



2026:AHC:60411

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 9909 of 2026

Irfan And Another

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Amrita Kashyap
Counsel for Opposite Party(s)	:	G.A.

Court No. - 64

HON'BLE VIVEK VARMA, J.

1. Heard learned counsel for the applicants and Sri N.K.Sharma, learned AGA for the State-respondent.
2. The present bail application under Section 483 BNSS has been filed with a prayer to enlarge the applicants on bail in Case Crime No. 417 of 2025, under Sections 305, 331(4), 317(2), 111(4), 111(6) BNS, Police Station Gola, District Gorakhpur during the pendency of trial.
3. Counsel for the applicants submits that the applicants were not named in the first information report. The applicants were arrested in Case Crime No. 272 of 2025, under Sections 305, 331(4), 317(2), 111(4), 111(6), 111(7), 62(2), 317(4) BNS, Case Crime No. 325 of 2025, under Sections 303(2), 331(4), 317(2), 111(4), 111(6), 111(7), 62(2), 317(4) BNS and have been falsely implicated in the present case. Except the confession of the applicants in police custody, there is no corroborative evidence to link the applicants with the offence. No recovery of any incriminating article has been made from the applicants. Criminal history of the applicants has been explained in para 24 of the affidavit. The applicants are in jail since 06.09.2025 and in case they are enlarged on bail, they will not misuse the said liberty.
4. Learned AGA has opposed the prayer for bail. He submits that the applicants have criminal antecedents.
5. Having heard counsel for the parties and having perused the record, this

Court prima facie finds that the applicants were not named in the first information report. The applicants were arrested in Case Crime Nos. 272 of 2025 and 325 of 2025 and have been implicated in the present case. Except the confession of the applicants in police custody, there is no corroborative evidence to link the applicants with the offence. No recovery of any incriminating article has been made from the applicants.

6. In so far as criminal antecedents of the applicants are concerned, it is not the case of the State that applicants might tamper with or otherwise adversely influence the investigation, or that he might intimidate witnesses before or during the trial. The State has also not placed any material that applicants in past attempted to evade the process of law. In the opinion of this Court if the accused are otherwise found to be entitled to bail, they cannot be denied bail only on the ground of criminal history, no exceptional circumstances on the basis of criminal antecedents have been shown to deny bail to accused, hence, the Court does not feel it proper to deny bail to the applicants just on the ground that they had criminal antecedent.

7. In ***Ash Mohammad Vs. Shiv Raj Singh, (2012) 9 SCC 446***, the Apex Court in para 30 has observed:-

"We may hasten to add that when we state that the accused is a history-sheeter we may not be understood to have said that a history-sheeter is never entitled to bail. But, it is a significant factor to be taken note of regard being had to the nature of crime in respect of which he has been booked."

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

9. Further, the applicants have remained confined for more than six months and there is no hope of early conclusion of trial and without commenting on the merits of the case, I am of the opinion that the applicants are entitled to be enlarged on bail.

10. Let the applicants **Irfan and Taufiq @ Chand Ali**, involved in the aforesaid case be released on bail on their furnishing a personal bond and

two heavy sureties (in view of criminal history) each in the like amount to the satisfaction of the court concerned subject to the conditions that they:

- (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; and
- (iv) shall appear on first Sunday of every month at the Police Station concerned.

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

(Vivek Varma,J.)

March 24, 2026

Lbm/-