



2026:AHC:4876

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 21613 of 2025

Bhure

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Sanjay Kumar Dwivedi

Counsel for Opposite Party(s) : Anand Mohan Pandey, G.A., Ram Raj
Mishra

Court No. - 66

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Second supplementary affidavit filed by learned counsel for the applicant is taken on record.
3. Heard Sri Sanjay Kumar Dwivedi, learned counsel for the applicant, Sri Anand Mohan Pandey, learned counsel for the informant and Sri Sunil Kumar, learned A.G.A. for the State and perused the material placed on record.
4. Applicant seeks bail in Case Crime No. 684 of 2024, under Sections 103(1), 3(5) B.N.S. and 3/25/27 Arms Act, Police Station Bithri Chainpur, District Bareilly, during the pendency of trial.
5. As per prosecution story, the applicant alongwith co-accused persons Rajveer, Chanchal and Puttu are stated to have fired at the deceased, which was seen by one Jethe. The deceased was rushed to Rammurti Hospital, whereat he was declared dead.
6. 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 seven hours and there is no explanation of the said delay caused.
7. Learned counsel for the applicant has further argued that the allegations

are *per se* false. Prior to the FIR, the inquest proceedings of the deceased were taken up, which was started on 28.11.2024 at 00:30 hours and concluded on 28.11.2024 at 01:45 hours. The star witness Shyam Babu is panch witness no. 1 in it, while the informant is panch witness no. 4. They have not whispered a single word against the applicant at that stage and the FIR was lodged subsequent to it on 28.11.2024 at 2.00 am as an afterthought. Had the applicant committed the said offence, his name would have come up immediately.

8. There is a criminal history of two cases assigned to the applicant, which stands explained. The applicant is languishing in jail since 9.12.2024 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

9. Learned A.G.A. and learned counsel for the informant have vehemently opposed the bail application on the ground that the applicant and the co-accused person Rajveer are the main assailants, as they have fired indiscriminately at the deceased.

10. In the case of **Prabhakar Tewari Vs. State of U.P. and another, (2020) 11 SCC 648**, the Supreme Court has observed that pendency of several criminal cases against an accused by itself cannot be a basis for refusal of bail.

11. 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.

12. 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**.

13. 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*”.

14. Learned A.G.A. could not bring forth any exceptional circumstances which would warrant denial of bail to the applicant.

15. 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.

16. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, taking into consideration the said discrepancy in the inquest report to the FIR and also the delay of seven hours in the institution of the FIR 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**.

17. Let the applicant- **Bhure**, 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.

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

19. 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 8, 2026
Shalini