2026:AHC:207642

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 28229 of 2026

Sumesh Kumar

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Anil Kumar Srivastava, Devendra Singh
Counsel for Opposite Party(s)	:	G.A., Pradeep Kumar, Ravi Prakash

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Court No. - 74

HON'BLE SAMIT GOPAL, J.

1. List revised.

2. Heard Sri Devendra Singh, learned counsel for the applicant, Sri Birendra Pratap Singh, learned AGA for the State and perused the material on record.

3. Sri Ravi Prakash and Sri Pradeep Kumar, learned counsels for the complainant are not present even in the revised list. Despite their name(s) being printed in the cause list, there is no vakalatnama on the record. Office to trace it out and place it on the record and make a note about it in the order sheet.

4. This second bail application under Section **483 of B.N.S.S.** has been filed by the applicant Sumesh Kumar, seeking enlargement on bail during trial in connection with Case Crime No. 242 of 2024, under Section(s) 376D, 120B I.P.C. registered at P.S. Kokhraj, District- Kaushambi.

5. The first bail application of the applicant being Criminal Misc. Bail Application No.25435 of 2025 was rejected by this Court vide order dated 24.7.2025.

6. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is submitted that trial in the present matter has started in which Constable Ved Prakash was examined as P.W.1 before the trial court who transcribed the chik F.I.R. It is submitted that the victim/first informant was examined as P.W.2 before the trial court who did not support the prosecution case and has been declared hostile. It is further submitted that Smt. Shakuntala the sister of the first informant/victim was examined as P.W.3 before the trial court who has also not supported the prosecution case and has been declared hostile. It is further submitted that co-accused Puttan was granted bail in

second bail vide order dated 8.5.2026 passed by a co-ordinate Bench of this Court in Criminal Misc.Bail Application No. 40449 of 2025 and further co-accused Virendra Kumar has also been granted bail vide order dated 21.5.2026 passed by a co-ordinate Bench of this Court in Criminal Misc. Bail Application No.17588 of 2026, para-19 and annexure no. 15 being the copies of bail granting order, have been placed before the Court for the same. It is submitted that the applicant has criminal history of one case which has been disclosed and explained in para-21 of the affidavit. It is submitted that thus looking to the statements of the victim and her sister implication of the applicant matter is false in the present. The applicant is in jail since 17.4.2025.

7. Per contra, learned State counsel opposed the prayer for bail but could not dispute the submissions of learned counsel for the applicant as aforesaid.

8. After having heard learned counsels for the parties and perusing the record, it is evident that this is the second bail. P.W.-1 Constable Ved Prakash was examined before the trial court who transcribed the chik F.I.R. The victim/first informant was examined as P.W.2 before the trial court who did not support the prosecution case and has been declared hostile. Smt. Shakuntala the sister of the first informant/victim was examined as P.W.3 before the trial court who has also not supported the prosecution case and has been declared hostile. Co-accused Puttan was granted bail in second bail and further co-accused Virendra Kumar has also been granted bail.

9. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

10. Let the applicant- Sumesh Kumar, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in

accordance with law.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 82 Cr.P.C., may be issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 174-A I.P.C.

(V) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

11. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

12. The bail application is allowed.

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

(Samit Gopal,J.)

October 5, 2026
Naresh

Digitally signed by :-
NARESH KUMAR
High Court of Judicature at Allahabad