



2026:AHC:57709

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 3357 of 2026

Tohid

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Geetam Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 70

HON'BLE SANTOSH RAI, J.

1. Supplementary affidavit filed today in court by learned counsel for the applicant is taken on record.
2. Heard learned counsel for the applicant as well as the learned AGA for the State and perused the material placed on record.
3. The instant bail application has been filed on behalf of the applicant, **Tohid** with a prayer to release him on bail in Case Crime No.192 of 2023, under Sections 2/3 of U.P. Gangster and Anti-Social Activities (Prevention) Act, Police Station- Kasganj, District- Kasganj, during pendency of trial.
4. Tersely, as per allegation contained in the FIR, the accused-applicant and the other co-accused persons, who are named in the FIR, are the members of a gang and they have committed serious offence against the society.
5. Learned counsel for the applicant submits that though he is named in the FIR but he has not committed any offence as alleged in the FIR and he has been falsely implicated in this case due to ulterior motive and prior rivalry to the police personnel. It is further submitted that according to the gang chart, the applicant is said to have been involved in two criminal cases in which he has already been enlarged on bail by the court concerned. Apart from the aforesaid two cases, the applicant has criminal

history of 21 cases including the present case, which have been explained in paras 4 and 5 of the bail application and para 5 of the supplementary affidavit. Furthermore, the applicant is not a gang leader or member of any gang. Furthermore, as per submission of learned AGA, chargesheet has already been filed in this case. He is languishing in jail since 22.03.2023 i.e. for more than three years and in case he is enlarged on bail he will not misuse the liberty of bail.

6. Per contra learned A.G.A. has opposed the bail prayer of the applicant by contending that the applicant is a member of gang and habitual of committing crime. In case the applicant is released on bail he will again indulge in similar anti-social activities and will misuse the bail by extending threat and intimidation to the prosecution witnesses.

7. Section 19(4) of U.P. Gangster and Anti-Social Activities (Prevention) Act, 1986 reads as follows:-

"(4) Notwithstanding anything contained in the Code, no person accused of an offence punishable under this Act or any rule made thereunder shall, if in custody, be released on bail or on his own bond unless--

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(b) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail."

8. In light of Section 19(4) of U.P. Gangster and Anti-Social Activities (Prevention) Act, 1986, I have considered the material evidence available on record, the nature of offence which has been mentioned in the gang-chart and the criminal background of the accused-applicant.

9. In ***Union of India v. K.A. Najeeb, (2021) 3 SCC 713***, it was held that in numerous judgments that the liberty guaranteed by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. In Supreme Court Legal Aid Committee Representing ***Undertrial Prisoners v. Union of India, (1994) 6 SCC 731*** it was held that undertrials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts unless the same is established before a neutral arbiter. However, owing to the practicalities of real life where to secure an effective trial and to ameliorate the risk to society in case a potential criminal is left at large pending trial, courts are tasked with

deciding whether an individual ought to be released pending trial or not. Once it is obvious that a timely trial would not be possible and the accused has suffered incarceration for a significant period of time, courts would ordinarily be obligated to enlarge them on bail.

10. Having considered the submissions that learned AGA admits the fact that criminal history has already been explained by the accused-applicant. As per submission of learned AGA, chargesheet has already been filed in this case on 30.09.2023 and, thus, there is no reasonable possibility of intimidating and pressurizing the prosecution witnesses. Accused-applicant is in jail for more than three years and considering larger mandate of the Article 21 of the Constitution of India and the dictum of Apex Court in the cases of ***Dataram Singh Vs. State of U.P. and another, reported in (2018) 3 SCC 22 & Satendra Kumar Antil Vs. C.B.I. & Another, passed in S.L.P.(Crl.) No. 5191 of 2021*** and without expressing any opinion on the merits of the case, let the applicant involved in the aforesaid 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 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.

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

12. 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
Ankit.