



2025:AHC:178513

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 28466 of 2025

Prakash Sen

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Nanhe Lal Tripathi
Counsel for Opposite Party(s)	:	Ajay, Dinesh Kumar Singh, G.A.

Court No. - 67

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Heard Sri Nanhe Lal Tripathi, learned counsel for the applicant and Sri Dinesh Kumar Singh, learned counsel for the informant as well as Sri Ram Mohit Yadav, learned A.G.A. for the State and also perused the material placed on record.
3. Applicant seeks bail in **Case Crime No. 636 of 2024, under Sections 103(1), 126(2), 3(5) of BNS, Police Station - Kotwali Lalitpur, District - Lalitpur**, during the pendency of trial.
4. As per prosecution story, the applicant along with two unknown persons is stated to have stabbed and committed murder of informant's brother on 23.07.2024 at about 04:00 PM.
5. Learned counsel for the applicant has argued that the applicant is innocent and has been falsely implicated in the present case. He has nothing to do with the said offence as alleged in the FIR. The FIR is delayed by about four hours and there is no explanation of the said delay caused.
6. Learned counsel has also stated that it is true that the deceased has expired instantaneously but there is a material contradictions in the FIR to the postmortem report. The FIR indicates that the deceased person was stabbed by a knife but subsequently, the version has been changed to some pointed material after taking into consideration the postmortem report.
7. Learned counsel has further stated that as per the postmortem report, there

is only one injury sustained by the deceased person which punctured his heart and fatal for him. It is also stated that subsequently, the applicant's wife has also been roped in the case.

8. Learned counsel has next contended that the applicant is languishing in jail since 23.07.2024, having no criminal history to his credit. In case, the applicant is released on bail, he will not misuse the liberty of bail and shall cooperate with trial.

9. Per contra, learned AGA and learned counsel for the informant have vehemently opposed the bail application on the ground that it was the applicant who had committed the said offence but could not dispute the fact that the informant was not an eye-witness as he only lodged the FIR on the basis of what was told by the other witnesses. Learned AGA also could not dispute the fact that the applicant has no criminal history.

10. 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**. Learned AGA could not bring forth any exceptional circumstances which would warrant denial of bail to the applicant.

11. 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 AGA.

12. The said viewpoint was shared in **Nagendra Nath Chakrabarthi v. King-Emperor AIR 1924 Cal 476; Emperor v. Hutchinson AIR 1931 All 356; K. N. Joglekar v. Emperor AIR 1931 All 504; Sanjay Chandra v. Central Bureau of Investigation AIR 2012 SC 830; 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).

13. 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*".

14. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, delay in lodging the FIR and also considering the said consistencies in the FIR as pointed out by the learned counsel for the applicant to the ocular evidence, *prima facie* I find it a fit case to release the applicant on bail. The bail application is **allowed**.

15. Let the applicant- **Prakash Sen**, 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 will not tamper with the evidence during trial.
- ii) The applicant will not pressurise/intimidate with the prosecution witnesses.
- iii) The applicant will appear before the trial court on the date fixed.

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

17. 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.

October 8, 2025
Siddhant

(Krishan Pahal,J.)