



2025:AHC:174824

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 31256 of 2025

Vinod Kumar And Another

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Ajay Kumar Pandey, Jainendra Kumar
Pandey, Yagya Datt Pandey
Counsel for Opposite Party(s) : G.A.

Court No. - 64

HON'BLE SAMIT GOPAL, J.

1. List revised.

2. Heard Sri Ajay Kumar Pandey, learned counsel for the applicants, Sri Bade Lal Bind, learned counsel for the State and perused the material on record.

3. This bail application under Section 483 of B.N.S.S. has been filed by the applicants Vinod Kumar and Lucky, seeking enlargement on bail during trial in connection with Case Crime No. 0462 of 2025, under Sections 191(2), 352, 115(2), 105, 117(2) BNS, registered at Police Station Kotwali Lalitpur, District Lalitpur.

4. The FIR of the matter was lodged on 26.04.2025 by Mathura Prasad against the applicants, Kuttu, Hari Shankar and Mithla alleging therein that on 24.04.2025 at about 07:00 pm his son Karan Verma who works in blood bank returned home from his duty after which the accused persons started abusing him and assaulted with lathi and danda due to which he received internal injuries. The accused persons have taken away his daughter-in-law Bharti wife of Raja. She was searched but could not be traced. Report be lodged and action be taken.

5. Learned counsel for the applicants submitted that the applicants have been falsely implicated in the present case. It is submitted that general and omnibus allegations have been levelled in the FIR against five persons of assault of Karan Verma. It is submitted that in the present case Karan Verma and Devraj are the injured persons whereas Ashok received injuries who subsequently died. It is submitted that in so far as Karan Verma is concerned, he was found to have received two lacerated wounds and two swellings and the injuries were opined to be simple in nature. Further, Devraj was found to have received an abrasion with swelling which was opined to be simple in nature. It is submitted that Ashok was

found to have received a swelling on the back scalp which was also opined to be simple in nature but was advised x-ray. It is submitted that subsequently Ashok died and his postmortem examination was conducted on 26.04.2025 wherein the doctor found a hematoma in left occipital region and found one stitched wound, one contusion and three stitches and the cause of death was opined as shock due to antemortem head injury. While placing the statement of the alleged injured Karan Verma it is submitted that he has stated of Lucky and Kuttu assaulting him with lathi and danda and all the accused persons were hurling abuses and assaulting Ashok Barar. It is submitted that the other alleged injured Devraj has assigned common and general role to all the accused persons. It is submitted that the FIR does not speak of Ashok and Devraj receiving any injuries and is silent with regard to the same. It is further submitted that in so far as the disappearance of Smt. Bharti the wife of Raja is concerned, during investigation it was informed that she had gone to her maternal house and thus the said allegations is false. It is submitted that the present prosecution case is thus not consistent and there are serious variations in it. It is further submitted that the applicants have no motive to commit the aforesaid offence. While placing para 27 of the affidavit it is submitted that there is no recovery of any incriminating material either from the possession or pointing out of the applicant No.1/Vinod Kumar. It is further submitted that the investigation has further shown the recovery of one danda from the pointing out of the applicant no.2/Lucky but the same is a planted recovery and a false recovery and danda is an article easily available. It is further submitted that the applicants have no criminal history as stated in para 26 of the affidavit and are in jail since 29.04.2025.

6. Per contra, learned counsel for the State opposed the prayer for bail vehemently. At the very outset it is submitted that the fact that the applicants have no criminal history as stated in para 26 is false and incorrect inasmuch as the applicant no.1/Vinod Kumar is reported to be having a criminal history of two cases apart from the present case being a case under the Gambling Act and Excise Act. He states that in so far as the applicant no.2/Lucky is concerned, it is reported that he has no criminal antecedent. It is submitted that as such the affidavit is false. Further it is submitted that in the present case one person has died and two have received injuries and the presence of the applicants at the place of occurrence and their participation are stated by the said two injured witnesses. It is submitted that as such bail be rejected.

7. After having heard learned counsels for the parties and perusing the records, it is evident that the version of the FIR states of assault by five persons on Karan Verma who is stated to have received injuries and is injured but the facts which further transpired during investigation are that Ashok and Devraj were also injured in the present matter amongst whom Ashok later on died. Thus the version does not state of the fact regarding Ashok Kumar and Devraj receiving injuries in the matter moreso general

and omnibus allegations have been levelled against all the five accused persons. The injuries received by the injured Karan Verma and Devraj have been opined to be simple in nature. The deceased Ashok was found to have received single injury on his scalp and the author of the said fatal injury is not known. The fact that the applicants have no criminal history is false to the extent of the applicant No.1/Vinod Kumar is concerned, the deponent appears to be negligent in disclosing the criminal history and concealing the same. She is warned of the said act and is cautioned to remain cautious in future.

8. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicants may be enlarged on bail.

9. Let the applicants **Vinod Kumar** and **Lucky**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The applicants will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicants will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicants shall file an undertaking to the effect that they shall not seek any adjournment on the date 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.

(iv) The applicants will not misuse the liberty of bail in any manner whatsoever. In case, the applicants misuse the liberty of bail during trial and in order to secure their presence proclamation under section 84 BNSS, 2023 may be issued and if applicants fail to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against them, in accordance with law, under section 209 BNS, 2023.

(v) The applicants shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 351 BNSS, 2023. If in the opinion of the trial court absence of the applicants are deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against them in accordance

with law and the trial court may proceed against them under Section 269 BNS, 2023.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicants.

10. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicants to prison.

11. The bail application is **allowed**.

12. Pending application(s), if any, shall stand disposed of.

(Samit Gopal,J.)

September 26, 2025
M. ARIF