



2026:AHC:56183

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 31102 of 2025

Sarvesh Kumar @ Sanjay @ Babai

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Anurag Mishra

Counsel for Opposite Party(s) : G.A., Narsingh Pandey, Rama Shankar Upadhyay

Court No. - 66

(Sl. No. 76 out of 150)

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Heard Sri Anurag Mishra, learned counsel for the applicant and Sri Rama Shankar Upadhyay, learned counsel for the informant as well as Sri V.K.S. Parmar, learned A.G.A. for the State and perused the record.
3. This bail application has been filed on behalf of the applicant seeking bail in **Case Crime No. 255 of 2024, under Sections 103(1), 351(3), 61(2)(a) of BNS and Sections 3/25/27 of Arms Act, Police Station-Soraon, District - Prayagraj**, during the pendency of trial.
4. As per prosecution story, the applicant and other co-accused persons are stated to have surrounded the informant's son (now deceased) whereby the applicant is stated to have caused gunshot injuries to him, leading to his instantaneous death on 07.07.2024 at about 07:00 AM.
5. Learned counsel for the applicant has submitted 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 seven hours and there is no explanation of the said delay caused.
6. Learned counsel has further submitted that the other four co-accused persons have already been exonerated by the police during investigation.

It is contended that the alleged eye-witnesses, namely Ram Khelawan, Pritika, Mahendra Kumar, the informant, and one Shiv Mangal, who were named in the FIR, have not supported the prosecution case against the said co-accused persons, and thus, the entire prosecution story stands falsified.

7. Learned counsel has next submitted that as per the FIR itself, no person had actually witnessed the occurrence, as all the witnesses reached the place of incident only after hearing the sound of gunshot. It is next contended that only a single gunshot was fired and the deceased sustained the same on his head (cranium). It is, therefore, argued that the applicant is entitled to be enlarged on bail, particularly in view of the fact that there is no independent witness to the alleged incident.

8. Learned counsel has further contended that the applicant is languishing in jail since 08.07.2024, 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 A.G.A. as well as learned counsel for the informant have vehemently opposed the bail application on the ground that it is an open-and-shut case. It is contended that the applicant is the sole assailant who caused the gunshot injury to the deceased, as mentioned in the FIR as well as in the statements of the eye-witnesses recorded during the course of investigation. Therefore, it is submitted that the applicant is not entitled to be released on bail.

10. Considering the facts and circumstances of the case, the submissions advanced by learned counsel for the parties, and taking into account the fact as mentioned in the FIR that the applicant is the sole assailant who caused the firearm injury, and that a single gunshot was fired resulting in one gunshot injury to the deceased, this Court does not find it to be a fit case for grant of bail.

11. The bail application is, accordingly, **rejected**.

12. However, it is directed that the aforesaid case pending before the trial court be decided expeditiously, in view of the principle laid down in the

recent judgements of the Supreme Court in the cases of **Vinod Kumar vs. State of Punjab 2015 (3) SCC 220** and **Hussain and Another vs. Union of India (2017) 5 SCC 702**, if there is no legal impediment.

13. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

(Krishan Pahal,J.)

March 18, 2026
Siddhant