



2026:AHC-LKO:22657

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. BAIL APPLICATION No. - 12787 of 2024

Sanjay Yadav

.....Applicant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko.

.....Opposite Party(s)

Counsel for Applicant(s)	: Randhir Singh, Manish Singh Chauhan, Sandeep Kumar(Trivedi), Sheo Prakash Singh
Counsel for Opposite Party(s)	: G.A., Hemant Kumar Pandey, Osama Syed, Riyaz Ahmad

Court No. - 18

HON'BLE KARUNESH SINGH PAWAR, J.

Heard learned counsel for the applicant and learned A.G.A. for the State.
Perused the record.

This is the second bail application filed by accused-applicant seeking bail in Case Crime No.0323 of 2015 under Sections 147, 148, 149, 307, 302, 504, 506, 34 and Section 120-B I.P.C., Police Station Sarojini Nagar, District Lucknow.

The first bail application of the applicant was rejected by this Court vide order dated 01.02.2024 passed in Criminal Misc. Bail Application No. 9900 of 2022, with liberty to file a fresh bail application after examination of the injured witness.

Submission of the learned counsel for the applicant is that the injured witness, namely Sandeep Kumar Yadav (PW-2), has already been examined and his statement has been brought on record by way of supplementary affidavit.

It is further submitted that there are five named accused persons in the present case, all of whom have been assigned a general role of firing. The injured witness has also attributed only a general role to the present applicant, similar to other co-accused persons.

Learned counsel for the applicant has pressed the present bail application on fresh grounds, inter alia, that the applicant has been in continuous incarceration for a prolonged period. It is submitted that the applicant remained in custody as a juvenile from 21.08.2015 to 15.12.2017. Thereafter, upon rejection of his claim of juvenility, he was sent to judicial custody on 21.03.2022 and has been languishing in jail since then. In totality, the applicant has undergone more than six and a half years of incarceration. Placing reliance upon the judgment of Union of India vs. K.A. Najeeb reported in AIR 2021 Supreme Court 712, wherein the Hon'ble Supreme Court has held that prolonged incarceration and delay in trial are valid grounds for grant of bail

even in serious offences, as the right to speedy trial is a facet of Article 21 of the Constitution of India.

It is further submitted that the co-accused persons, namely, Gappu Yadav @ Brijbhan, Gyanendra @ Gyani Rajput, and Shera Singh @ Sher Bahadur Singh, have already been enlarged on bail vide orders dated 16.02.2026, 12.12.2025, and 23.03.2026 passed in Criminal Appeal Nos. 1421 of 2018, 1406 of 2018, and 1299 of 2018 respectively, subsequent to the rejection of the first bail application of the present applicant, thus entitling the applicant to parity.

It is further submitted that out of 30 prosecution witnesses, only 5 witnesses have been examined so far. The trial is not likely to conclude in the near future.

It is lastly submitted that the applicant has explained his criminal history of one case in paragraph 26 of the bail application, and at the relevant time, he was a juvenile.

Learned A.G.A. as well as learned counsel for the complainant have opposed the bail application.

Perused the record so also the report of the learned trial court which is on record.

A perusal of the report submitted by the learned trial court indicates that the prosecution has cited a total of 27 witnesses. Out of these, 15 prosecution witnesses have already been examined. It is further evident that one witness, namely PW-15 Constable Dhoom Singh, had already been examined earlier as PW-5.

It is also reflected from the report that the cross-examination of two material prosecution witnesses, namely PW-1 Vinod Kumar and PW-2 Sandeep Kumar Yadav, could not be concluded. The reason for such delay is attributable to PW-1 himself, who has filed an application under Section 482 Cr.P.C., being Application No. 49 of 2024 before this Court, challenging the summoning order and seeking stay of further proceedings. Due to the pendency of the said application and repeated adjournments sought on that ground, the further cross-examination of the said witnesses has remained incomplete.

Thus, although 15 witnesses stand examined in part or full, the effective progress of the trial remains stalled. As per the report, after accounting for the duplication of PW-15 (earlier examined as PW-5), still about 12 prosecution witnesses remain to be examined. It is evident that the trial is not likely to conclude in the near future, particularly when even the cross-examination of key witnesses remains pending due to reasons beyond the control of the applicant.

In **Sanjay Chandra v. CBI (2012) 1 SCC 40**, the Hon'ble Supreme Court reiterated the settled principle that bail is the rule and jail is the exception. The Court observed that pre-trial detention carries a substantial punitive element and that denial of bail cannot be justified as a form of punishment or moral

disapproval. It was further held that refusal of bail amounts to a restriction on personal liberty under Article 21 of the Constitution of India. Relying upon earlier decisions, including *Gudikanti Narasimhulu v. Public Prosecutor and State of Rajasthan v. Balchand*, the Court emphasized that the primary object of bail is to secure the presence of the accused during trial and not to impose punishment prior to conviction.

In **Shaheen Welfare Association v. Union of India (1996 SCC (Cri) 792)**, the Hon'ble Supreme Court, while dealing with undertrial prisoners under TADA, held that where stringent bail provisions operate, it is imperative that trials are conducted expeditiously. The Court observed that where a trial cannot be concluded within a reasonable time, continued detention becomes unjustified and violative of Article 21. It was further held that where the right to speedy trial cannot be effectively ensured, release on bail becomes necessary to safeguard the fundamental rights of the accused. The Court accordingly laid down guidelines, inter alia, that an undertrial who has remained in custody for a substantial period, including a significant portion of the likely sentence, should ordinarily be considered for grant of bail.

Similarly, in **Javed Gulam Nabi Shaikh v. State of Maharashtra (Criminal Appeal No. 2787 of 2024)**, the Hon'ble Supreme Court granted bail to an accused who had remained in custody for over four years while the trial had not commenced. The Court reaffirmed that inordinate delay in trial constitutes a valid ground for grant of bail, recognizing the right to speedy trial as implicit under Article 21, as earlier enunciated in *Hussainara Khatoon v. State of Bihar*. The Supreme Court also relied upon **Mohd. Muslim @ Hussain v. State (NCT of Delhi), Special Leave Petition (Crl) No. 915 of 2023**, observing that stringent statutory provisions governing bail cannot justify indefinite incarceration and that delay in trial results in grave injustice. It was thus held that prolonged custody coupled with delay in trial, even under special statutes such as UAPA, would justify grant of bail on constitutional grounds.

In the same vein, the Allahabad High Court in **Sarvajeet Singh v. State of U.P., 2025 SCC OnLine All 374**, while considering a second bail application, applied the aforesaid principles. The Court noted that the applicant had been in custody since May 2017, i.e., for more than seven years, and that the trial had not progressed meaningfully. Taking into account the prolonged incarceration and stagnation of trial, the Court held that the applicant's right under Article 21 stood violated. Reliance was placed upon *Javed Gulam Nabi Shaikh* (supra), particularly noting that bail had been granted where the accused had remained in custody for several years, charges had not been framed, and numerous prosecution witnesses were yet to be examined.

Upon due consideration to the above legal proposition and the facts that the co-

accused persons, who were assigned similar roles, have already been granted bail; the applicant has remained in custody for more than six years; the trial has been delayed, inter alia, due to the application moved by PW-1; the material prosecution witnesses have already been examined; there appears to be no likelihood of tampering with the remaining evidence, coupled with the period of incarceration undergone by the applicant, this Court is of the considered opinion that a change in circumstances has arisen subsequent to the rejection of the earlier bail application. Accordingly, the applicant has made out a fit case for grant of bail.

Accordingly, the bail application is **allowed**.

Let the applicant **Sanjay Yadav** be released on bail in aforesaid first information report number subject to his furnishing a personal bond and two reliable sureties each in the like amount to the satisfaction of the court below concerned with the following conditions:

- (i) The applicant will not tamper with the evidence during the trial.
- (ii) The applicant will not pressurize/ intimidate the prosecution witness.
- (iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.
- (iv) 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. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.
- (v) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the IPC (now Section 269 BNS).
- (vi) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. (now Section 84 BNSS) is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the IPC (now Section 209 BNS).

March 31, 2026
Madhu J.R/P.S

(Karunesh Singh Pawar,J.)