



2026:AHC:196467

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 14397 of 2025

Udit Sharma

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Neeja Srivastava, Saurabh Chaturvedi
Counsel for Opposite Party(s) : Abhishek Kumar Saroj, G.A., Nagendra
Bahadur Singh, Raj Ashwani

Court No. - 66

HON'BLE ARUN KUMAR SINGH DESHWAL, J.

1. Heard Sri V.P. Srivastava, learned Senior Advocate assisted by Ms Pallavi Upadhyay, learned counsel for the applicant, Sri Nagendra Bahadur Singh, learned counsel for the first informant and Sri Bhupendra Pal Singh, learned A.G.A. for the State and perused the record.

2. The instant bail application has been filed with a prayer to release the applicant on bail in Case Crime No.334 of 2022, under sections 302, 120-B, 34, 420, 467, 468, 471 of I.P.C., Police Station Badlapur, District Jaunpur, during the pendency of the trial.

3. Contention of learned counsel for the applicant is that as per the prosecution story, FIR was lodged by the real brother of the deceased, Sarvesh with the allegation that three persons have attacked upon his brother and two persons have also done *recce* prior to the incident on 12.12.2022. Subsequently, in his statement, first informant Sarvesh had stated that he had received the information from one Sunil Yadav about the incident in question and out of the six named persons, he has made allegation only against one person and also introduced the name of one Vishal Sharma and present applicant and two other persons, namely Golu Shukla and Kaju Dubey. It is further submitted that as per the postmortem report, eight firearm injuries were found on the body of the deceased and police also recovered pistol from the co-accused, Bunty and one

country-made pistol of 0.315 bore from the present applicant. During investigation, the statement of the persons who have allegedly seen the incident, namely, Sunil Yadav was not recorded while the statement of one Sanjay Kumar was recorded on 19.12.2022 and statement of another eyewitness, Shashi Shukla recorded on 18.01.2023 as well as one Ramesh, who was running the tea stall on 29.12.2022. However, during trial, the eyewitnesses, Sanjay Kumar and Ramesh did not support the prosecution story. The eyewitness Sanjay Kumar was declared hostile but the eyewitness Ramesh was not declared hostile despite not supporting the prosecution story. During the trial, the first informant claimed himself as an eyewitness of the incident and was examined as PW-1 and Shashi Shukla who was examined as PW-4 also supported the prosecution story.

4. Learned counsel for the applicant has submitted that from the FIR as well as statement of the first informant (PW-1), it is clear that he was not the eyewitness and even PW-4 admitted this fact that he had not seen PW-1 (first informant) at the time of the incident. Similarly, PW-1 (first informant) admitted this fact that he had not seen PW-4 at the time of incident. Therefore, neither PW-1 nor PW-4 were the eyewitnesses, they were procured by the prosecution. It is further submitted that even the statement of PW-4, Shashi Shukla was recorded on 18.01.2023 which is after more than one month without any explanation which itself casts doubt over the prosecution story regarding the presence of the PW-4 at the place of incident.

5. Therefore, as on date, there is no material against the applicant. It is further submitted that applicant has explained the criminal history of seven cases. It is further submitted that the bail application of the co-accused Vikas Sharma in Criminal Misc. Bail Application No.19405 of 2023 was rejected by the coordinate Bench of this Court on 24.04.2024. On that date, the prosecution witnesses were not examined before the trial court, therefore the statement of PW-2 and PW-3 were not in existence, who did not support the prosecution story. Therefore, rejection of bail application of Vikas Sharma will not affect the present bail application of the applicant, in view of the

subsequent statement of witnesses before the trial court, therefore, applicant is entitled to be released on bail. The applicant is languishing in jail since 16.12.2022. In case, he is granted bail, he will not misuse the liberty of bail and would cooperate in the trial proceedings.

6. Per contra, learned counsel for the first informant and learned A.G.A. have vehemently opposed the prayer for bail and submitted that though PW-2 and PW-3 became hostile but PW-4, Shashi Shukla supported the prosecution story, similarly, PW-1 also supported the prosecution story but could not justify the fact that why PW-1 did not claim to be eyewitness during investigation and neither the PW-4 accepted the presence of PW-1 nor PW-1 accepted the presence of PW-4 at the time of incident. It is lastly submitted by learned counsel for the first informant that the bail application of the co-accused of Vikas Sharma bearing bail no.19405 of 2023 was rejected by the coordinate Bench of this Court on 24.04.2024, who has having similar role as that of the applicant. Therefore, bail application of the present applicant is also liable to be rejected.

7. Considering the aforesaid submission and taking into account that it is not in dispute that the alleged eyewitness PW-2 and PW-3 did not support the prosecution story during the trial and presence of PW-1 is doubtful and recording the statement of PW-4 after more than one month itself creates doubt as well as considering the fact that while rejecting the bail application of the co-accused Vikas Sharma, the statements of PW-1, PW-2, PW-3 and PW-4 were not on record and keeping in view the nature of offence, evidence, complicity of the accused and taking into account overcrowded jails and heavy pendency of criminal cases before the trial courts as well as considering the mandate of the judgement of the Apex Court in the case of **Kapil Wadhawan vs Central Bureau of Investigation** reported in **2025 SCC OnLine SC 3038** as well as guideline of this Court in the case of **Maya Tiwari Vs. State of U.P.** reported in **2024 SCC Online All 6765** regarding grant of bail and without expressing any opinion on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail. Accordingly, the present

application is **allowed**.

8. Let the applicant- **Udit Sharma**, involved in the aforementioned 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:-

i. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

ii. The applicant shall cooperate in the trial/investigation sincerely without seeking any adjournment.

iii. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

iv. The applicant shall attend in accordance with the conditions of the bond executed by him.

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

10. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

11. Verification of mobile number and Aadhaar card of the applicant as well as sureties should be verified by the court concerned.

12. It is made clear that the applicant shall be released on the basis of computer generated copy of this order, downloaded from the official website of High Court Allahabad and verified by the concerned counsel with the undertaking that the certified copy will be filed within 15 days.

13. It is further directed that the trial court shall send the release order to the concerned jail through Bail Order Management System (BOMS) to ensure early release of the applicant.

14. Office is directed to send a copy of this order to the applicant through **concerned Jail Superintendent** via e-mail or on e-prison portal and Trial Court via e-mode within 24 hours in compliance of the order of the Apex Court in the case of **Policy Strategy for Grant of Bail, In Re: Suo Motu Writ Petition (Crl.) No.4 of 2021** decided on **31.01.2023** reported in **(2024) 10 SCC 685** as well as **Pila Pahan @ Peela Pahan and others Vs. State of Jharkhand and another**, in **Writ Petition (Criminal) No. 169 of 2025**, decided on **29.05.2026**.

(Arun Kumar Singh Deshwal,J.)

September 18, 2026
S.C.