2026:AHC:207844

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 18888 of 2026

Akash Kumar

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s) : Sharad Saran Srivastava
Counsel for Opposite Party(s) : G.A., Ran Vijay Singh, Shravan Kumari

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Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Heard Sri S.S. Srivastava, learned counsel for the applicant, Sri Kazim Ansari, advocate holding brief of Sri Ran Vijay Singh, learned counsel for the informant and Sri Rajiv Dhar Dwivedi, learned brief holder for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No.36 of 2026, under Section 103(1) BNS, Police Station Saini, District Kaushambi, during pendency of the trial.

3. Learned counsel for the applicant submits, it is a case of circumstantial evidence and applicant was not named in the FIR but very casually when second statement of the informant was recorded then he disclosed the name of applicant by stating that his *bhabhi* informed him that in the night on a motorcycle she witnessed a boy who looked like applicant and similar statement was given by *bhabhi* of the informant.

4. He next submits, apart from the above evidence, as per prosecution, when applicant was arrested then on his pointing out one axe allegedly used in the crime and mobile phone of the deceased were recovered but entire recovery is false and planted one.

5. He further submits, in absence of any other corroborative evidence merely on the basis of above evidences prima facie it cannot be said that applicant involved in commission of the present crime specially considering the fact that alleged recovered axe till date could not be connected with the instant crime.

6. He further argued, however apart from the present case applicant is having criminal history of two other cases but both the cases were lodged by mother of the informant as sister of the informant had gone alongwith applicant. He next submits, as terms of the applicant was not cordial with the informant side therefore it reflects, during investigation very casually they disclosed the name of applicant.

7. He next submits, in the present matter applicant is in jail since 05.02.2026 i.e. for last more than eight months.

8. Per contra, learned AGA as well as learned counsel for the informant however opposed the prayer for bail but could not dispute the arguments on facts advanced by the learned counsel for the applicant.

9. I have heard learned counsel for the parties and perused the record of the case.

10. It is a case of circumstantial evidence and during investigation very casually informant and his *bhabhi* disclosed the name of applicant.

11. Further, however it reflects, apart from above evidence as per prosecution when applicant was arrested then on his pointing out one axe allegedly used in the alleged crime and mobile phone of the deceased were recovered but in view of this Court in absence of any other corroborative evidence merely on the basis of above evidence prima facie it cannot be said that applicant involved in commission of the present crime specially considering the fact that the alleged recovered axe till

date could not be connected with the instant crime.

12. Further, even it reflects, the alleged axe was recovered from a pond and mobile phone of the deceased was recovered from an open place which was accessible to all.

13. Further, however apart from the present case applicant is having criminal history of two other cases but both the cases were lodged by informant side with regard to the sister of the informant who had gone alongwith applicant. Considering the criminal antecedents of the applicant it also reflects, informant side was having enmity with the applicant and therefore the argument advanced by learned counsel for the applicant that only due to enmity during investigation very casually informant and his *bhabhi* disclosed the name of applicant cannot be ruled out.

14. Further, in the present matter applicant is in jail for last more than eight months.

15. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

16. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is allowed.

17. Let the applicant - **Akash Kumar** be released on bail in the aforesaid case on 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 appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make 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 any police officer or tamper with the

evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

18. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

19. 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.

October 5, 2026
Shahroz

(Sameer Jain,J.)

Digitally signed by :-
SHAHROJ ALAM
High Court of Judicature at Allahabad