



2026:AHC:6994

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 21083 of 2025

Vishal Sonkar

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Arvind Kumar Tripathi, Rajiv Chowdhury, Shivam Kumar Shukla, Urvashi Kunwar

Counsel for Opposite Party(s) : Gyanendra Prasad Mahant, G.A.

Court No. - 66

HON'BLE KRISHAN PAHAL, J.

1. List has been revised. Second supplementary affidavit filed today is taken on record.
2. Heard Sri Rajiv Chowdhury, learned counsel for the applicant, Sri Gyanendra Prasad Mahant, learned counsel for the informant, Sri Sunil Kumar, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No.532 of 2024, under Sections 3(5), 103(1), 61(2) B.N.S., Police Station Bhelupur, District Varanasi, during the pendency of trial.
4. As per prosecution story, the applicant and 6 other co-accused persons are stated to have committed the murder of brother of informant by firing at his chest and temple on 05.12.2024 at about 10:30 p.m., who was rushed to BHU Trauma Centre, whereby he was declared as brought dead.
5. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case. The FIR is delayed by about 5 hours and there is no explanation of the said delay caused. There are general and omnibus allegations against all the accused persons in the FIR. There are three gunshot injuries sustained by the deceased person.

6. Learned counsel for the applicant has further argued that the other co-accused persons have been enlarged on bail. The only difference is that subsequently the statement of one witness Sonu Vishwakarma has been garnered by the prosecution, whereby it is stated that Smt. Kusum Devi provided a pistol to the applicant and the applicant fired 3 shots at the deceased person leading to his death. The statement of the said Sonu Vishwakarma has been recorded on 08.12.2024 one day after the arrest of applicant. Prior to the incident, recovery of a pistol was already made at the pointing out of the applicant.

7. Learned counsel for the applicant has also argued that the said eye-witness has been procured as an afterthought just to show that the applicant was the primary accused person. The bail applications of the other co-accused persons have been allowed showing the applicant to be the primary accused, but the applicant is entitled for bail on the ground that the statement of said eye-witness has been procured belatedly on 08.12.2024 i.e. 2 days after the incident and the name of said eye-witnesses Sonu Vishwakarma does not find mention in the FIR. The criminal history of one case assigned to the applicant stands explained. The applicant is languishing in jail since 07.12.2024 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

8. Per contra, learned counsel for the informant and learned A.G.A. have vehemently opposed the bail application on the ground that all the bail applications have been allowed citing the applicant to be the main accused person and there is recovery of a 9 mm pistol at the pointing out of the applicant, as such, he is not entitled for bail.

9. The Supreme Court in ***Prabhakar Tewari vs. State of U.P. And Another, (2020) 11 SCC 648*** has observed that pendency of several criminal cases against an accused itself cannot be a basis for refusal of bail, if otherwise his case for bail is made out.

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 recapitulated by the Supreme Court in ***Satender Kumar Antil Vs. Central Bureau of Investigation and Ors., 2022 INSC 690.***

12. Reiterating the aforesaid view the Supreme Court in the case of ***Manish Sisodia Vs. Directorate of Enforcement 2024 INSC 595*** has again emphasised 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. It is settled principle of law that the object of bail is to secure the attendance of the accused at the trial. No material particulars or circumstances suggestive of the applicant fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like have been shown by learned A.G.A./State Law Officer.

15. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, taking into consideration the fact that the eye-witness Sonu Vishwakarma has been procured and his statement has been recorded 2 days after the FIR, that too one day after the arrest of the applicant showing him to be the primary accused person, coupled with the fact that earlier allegations in the FIR were of general and omnibus nature against all the accused persons, and without expressing any opinion on the merits of the case, *prima-facie* the Court is of the view that the applicant has made out a case for bail. The bail application is **allowed**.

16. Let the applicant- **Vishal Sonkar**, 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 pressurise/intimidate with the prosecution witnesses.
- (iii) The applicant shall appear before the trial court on the date fixed.

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

18. 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 12, 2026
(Ravi Kant)