



2026:AHC:17944

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 27321 of 2025

Romil Kumar

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Aryan	Srivastava,	Narendra	Nath
			Tripathi		
Counsel for Opposite Party(s)	:	G.A.			

Court No. - 68

HON'BLE ASHUTOSH SRIVASTAVA, J.

Heard Sri P. C. Srivastava, learned Senior Counsel assisted by Sri N. N. Tripathi, learned counsel for the applicant, Sri Puneet Kumar Singh, learned AGA for the State and perused the records.

The bail application at the instance of the applicant Romil Kumar seeks enlargement on bail in Case Crime No. 15 of 2025, under Sections 318(2), 318(4), 61(2) of BNS and Section 66-D of I. T. Act, Police Station Cyber Crime, District Varanasi. The bail application of the applicant before the court below was rejected by the Sessions Judge, Varanasi vide order dated 04.07.2025 and the applicant is languishing in jail since 17.05.2025.

Sri P. C. Srivastava, learned Senior Counsel appearing for the applicant has vehemently argued that the applicant is entirely innocent and has been falsely implicated in this very case crime number for ulterior motive. The applicant is not named in the FIR which has been lodged against unknown persons with the allegation that the informant was induced into joining a Whatsapp group namely ASK INVESTMENT and make investments. When the informant wanted to withdraw the profits made she was prevented from doing so and duped of a sum of Rs. 1,88,32,000/- by way of cyber fraud. The aforesaid amount is stated to have been transferred into various Bank Account Number mentioned in the FIR including IDFC FIRST BANK A/c No. 1022465617 in the name of LIFE HEALTH CARE. The complicity of the applicant in the commission of the crime has been established from the

usage of Mobile No. 8707224200 bearing IMEI No. 1st 357580352346980 and IMEI 2nd No. 35641238234698 wherefrom transactions have been made into the aforementioned IDFC FIRST BANK A/c. The applicant has denied that he is the holder of Mobile No. 8707224200 and has no concern with the same. The applicant is not the beneficiary of a single penny and has nothing to do with the commission of the crime. The applicant has no criminal antecedents except the present case.

Sri P. C. Srivastava, learned Senior Counsel appearing for the applicant has vehemently argued that the applicant is in custody since 17.05.2025. The charge sheet has already been submitted and the court concerned has also taken cognizance of the same. The charges against the applicant were framed on 07.08.2025 and thereafter the case is being fixed for prosecution evidence but till date not a single witness has come forward in support of the prosecution case. Learned counsel has invited the attention of the court to Section 437(6) Cr.P.C. corresponding Section 480(6) of the BNSS to submit that where a case is triable by magistrate and the trial of a person accused of any non-bailable offence is not concluded within a period of 60 days from the first date fixed for taking evidence in the case, such person is liable to be admitted to bail if he has been in custody during the whole of the said period, unless for reasons to be recorded in writing the Magistrate otherwise directs. It is thus argued that in the case at hand since the trial has not been concluded within 60 days from the first date fixed for taking evidence as is borne out from the order sheet the applicant stands entitled to the benefit of Section 437(6) Cr.P.C./480(6) BNSS and is liable to be released on bail.

Per contra, learned AGA has vehemently opposed the bail plea by submitting that the Investigating Officer during the investigation has collected details of IDFC First Bank A/c No. 102224656157, CDR/CAF of Mobile No. 8707224200 registered in the name of the applicant and CCTV Footage of ATM from 21.04.2025 to 22.04.2025 and the name of the applicant has surfaced. Further recoveries of incriminating materials have been made from the possession of the applicant and as such the applicant is not entitled to any indulgence by this Court. Learned AGA, however, could not dispute the submissions of learned counsel for the applicant that the applicant stands entitled to the benefit of Section 437(6) Cr.P.C/480(6) BNSS.

I, have heard the learned counsel for the parties and have given my anxious

consideration to the submissions advanced. Section 437(6) Cr.P.C./480(6) BNSS read as under:-

"437. When bail may be taken in case of non-bailable offence. -

.....

(6) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail, to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs."

The provision of sub-section (6) of Section 437 Cr.P.C./480 of BNSS can certainly be said to have been inserted with an intention to speed up the trial without unnecessarily detaining a person as an under trial prisoner for a prolonged time. The stage contemplated under this sub Section i.e. 437(6) is after filing of charge sheet and framing of charge when trial commences and the accused prefers an application after lapse of 60 days from the first date fixed for taking evidence. The provision Section 437(6) Cr.P.C. came to be interpreted by the Apex Court recently in the case of **Subhelal @ Sushil Sahu Vs. The State of Chhattisgarh** reported in **2025 LiveLaw (SC) 223** where their Lordships in Para 17 and 18 of the judgment observed as under:-

17. This Court is of a considered view that applications under Section 437 (6) have to be given a liberal approach and it would be a sound and judicious exercise of discretion in favour of the accused by the Court concerned more particularly where there is no chance of tampering of evidence e.g. where the case depends on documentary evidence Criminal Appeal No.818/2025@SLP (CrI.) No.1314/2025 10 which is already collected; where there is no fault on part of the accused in causing of delay; where there are no chances of any abscondence by the accused; where there is little scope for conclusion of trial in near future; where the period for which accused has been in jail is substantial in comparison to the sentence prescribed for the offence for which he is tried. Normal parameters for deciding bail application would also be relevant while deciding application under Section 437(6) of the Code, but not with that rigour as they might have been at the time of application for regular bail.

18. Differently put, where there is absence of positive factors going against the accused showing possibility of prejudice to prosecution or accused being responsible for delay in trial, application under Section 437(6) has to be dealt with liberal hands to protect individual liberty as envisaged under the Constitution of India and sought to be Criminal Appeal No.818/2025@SLP (CrI.) No.1314/2025 11 protected by insertion of

sub-section (6) to Section 437 of the Code by the legislature.

Considering the ratio of the decision of the Apex Court referred to above and taking note of the observations made therein, all the above facts and circumstances, the nature of accusations, severity of the punishment in the case of conviction and nature of supporting evidence, reasonable apprehension of tampering with the witness and prima-facie case, but without commenting on merit of case the Court is of the opinion that, a case for bail is made out.

Accordingly, the bail application is **allowed**.

Let the accused-applicant, **Romil Kumar**, involved in above mentioned case crime number be released on bail, on his executing a personal bond and two reliable sureties each, in the like amount to the satisfaction of the court concerned, subject to the following conditions:

1. The applicant will not tamper with the evidence.
2. The applicant will not indulge in any criminal activity.
3. The applicant will not pressurize/intimidate the prosecution witnesses and co-operate in the trial.
4. The applicant will appear regularly on each and every date fixed by the trial court, unless his personal appearance is exempted through counsel by the court concerned.

In the event of breach of any of the aforesaid conditions, the court below will be at liberty to proceed to cancel his bail.

January 20, 2026
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(Ashutosh Srivastava,J.)