



2026:AHC:62825

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 1361 of 2026

Varish Khan

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Sikandar Raza
Counsel for Opposite Party(s)	:	G.A.

Court No. - 64

HON'BLE VIVEK VARMA, J.

1. Heard counsel for the applicant and Sri Rupak Chaubey, learned AGA for the State.
2. This is the third bail application. The first and second bail application was rejected by this Court vide orders dated 01.03.2023 and 22.09.2025 respectively.
3. The present bail application under Section 439 Cr.P.C. has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 136 of 2020, under Sections 396 and 412 I.P.C. and Section 4/25 Arms Act, Police Station Holagarh, District Prayagraj during the pendency of trial
4. Counsel for the applicant contends that the applicant is in jail since 17.07.2020. The applicant is a law abiding citizen and has always cooperated with the investigation, and has attended the trial. The trial is moving at snail's pace and shows no sign of early conclusion. Undue delay caused by the prosecution witnesses has led to pro-longed incarceration of the applicant. The applicant cannot be faulted for the delay in conclusion of trial. As per the charge sheet, the prosecution proposes to examine 22 witnesses to bring home the charges. Charges were framed against the applicant on 17.06.2023. Till date only three

prosecution witnesses have been examined. The injured witness is yet to be examined by the trial court. Inordinate delay in concluding the trial has led to indefinite imprisonment of the applicant. The co-accused Farman has been granted bail by this Court vide order dated 19.12.2023 passed in Criminal Misc. Bail Application No. 1059 of 2023. The applicant claims parity. The applicant has no criminal antecedents. In case, he is enlarged on bail, he will not misuse the said liberty.

5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having heard counsel for the parties and having perused the record, this Court prima facie finds that as per the status report of the trial judge dated 13.03.2026, the prosecution proposes to examine 22 witnesses to bring home the charges. Only three prosecution witnesses have been examined. The examination-in-chief of PW-4 namely Vinod Kumar Dinkar was concluded on 16.01.2026. Thereafter, the said witness is being summoned for cross-examination, however, due to his continuous absence, the cross examination could not be recorded. The report also indicates that the injured witness has not been examined as yet. Further, undue delay caused by the prosecution witnesses have led to pro-longed incarceration of the applicant. The applicant is in jail for more than five years. Even the prosecution could not bring on record any material, which would show that the trial has been delayed on account of any fault on the part of the present applicant. Thus, the 'right of speedy trial' of the applicant as enshrined under Article 21 of the Constitution of India is violated. The co-accused Farman has been granted bail by this Court.

7. Consequently, keeping in view the above stated facts and more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, without commenting on merits of the

case, I am of the opinion that the applicant is entitled to be enlarged on bail.

8. Let the applicant **Varish Khan** involved in the aforesaid 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 the conditions that he:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence;

(iii) shall not pressurize the prosecution witnesses.

9. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

March 25, 2026

Lbm/-

(Vivek Varma,J.)