



2025:AHC:175635

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 16098 of 2025

Pankaj Kumar

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Sakshi Patel, Shiv Naresh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 67

HON'BLE KRISHAN PAHAL, J.

1. List has been revised. Supplementary affidavit filed by learned counsel for the applicant today is taken on record.
2. Heard Sri Shiv Naresh, learned counsel for the applicant and Sri Sunil Kumar, learned A.G.A. for the State and perused the record.
3. Applicant seeks bail in Case Crime No. 96 of 2025, under Section 21/22 of The Narcotic Drugs And Psychotropic Substances Act, 1985, Police Station- Hathras Kotwali, District Hathras, during the pendency of trial.
4. As per the allegations of the FIR, 620 gm of diazepam is said to have been recovered from the possession of the applicant on 12.03.2025.
5. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize him.
6. Learned counsel for the applicant has next stated that the allegations are per se false. There is no compliance of mandatory provision of Sections 52A of the N.D.P.S. Act and Section 105 of BNSS. There is no report of the chemical analyst to corroborate that the alleged contraband is diazepam or not.
7. The criminal history of two cases assigned to the applicant has been explained. The applicant is languishing in jail since 13.03.2025 and he has

been incarcerated for more than six months. The trial is not moving on. The Fundamental Rights of the applicant enshrined under Article 21 of the Constitution of India stands violated. In case, the applicant is released on bail, he will not misuse the liberty of bail.

8. Learned A.G.A. has vehemently opposed the bail application.

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

10. The Supreme Court in the Case of ***Union of India vs. Shiv Shankar Keshari, (2007) 7 SCC 798*** has held that the court while considering the application for bail with reference to Section 37 of the Act is not called upon to record a finding of not guilty. It is for the limited purpose essentially confined to the question of releasing the accused on bail that the court is called upon to see if there are reasonable grounds for believing that the accused is not guilty and records its satisfaction about the existence of such grounds. But the court has not to consider the matter as if it is pronouncing a judgment of acquittal and recording a finding of not guilty.

11. Considering the facts of the case and keeping in mind, the ratio of the Supreme Court's judgment in the case of ***Union of India vs. Shiv Shankar Keshari (supra)*** larger mandate of Article 21 of the constitution of India, the nature of accusations, the nature of evidence in support thereof, the severity of punishment which conviction will entail, the character of the accused-applicant, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interest of the public/ State and other circumstances, but without expressing any opinion on the merits, I am of the view that it is a fit case for grant of bail. The bail application is **allowed**.

12. Let the applicants - **Pankaj Kumar**, 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 the evidence during trial.
- ii) The applicant shall not pressurise/intimidate with the prosecution witnesses.
- iii) The applicant shall appear before the trial court on the date fixed.

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

14. 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.)

September 26, 2025

Sumit S