



2026:AHC:58482

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 9627 of 2026

Shiva

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Mohammad Belal
Counsel for Opposite Party(s)	:	G.A.

Court No. - 70

HON'BLE SANTOSH RAI, J.

1. Heard learned counsel for the applicant, learned AGA for the State-respondent and perused the record.
2. This bail application has been moved on behalf of accused-applicant, **Shiva** seeking enlargement on bail in Case Crime No.796 of 2025, under Section 143(4) of BNS, P.S.- Hapur Nagar, District- Hapur, during pendency of trial.
3. Tersely, as per allegation contained in the FIR, the accused-applicant and the other co-accused lady, who are not named in the FIR have been alleged to kidnapped the three year old son of informant, namely, Mohabbat.
4. Learned counsel for the applicant submits that the accused-applicant is not specifically named in the FIR. It has been further stated that one male and one female (unknown) have committed that offence/kidnapping minor child of the informant aged about three years, namely, Mohabbat. It is also contended that the minor child was said to have been recovered from the joint possession of the accused-applicant and co-accused, Barkha. It is further submitted that the co-accused, namely, Barkha, having the identical role as that of the applicant, has already been enlarged on bail by this Court vide order dated 17.02.2026, passed in Criminal Misc. Bail Application No.3759 of 2026 (Barkha vs. State of U.P). Furthermore, the accused-applicant has no criminal history and is in jail since 30.12.2025. Submission is that the conclusion of trial will take

sufficiently long and there is no likelihood of his fleeing from course of justice or tampering with evidence in case of release on bail. Hence, bail has been prayed for on the ground of parity.

5. Per contra, learned A.G.A. has opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserve any indulgence. In case the applicant is released on bail, he will again indulge in similar activities and will misuse the liberty of bail.

6. Having considered the submissions that the accused-applicant is not named in the FIR and the fact that the other co-accused person, namely, Barkha, having similar role, has already been enlarged on bail. There is no reasonable possibility of intimidating and pressurizing the prosecution witnesses. The accused-applicant has no criminal history and is languishing in jail since 30.12.2025 and keeping in view the uncertainty regarding conclusion of trial; larger mandate of the Article 21 of the Constitution of India, considering paragraph no.53 of Apex Court in case of ***Manish Sisodia vs. Directorate of Enforcement 2024 (SC) LawSuit 677***, dictum of Apex Court in ***Union of India vs. K.A. Najeed (2021) 3 SCC 713 & Satender Kumar Antil vs. Central Bureau of Investigation & Anr. (2022) 10 SCC 51*** and without expressing any opinion on the merits of the case, let the applicant involved in the aforesaid crime be released on bail on their furnishing personal bond and **two sureties** each in the like amount to the satisfaction of the court concerned with the following conditions that:-

- (i) The applicant shall not tamper with the evidence or threaten the witnesses.
- (ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in Court.
- (iii) The applicant shall remain present before the trial court on each date fixed, either personally or as directed by the court concerned.
- (iv) The applicant shall remain present in person before the Trial Court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement of accused personally to explain circumstances

appearing in the evidence against him.

(v) In case the applicant misuses the liberty of bail during trial and in order to secure his presence, the trial court shall initiate proceedings against him strictly in accordance with law.

7. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail by the trial court.

8. Identity and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

(Santosh Rai,J.)

March 20, 2026

K.N.