



2026:AHC:209342

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 34601 of 2026

Abhishek Nishad

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Akash Kumar Nishad, Ashutosh Kumar Shukla

Counsel for Opposite Party(s) : Alok Kumar Rai, G.A.

Court No. - 68

HON'BLE KRISHAN PAHAL, J.

1. List has been revised. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
2. Heard Sri Ashutosh Kumar Shukla, learned counsel for the applicant, Sri Alok Kumar Rai, learned counsel for the informant as well as Sri R.M. Yadav, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No. 89 of 2026, under Sections 109, 191(2), 191(3), 115(2), 352, 351(3) BNS, Police Station Barhalganj, District Gorakhpur, during the pendency of trial.
4. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case. The statement of the injured person indicates that all the accused persons had assaulted him with an iron rod, while the applicant had assaulted him with the but of the country made pistol. There are two injuries sustained by the injured person on the occipital region, while the accused persons are five in number. Thus, the prosecution story stands falsified and the allegations against the applicant are also false.
5. Learned counsel for the applicant has further argued that the criminal history of the applicant stands explained as in all cases he has been enlarged on bail, except one case in which the bail application is pending. The

applicant is languishing in jail since 25.2.2026 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

6. Learned A.G.A. and learned counsel for the informant have vehemently opposed the bail application but the submissions raised by the learned counsel for the applicant could not be disputed.

7. This Court is of the view that if a case for bail is otherwise made out, an accused cannot be kept incarcerated solely on account of his criminal antecedents. In the instant case, the criminal history assigned to the applicant has been properly explained.

8. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, taking into consideration the fact that there is the discrepancy in the FIR version and the allegations made by the injured person in the FIR and without expressing any opinion on the merits of the case, *prima-facie* the Court is of the view that the applicant has made out a case for bail. The bail application is **allowed**.

9. Let the applicant- **Abhishek Nishad**, 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 verification of sureties, with the condition that he shall not tamper with evidence or intimidate witnesses and shall appear before the trial court as required.

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

11. 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.

(Krishan Pahal,J.)

October 7, 2026

Shalini