2026:AHC:209456

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 21184 of 2026

Dablu Gaud

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Amrita Kashyap, Rohit Shukla
Counsel for Opposite Party(s)	:	Anand Yadav, G.A., Mukesh Singh

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Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Heard Sri Rohit Shukla, learned counsel for the applicant, Sri Anand Yadav, learned counsel for the informant and Sri Rajiv Dhar Dwivedi, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No.128 of 2026, under Sections 103(1), 238, 140 BNS, Police Station Kotwali Hata, District Kushinagar, during pendency of the trial.

3. Learned counsel for the applicant submits, FIR of the present case was lodged against unknown persons under Section 137 (2) of the BNS with regard to the 12 years old nephew of the informant but after recovery of the dead body of the nephew of the informant, case was converted under Section 103 (1) of the BNS.

4. He next submits, during investigation applicant has been made accused in the present matter on the basis of information furnished by the police informer.

5. He next submits, however during investigation IO also recovered a CCTV footage and from its perusal, it reflects that applicant was going along with the deceased and as per prosecution when applicant was arrested, then on his pointing out dead body of the deceased was recovered but entire allegations levelled against the applicant are totally false.

6. He next submits, even in the absence of any other corroborative evidence merely on the basis of above evidence prima facie it cannot be said that applicant committed the murder of the deceased.

7. He next submits, the alleged recovery of the dead body of the deceased was made on the pointing out of the applicant on 29.3.2026 at 21:00 hours but from the inquest which was conducted on 29.3.2026 at 22:41 hours, it reflects that the same was conducted on the information given by the informant and this fact suggests that the case of the prosecution that dead body of the deceased was recovered on the pointing out of the applicant prima facie appears to be false.

8. He further submits, applicant is not having any previous criminal history and in the present matter he is in jail since 29.3.2026, i.e. for last more than six months.

9. Per contra learned AGA as well as learned counsel for the informant opposed the prayer for bail and submit, however it is a case of circumstantial evidence but there are two circumstances which were clinching.

10. They next submit, first circumstance is that from the CCTV footage it reflects that deceased was going along with the applicant and applicant did not explain this circumstance and second circumstance is that, on pointing out of the applicant dead body of the deceased was recovered and therefore, prima facie it cannot be said that applicant is innocent.

11. They next submit, therefore considering the facts of the case, instant bail application may be dismissed.

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

13. However, it is a case of circumstantial evidence and during investigation name of the applicant has been surfaced in the present matter but following two circumstances are clinching; (A) from the CCTV footage it reflects that applicant was going along with the deceased and, (B) on the pointing out of the applicant the dead body of the

deceased was recovered.

14. As far as the first circumstance is concerned, as applicant neither denied this circumstance nor he explained this circumstance, therefore considering the above CCTV footage prima facie it cannot be said that applicant is innocent.

15. Further, as far as second circumstance is concerned, however as per applicant dead body of the deceased was recovered on the pointing out of the applicant at 21:00 hours and after that inquest was conducted on the information given by the informant, therefore, prima facie recovery of the dead body of the deceased allegedly on the pointing out of the applicant appears to be doubtful but from the inquest, it reflects that informant only gave an information that he identified the dead body of the deceased and thereafter on his information inquest was conducted therefore, prima facie it cannot be said that inquest report belies the prosecution case that on the pointing out of the applicant earlier at 21:00 hours dead body of the deceased was recovered.

16. Considering the facts and circumstances of the case discussed above, in view of this Court, as applicant failed to explain the above circumstances, which prima facie appear to be clinching, in the considered view of this Court, applicant is not entitled to be released on bail.

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

18. 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.

(Sameer Jain,J.)

October 6, 2026
S.A.

Digitally signed by :-
SALMAN AHMAD
High Court of Judicature at Allahabad