



2026:AHC:9774

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 43069 of 2025

Vishal Pandey

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Jitendra Prasad Mishra, Niraj Kumar Singh
Counsel for Opposite Party(s) : G.A., Praveen Kumar Tripathi, Saroj Kashyap

Court No. - 66

HON'BLE KRISHAN PAHAL, J.

1. List has been revised. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
2. Heard Sri Niraj Kumar Singh, learned counsel for the applicant, Sri Saroj Kashyap, learned counsel for the informant as well as 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.451 of 2025, under Sections 109(1), 351(3), 352, 103(1) B.N.S., Police Station- Kotwali Chunar, District- Mirzapur, during the pendency of trial.
4. As per prosecution story, the co-accused person Nagendra Bhatia is stated to have called the friend of the informant, Ayush Raj on phone, whereby the applicant, co-accused persons Nagendra Bhatia and Tej Prakash Yadav are stated to have assaulted the informant and his friend Ayush Raj, causing grievous injuries to them, whereby Ayush Raj was rendered unconscious on 21.9.2025 at about 05:00 p.m.
5. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case. He has nothing to do with the said offence. The FIR is delayed by more than four and a half hours and there is no explanation of the said delay caused. It is alleged that the informant had taken the injured person to hospital as he was rendered unconscious.

6. Learned counsel for the applicant has further stated that the statements of both the injured persons were recorded by the Investigating Officer and both of them have assigned the role of assault by danda to co-accused Nagendra Bhatia only. The applicant and co-accused Tej Prakash Yadav are stated to have assaulted the injured persons with fists and kicks, as such, the case of applicant is at different footing to co-accused person Nagendra Bhatia.

7. It is further argued by learned counsel for the applicant that the informant, who was also injured in the incident, is stated to have succumbed to the injuries subsequently. The criminal history of one case assigned to the applicant has been explained. The applicant is languishing in jail since 25.9.2025 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 statement of the informant Sanskar and the FIR both tantamount to dying-declaration as the informant succumbed to the injuries about fifteen days after the incident due to the injuries sustained in the instant incident only and the other injured person Ayush Raj has also categorically implicated all the three accused persons.

9. Learned counsel for the informant has also argued that the case of applicant is covered by the common intention U/s 3(5) BNS, as such, he is not entitled for bail.

10. The case of applicant stands distinguished to co-accused person Nagendra Bhatia.

11. 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 of bail is made out.

12. The case of the applicant stands distinguished to co-accused person 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.

13. 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 reiterated by the Supreme Court in ***Satender Kumar Antil Vs. Central Bureau of Investigation and another, (2022) 10 SCC 51.***

14. Reiterating the aforesaid view, the Supreme Court in the case of ***Manish Sisodia Vs. Directorate of Enforcement, 2024 INSC 595***, has again emphasized 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*".

15. Learned A.G.A./State Law Officer could not bring forth any exceptional circumstances which would warrant denial of bail to the applicant.

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 fact that the main role of calling the injured person to the place of occurrence and also assaulting the injured and deceased person with *danda* has been assigned to co-accused person Nagendra Bhatia, and without expressing any opinion on the merits of the case, *prima faice*, 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- **Vishal Pandey**, 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 pressurize/intimidate 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 14, 2026
Vikas Verma