



2026:AHC:55588

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 584 of 2026

Sandeep Kumar Kashyap

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Km. Ashra, Mohd. Samiuzzaman Khan
Counsel for Opposite Party(s)	:	G.A.

Court No. - 66
(Sl. No. 28 out of 150)

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Heard Sri Mohd. Samiuzzaman Khan, learned counsel for applicant, Sri Sunil Kumar, learned A.G.A. for the State and perused the material placed on record.
3. The present bail application has been filed by the applicant in Case Crime No. 3 of 2024, under Sections 302, 34 IPC and 3/25/27 Arms Act, Police Station Gwaltoli, District Kanpur Nagar, with the prayer to enlarge him on bail.
4. This is the second bail application filed on behalf of the applicant. The first one was rejected by a co-ordinate Bench of this Court passed in Criminal Misc. Bail Application No. 28292 of 2024 vide order dated 17.9.2024 and the following order was passed:-

"Heard Sri Indra Pal Singh Rajpoot, learned counsel for the applicant and learned A.G.A for the State.

By means of this bail application the applicant has prayed to be enlarged on bail in Case Crime No. 3 of 2024 at Police Station - Gwaltoli, District Kanpur Nagar under Sections 302, 34 IPC and Sections 3/25/27 of Arms Act. The applicant is in jail since 12.01.2024.

The bail application of the applicant was rejected by learned trial court on 06.07.2024.

The applicant has been identified as the principal offender who did the deceased to death. The blood stained weapon of murder has been recovered at the pointing out of the applicant. The micro chemical examination and the swabs samples taken from the applicant discloses presence of residue of gun powder and human blood stain on the hands of the applicant. The applicant is a repeat offender. The offence is grave. There is likelihood that the applicant had committed the offence. At this stage, no case for bail is

made out.

Without going into the merits of the case, the bail application is dismissed.

Sri Indra Pal Singh Rajpoot, learned counsel for the applicant contends that the trial is moving at a snail's pace and shows no sign of early conclusion. The prosecution is deliberately delaying the conduct of the trial to prolong the incarceration of the applicant. Various other aspects delaying the trial have also been highlighted including the failure of the trial court to faithfully implement the mandate of Section 309 Cr.P.C. Other bottlenecks which cause delay in trials in the State of U.P. like failure of the police to promptly serve the summons and execute coercive measures issued by the trial court to compel the appearance of the witnesses have also been brought to the notice of the Court. Learned counsel's submissions are well founded and are liable to be addressed.

Considering the gravity of the offence, interest of justice will be served by directing the learned trial court to expedite the trial.

Though no specific time frame to conclude the trial has been set out in the Cr.P.C., yet the legislative intent of Section 309 Cr.P.C. is explicit. The scheme of the provision clearly shows that the legislative intent is to conclude the trial in an expeditious time frame. In the facts of this case, the learned trial court shall make all endeavours to conclude the trial expeditiously. Preferably the trial court shall set for itself a reasonable time frame to conclude the trial say one year from the date of receipt of a certified copy of this order.

The trial court has also to be conscious of the rights of the accused persons and is under obligation of law to ensure that all expeditious, necessary and coercive measures as per law are adopted to ensure the presence of witnesses. Counsels or parties who delay or impede the proceedings should not only be discouraged from doing so but in appropriate cases exemplary costs should also be imposed on such parties/ counsel.

All witnesses and counsels are directed to cooperate with the trial proceedings.

The learned trial court shall issue summons by regular process as per Section 62 Cr.P.C. and also by registered post as provided under Section 69 Cr.P.C. to expedite the trial.

The learned trial court shall promptly take out all strict coercive measures against all the witnesses in accordance with law who fail to appear in the trial proceeding. Counsels or parties who delay or impede the proceedings should not only be discouraged from doing so but in appropriate cases exemplary costs should also be imposed on such parties/ counsel.

The police authorities shall ensure that warrants or any coercive measures as per law taken out by the learned trial court to ensure that the attendance of the witnesses are promptly executed.

The Deputy Commissioner of Police, Kanpur Nagar shall file an affidavit before the trial court on the date fixed regarding status of execution of the warrants/service of summons

taken out by the learned trial court.

The delay in the trials caused by the failure of the police authorities to serve summons or execute coercive measures to compel the appearance of witnesses at the trial despite a statutory mandate, is an issue of grave concern. The said issue had arisen for consideration before this Court in Bhanwar Singh @ Karamvir Vs. State of U.P. reported at 2023 SCC OnLine All 734 & Jitendra v. State of U.P. (Criminal Misc. Bail Application No.9126 of 2023) and was decided by the judgements dated 24.08.2023 & 20.12.2023 respectively. This Court in Bhanwar Singh @ Karamvir (supra) & Jitendra (supra) had issued certain directions to the police authorities regarding their statutory duty to promptly serve summons and execute coercive processes to compel the appearance of witnesses.

The Director General of Police, Government of U.P. as well as Principal Secretary (Home), Government of U.P. had taken out relevant orders in compliance of judgements in Bhanwar Singh @ Karamvir (supra) & Jitendra (supra) and nominated the Senior Superintendent of Police of the concerned districts as the nodal officials for implementing the said judgments.

The counsels as well as the learned trial court are directed to comply with the directions issued by this Court in Noor Alam Vs. State of U.P. reported at 2024 (5) ADJ 766. In case any strike happens during the course of the trial, the learned trial court is directed to ensure full compliance of the directions issued in Noor Alam (supra) to prevent delay in the trial.

In case the police authorities are failing to comply with the directions issued by this Court in Bhanwar Singh @ Karamvir (supra) & Jitendra (supra) and do not implement the said directions of the Director General of Police, Government of U.P. & the Home Secretary, Government of U.P. in regard to service of summons and execution of coercive measures to compel the appearance of witnesses, the learned trial court shall direct the concerned Senior Superintendent of Police to file an affidavit in this regard.

The learned trial court shall be under an obligation to examine whether the judgements of this Court in Bhanwar Singh @ Karamvir (supra) & Jitendra (supra) as well as directions of Director General of Police, Government of U.P. & the Home Secretary, Government of U.P. issued in compliance thereof have been implemented or not and to take appropriate action as per law.

The learned trial court shall also take appropriate measures in law after receipt of such affidavit which may include summoning the concerned officials in person.

It is further directed that in case any accused person who has been enlarged on bail does not cooperate in the trial or adopts dilatory tactics, the learned trial court shall record a finding to this effect and cancel the bail without recourse to this Court.

The trial judge shall submit a fortnightly report on the progress of trial and the steps taken

to comply with this order to the learned District Judge.

A copy of this order be communicated to the learned trial judge through the learned District Judge, Kanpur Nagar as well as Deputy Commissioner of Police, Kanpur Nagar by the Registrar (Compliance) by E-mail. "

5. Learned counsel for the applicant has stated that the trial is moving at a snail's pace and the applicant is languishing in jail since 12.1.2024, as such, period of incarceration is more than two years. The fundamental rights enshrined under Article 21 of the Constitution of India stand violated as there is no likelihood of early conclusion of trial in near future. In case, the applicant is released on bail, he will not misuse the liberty of bail.

6. Per contra, learned A.G.A. has vehemently opposed the bail application on the ground that as per the status report dated 24.2.2026, already six witnesses have been examined, as such, the trial is moving on.

7. After hearing learned counsel for the parties and taking into consideration the fact that no new ground is there for pressing the second bail application and disturb the earlier order, 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**.

8. 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.

9. 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 18, 2026

Shalini