aside by the Supreme Court vide order dated 30.09.2022, I do not find it to be a fit case for the grant of bail to the applicant.

22. The bail application is found to be devoid of merit and is, accordingly, **rejected**.

23. 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 Apex 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*, without granting any unnecessary adjournments to either of the parties, if there is no legal impediment.

24. 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.)

March 17, 2026
(Ravi Kant)