HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 29751 of 2026

Vikas

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Arun Kumar Tripathi, G.A.
Counsel for Opposite Party(s)	:	G.A.

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. On 9.1.2026, an explanation was called from the office why office failed to submit fresh report with regard to the report submitted by the court concerned pursuant to the earlier order passed by this Court.

2. Pursuant to the order passed by this Court, office has given an explanation dated 23.10.2026. Considering the explanation given by office, in view of this Court, the explanation is acceptable and is hereby accepted, therefore, no further order is required.

3. Heard Shri Arun Kumar Tripathi, learned counsel for applicant and Shri Ashutosh Singh, learned AGA for the State.

4. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No.63 of 2023, under Sections 302, 201, 394, 411 IPC, Police Station Mau Darwaja, District Farrukhabad, during pendency of the trial.

5. Learned counsel for applicant submits, it is a case of circumstantial evidence and nobody was named in the FIR but during investigation applicant has been made accused on the ground that he made a call from mobile phone of the deceased to two other persons.

6. He next submits, apart from the above evidence, as per prosecution from the position of applicant mobile phone of the deceased and on his pointing out motorcycle of the deceased was also recovered but entire recovery is false and planted one.

7. 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.

8. He further argued, it is a case of circumstantial evidence and applicant is in jail in the present matter since 25.2.2023 i.e. for last more than three

and a half years.

9. He next submits, however, apart from the present case, applicant is having criminal history of one another case but his criminal history has been explained and in that case he is on bail.

10. He further argued, therefore, considering the facts of the case, applicant may be enlarged on bail.

11. Per contra, learned AGA opposed the prayer for bail and submits, however, it is a case of circumstantial evidence but mobile phone of the deceased was recovered from the possession of applicant and motorcycle of the deceased was also recovered on the pointing out of applicant and even the applicant is having criminal history of one another case of Section 364 IPC but he could not dispute the fact that in the present matter applicant is in jail for last more than three and a half years and in case of Section 364 IPC, applicant is on bail.

12. I have heard both the parties and perused the record of the case.

13. It is a case of circumstantial evidence and during investigation involvement of applicant was revealed.

14. Further, however, according to the prosecution from the possession of applicant mobile phone of deceased was recovered and on his pointing out motorcycle of deceased was also recovered and even he is having criminal history of one case of Section 364 IPC but in the present matter applicant is in jail since February 2023 i.e. for last more than three and half years and till date trial of the case could not be concluded. From the report of court concerned it reflects, till date only six witnesses could be examined, however, in the chargesheet there are 19 witnesses, therefore, there is no likelihood of early disposal of the case.

15. Further, in previous case under Section 364 IPC, applicant is on bail. Considering the long incarceration of applicant, merely on the basis of criminal history of applicant, it is not proper to withhold the instant bail application.

16. Further, the Apex Court in the case of **Ayub Khan Vs. State of Rajasthan, 2024 SCC OnLine SC 3763** in paragraph-10 observed as follows:-

"10. The presence of the antecedents of the accused is only one of the several considerations for deciding the prayer for bail made by him. In a given case, if the accused makes out a strong prima facie case, depending upon the fact situation and period of incarceration, the presence of

antecedents may not be a ground to deny bail. There may be a case where a Court can grant bail only on the grounds of long incarceration. The presence of antecedents may not be relevant in such a case. In a given case, the Court may grant default bail. Again, the antecedents of the accused are irrelevant in such a case. Thus, depending upon the peculiar facts, the Court can grant bail notwithstanding the existence of the antecedents....."

17. Therefore, considering the facts and circumstances discussed above, in view of this Court applicant is entitled to be released on bail.

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

19. Let the applicant - **Vikas** 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.

20. 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.

21. 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 24, 2026
Kumar Manish

Digitally signed by :-
MANISH TRIPATHI
High Court of Judicature at Allahabad