



2026:AHC:209292

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 34705 of 2026

Kuldeep

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Ankit Srivastava
Counsel for Opposite Party(s)	:	G.A.

Court No. - 68

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Heard Sri Ankit Srivastava, learned counsel for applicant, Sri V.K.S. Parmar, learned A.G.A. for the State and perused the material placed on record.
3. The present bail application has been filed by the applicant in Session Trial No. 779 of 2024, arising out of Case Crime No. 612 of 2024, under Sections 109(1), 103(1), 3(5) BNS and 3/25/27 Arms Act, Police Station Nandgram, District Ghaziabad, with the prayer to enlarge him on bail.
4. This is the second bail application filed on behalf of the applicant. The first one was allowed by this Court passed in Criminal Misc. Bail Application No. 16265 of 2025 vide order dated 17.10.2025 on the ground that the applicant was not named in the FIR but his name has come up subsequently in the statement of the informant recorded u/s 180 BNSS. The order dated 17.10.2025 is being reproduced hereinbelow:-

"1. List has been revised.

2. Heard Sri Ankit Srivastava, learned counsel for the applicant and Sri Onkar Nath, learned counsel for the informant as well as Sri R.P. Patel, learned State Law Officer and also perused the material placed on record.

3. Applicant seeks bail in Case Crime No. 612 of 2024, under Sections

109(1), 103(1), 3(5) of BNS and Sections 3/25/27 of Arms Act, Police Station - Nandgram, District - Ghaziabad, during the pendency of trial.

PROSECUTION STORY:

4. The FIR was instituted on 12.07.2024 at 03:12 AM by the informant stating that his brother-in-law, Anuj Chaudhary along with one unknown person had caused gun-shot injury to two brothers, namely, Naveen Chaudhary and Vikas Chaudhary on 11.07.2024 at about 10:15 PM.

5. Both of them were rushed to the hospital whereby Vikas Chaudhary was declared as brought dead and the injured Naveen was admitted and his treatment was going on.

6. Subsequently, the injured Naveen also succumbed to the injuries sustained.

ARGUMENTS ON BEHALF OF APPLICANT:

7. It is true that it is a case of double murder and the case falls within the category of serious in nature but the applicant has nothing to do with the said offence.

8. The applicant is not named in the FIR. His name has come up for the first time in the statement of the informant recorded u/s 180 BNSS by the Investigating Officer as an afterthought on the date of lodging of FIR.

9. The statement of the informant categorically indicates that two eye-witnesses, namely, Suraj and Dheeraj were present at the hospital and he instituted the FIR after admitting his brother at hospital.

10. The said eye-witnesses have subsequently nominated the applicant present at the time of offence and to have caused gun-shot injury to Chaudhary. It is argued that the said statement has been recorded afterthought.

11. It is a clear cut case of false implication as the said two eye-w were present at the hospital itself and the FIR was instituted four hours after admitting the injured at hospital. Had the applicant been one assailants, his name would have come up at the time of institution itself.

12. The medical reports of the deceased and the injured person indicate the date and time of arrival at hospital is 11.07.2024 around 11:00 was also observed by the doctor in the said reports that he was info the informant that two unknown persons had committed the said Even at the time of admission of the deceased person and the injure at hospital, none of the accused persons were nominated. The names have been added out of vengeance.

13. Criminal history of seven cases assigned to the applicant explained as in six of those cases, he is on bail and the seventh case the U.P. Gangsters Act in which he has yet to apply for bail.

14. It is also argued that the accused persons have been increased to four in number, which also speaks volume of false implication. Even otherwise, one of the accused persons is the father of the name person, Anuj Chaudhary, as such, his name should have at least the time of institution of FIR.

15. The applicant is innocent and has been falsely implicated in case. He has nothing to do with the said offence as alleged in the languishing in jail since 12.07.2024. In case, the applicant is bail, he will not misuse the liberty of bail and shall cooperate with trial.

ARGUMENTS ON BEHALF OF INFORMANT/STATE:

16. The bail application has been vehemently opposed on the ground that the statement of the informant was recorded promptly on the date of institution of FIR itself and he has nominated the applicant, as such, the applicant is not entitled for bail.

CONCLUSION:

17. The well-known principle of "Presumption of Innocence U 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 An 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 reason principle has been reiterated by the Supreme Court in ***Satender Kumar Antil vs. Central Bureau of Investigation and another, 2022 (10) SCC 51***. Learned State Law Officer could not bring forth any exceptional circumstances which would warrant denial of bail to the applicant.

18. 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 State Law Officer.

19. 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*).

20. 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*".

21. 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 fact that the applicant is not named in the FIR and his name has come up subsequently in the statement of the informant recorded u/s 180 BNSS, prima facie I find it a fit case to release the applicant on bail. The bail application is allowed.

22. Let the applicant- **Kuldeep**, 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.

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

24. 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."

5. The informant challenged the said order by filing S.L.P. (Crl.) No. 20363 of 2025. The Supreme Court set aside the order vide its order dated 25.2.2026 and the following order was passed:-

"Leave granted.

The complainant in Case Crime/First Information Report (FIR) No. 612/2024 dated 12.07.2024 registered with Police Station - Nandgram, District - Ghaziabad, Uttar Pradesh, for the offences punishable under Sections 109(1), 103(1), 3(5) and 193(1) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3, 25 and 27 of the Arms Act, 1959, is before this Court, aggrieved by the grant of bail to one of the accused therein, viz., Kuldeep, respondent No. 2 herein, by the High Court of Judicature at Allahabad, vide

order dated 17.10.2025 passed in Criminal Misc. Bail Application No. 16265/2025.

While issuing notice on 09.12.2025, this Court took note of the fact that respondent No. 2, Kuldeep, had not been released from prison pursuant to the impugned order and directed that the same should not be given effect to till the next hearing.

Pleadings having been completed, we have heard the learned counsel for the appellant, the State of Uttar learned counsel for the Pradesh and the learned senior counsel for respondent No. Kuldeep.

The impugned order does not reflect adequate consideration of all the relevant aspects of the case. The learned Judge merely made certain observations in paragraph 21 and the said observations form the foundation for the grant of relief to the accused-respondent No. 2, Kuldeep. Para 21 reads thus:

"21.Considering circumstances submissions the facts and of made the case, by learned counsel for the parties, delay in lodging the FIR considering and also that the the fact applicant is not named in the FIR and his name has subsequently in the statement of come up the informant recorded u/s 180 BNSS, prima facie I find it a fit case to release the applicant on bail. The bail application is allowed."

We find from the material placed on record that there were three eye-witnesses, including the appellant, Kapil Kumar. All three of them specifically spoke of the role played by respondent No. 2, Kuldeep, in the commission of the offence, whereby the appellant's cousin, Vikas Chaudhary, was shot dead. We may also note that respondent No. 2, Kuldeep, has seven past criminal antecedents, including one under Section 307 of the Indian Penal Code, 1860.

Given the aforesaid circumstances, we are of the opinion that respondent No. 2, Kuldeep, was not entitled to grant of bail at this stage, when the trial is still in process and crucial witnesses are yet to be examined.

The appeal is, accordingly, allowed, setting aside the impugned order dated 17.10.2025 passed by the High Court of Judicature at Allahabad in Criminal Misc. Bail Application No. 16265/2025.

The trial Court shall, however, expedite the trial and the prosecution shall ensure that examination of the eye-witnesses is undertaken on priority basis.

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

6. The relevant paragraph of the said order reads that there are three eye-witnesses to the incident and all of them have nominated the applicant.
7. Taking into consideration the said order passed by the Supreme Court, I do not find it a fit case for grant of bail to the applicant. The bail application is found devoid of merits and is, accordingly, ***rejected***.
8. However, it is directed that the aforesaid case pending before the trial court be decided expeditiously as early as possible, if there is no legal impediment.
9. 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.
10. The Registrar Compliance is directed to transmit a copy of this order to the trial court concerned for necessary compliance.

(Krishan Pahal,J.)

October 7, 2026
Shalini