

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 26733 of 2025

Applicant :- Anil Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Dileep Kumar Singh

Counsel for Opposite Party :- G.A., Noor Muhammad, Yogesh Kumar Srivastava

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Yatish Kumar Dwivedi, learned counsel for the applicant, Sri Noor Muhammad, learned counsel for the informant, Sri Arun Kumar Mishra, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No.267 of 2025, under Sections 85, 80(2) B.N.S., 2023 and 3/4 D.P. Act, 1961, Police Station Shikohabad, District Firozabad, during the pendency of trial.
4. Learned counsel for the applicant has stated that the applicant is the brother-in-law (Jeth) of the deceased and has been falsely implicated in the present case. He has nothing to do with the said offence. There are general and omnibus allegations against all the accused persons including the applicant. The deceased had gone to the agricultural field to reap the crops and had inadvertently met with an accident with train and got injured and succumbed to the said injuries as such.
5. Learned counsel for the applicant has further stated that there is no evidence of applicant being seen near the place of occurrence by any witness whatsoever. There is no criminal history of the applicant. The applicant is languishing in jail since 10.05.2025 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.
6. Learned counsel for the informant and learned A.G.A. have vehemently opposed the bail application on the ground that there is injury indicative that the deceased had not committed suicide by

jumping in front of train, rather the injury indicate it to be a case of homicide.

7. The Supreme Court in the judgment of ***Kahkashan Kausar @ Sonam vs. The State of Bihar, (2022) 6 SCC 599*** has categorically opined that the Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out.

8. The well-known principle of "Presumption of Innocence Unless Proven Guilty," gives rise to the concept of bail as a rule and imprisonment as an exception. A person's right to life and liberty, guaranteed by Article 21 of the Indian Constitution, cannot be taken away simply because the person is accused of committing an offence until the guilt is established beyond a reasonable doubt. Article 21 of the Indian Constitution states that no one's life or personal liberty may be taken away unless the procedure established by law is followed, and the procedure must be just and reasonable. The said principle has been reiterated by the Supreme Court in ***Satender Kumar Antil Vs. Central Bureau of Investigation and another, 2022 (10) SCC 51***.

9. Learned A.G.A./State Law Officer could not bring forth any exceptional circumstances which would warrant denial of bail to the applicant.

10. It is a settled principle of law that the object of bail is to secure the attendance of the accused at the trial. No material particulars or circumstances suggestive of the applicant fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like have been shown by learned A.G.A./State Law Officer.

11. The said viewpoint was shared in ***Nagendra Nath Chakrabarthi Vs. King-Emperor, AIR 1924 Cal 476***, whereby the High Court held that bail's purpose is to secure the accused's attendance, not to punish. Courts must consider accusation nature, evidence, likely sentence, and accused's character.

12. In Meerut Conspiracy Case, reported in ***AIR 1931 All 356 – Emperor Vs. Hutchinson and AIR 1931 All 504 – K. N. Joglekar Vs. Emperor***, this Court held that High Court's bail power under S.498 CrPC is unfettered but must be exercised judicially. Bail is generally the rule; refusal is exception.

13. In ***Sanjay Chandra Vs. Central Bureau of Investigation***, AIR 2012 SC 830 it was reiterated that object of grant of bail to an accused of an offence is neither punitive nor preventive in nature. The true object behind grant of bail is to secure appearance of accused during trial. Refusal of bail and detention of under trial prisoner in jail to an indefinite period violative of Article 21 of the Constitution. The court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Seriousness of the offence is not to be treated as the only consideration in refusing bail.

14. Overcrowding in jails and inordinate delay in disposing of cases often result in undertrial prisoners, who are presumed innocent and incarcerated through no fault of their own, being deprived of their fundamental rights. The failure to ensure a speedy trial despite overcrowding and systemic inefficiencies violates the right to personal liberty under Article 21. Overcrowding further compounds the problem, as jails house far more inmates than their capacity, with the majority being undertrials which leads to the loss of identity and dignity of prisoners. The state and judiciary are constitutionally mandated to ensure that undertrial prisoners are not wrongfully confined for extended periods and that trials are conducted expeditiously to uphold justice and human dignity. These factors make it entirely justifiable to invoke Article 21 protections in such cases. (***See: Inhuman Conditions in 1382 Prisons, In re, (2017) 10 SCC 658; State Of Rajasthan Vs. Balchand AIR 1977 SC 2447; and Ashim vs. National Investigation Agency (2022) 1 SCC 695.***)

15. Reiterating the aforesaid view, the Supreme Court in the case of ***Manish Sisodia Vs. Directorate of Enforcement, 2024 INSC 595***, has again emphasized that the very well-settled principle of law that bail is not to be withheld as a punishment is not to be forgotten. It is high time that the Courts should recognize the principle that "*bail is a rule and jail is an exception*".

16. The Supreme Court in ***Jalaluddin Khan Vs. Union of India, (2024) 10 SCC 574***, held that 'bail is the rule, jail is the exception' even in special statutes like the Unlawful Activities (Prevention) Act, 1967. If the conditions in the special statute for the grant of bail are met, then bail should be granted.

17. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, taking into consideration the fact that the applicant is the brother-in-law (Jeth) of the deceased person and there is no

evidence whatsoever of applicant being seen at the place of occurrence, and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is **allowed**.

18. Let the applicant- **Anil 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 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.

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

20. 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.

Order Date :- 13.8.2025
(Ravi Kant)

(Justice Krishan Pahal)