



2026:AHC:5982

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 45041 of 2025

Kapil

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Himanshu Mishra
Counsel for Opposite Party(s) : Chandra Prakash Choudhary, G.A.,
Manish Kumar, Nishith Tripathi

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 Himanshu Mishra, learned counsel for the applicant, Sri Nishith Tripathi, 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.556 of 2025, under Sections 191(2), 191(3), 103(1), 109(1), 125 B.N.S., Police Station- Jait, District- Mathura, during the pendency of trial.
4. As per prosecution story, the applicant and other accused persons are stated to have been involved in brick-batting over the deceased person leading to the death of daughter of the informant and injuring the mother of the informant Saroj on 22.10.2025 at about 10:30 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 about seven hours and there is no explanation of the said delay caused.
6. Learned counsel for the applicant has further stated that there are general and omnibus allegations against all the accused persons, as such, it cannot be ascertained as to who is the author of the injuries caused to the deceased person. As such, the applicant is entitled for bail.

7. It is further argued by learned counsel for the applicant that the criminal history of one case assigned to the applicant has been explained. The applicant is languishing in jail since 24.10.2025 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. Learned counsel for the informant and learned A.G.A. have vehemently opposed the bail application.

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

12. 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*".

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. 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 there are general and omnibus allegations against all the accused persons including the applicant and no specific role has been assigned to him, 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***.

15. Let the applicant- **Kapil**, 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.

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

17. 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 9, 2026
Vikas Verma