2026:AHC:212662

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 32798 of 2026

Amar

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Utkarsh Pandey
Counsel for Opposite Party(s)	:	Akash Balmik, G.A.

Court No. - 67

HON'BLE JITENDRA KUMAR SINHA, J.

1. List revised.

2. Heard Sri Utkarsh Pandey, learned counsel for the applicant, Sri Akash Balmi, learned counsel for the first informant, Sri B.P. Singh, learned AGA for the State-respondents and perused the record.

3. The present bail application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed on behalf of applicant with a prayer to release him on bail in Case Crime No. 357 of 2025 under Section 105 BNS and 7/9 of Prohibition of Employment as Manual Scavengers and their Rehabilitation Act registered at Police Station Vrindavan, District Mathura during pendency of the trial.

4. It is contended by learned counsel for the applicant that no offence under section 105 BNS is made out against the applicant and at best, a case of negligence can be said to be made out. It is further submitted that as per the FIR, the deceased was employed by the co-accused Hemant who is a contractor and he is said to have entered into a severage along with another person and both of them died due to drowning. It is next submitted that as per the contents of the FIR, intention to cause death cannot be gathered and the maximum punishment on conviction under section 7/9 of Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 is two years. It is also submitted that applicant has criminal history of two cases out of which, he has been acquitted in one case and is on bail in the other. It is further submitted that applicant has been languishing in jail since

13.7.2025 and in case he is granted bail, he will not misuse the liberty of bail and would cooperate in the trial proceedings.

5. On the other hand, learned A.G.A. as well as learned counsel for the first informant opposed the prayer for grant of bail to the applicant and submit that the deceased persons were asked to get into the severage without any safety measures as a result of which, both of them drowned. It is further submitted that the case is covered under section 105 BNS for which, maximum punishment is imprisonment for life.

6. As per the FIR, applicant is said to have asked the deceased persons to go into a severage as a result of which, both of them drowned. The cause of their death has been shown as asphyxia due to drowning. It is submitted that the deceased persons were employed by co-accused Hemant and the applicant was assigned the duty of supervising the work. It is also submitted that no intention to cause death can be gathered from the facts and circumstances of the case and at best, case for negligence is made out against the applicant. Applicant has criminal history of two cases out of which, he has been acquitted in one case and is on bail in the other and he has been languishing in jail in the present case since 13.7.2025

7. Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the nature of offence, evidence, complicity of the accused and taking into account overcrowded jails and heavy pendency of criminal cases before the trial courts as well as considering the mandate of the judgement of the Apex Court in the case of ***Kapil Wadhawan vs Central Bureau of Investigation*** reported in ***2025 SCC OnLine SC 3038*** as well as guideline of this Court in the case of ***Maya Tiwari Vs. State of U.P.*** reported in ***2024 SCC Online All 6765*** regarding grant of bail and without expressing any opinion on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

8. Let the applicant **Amar** involved in the aforementioned 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, with the following conditions:-

(i) The applicant shall not directly or indirectly make any 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 to any police officer or tamper with the evidence.

(ii) The applicant shall cooperate in the trial/investigation sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

(iv) The applicant shall attend in accordance with the conditions of the bond executed by him.

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

10. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted. Verification of mobile number and Aadhaar card of the applicant as well as sureties should be verified by the court concerned.

11. It is further directed that the trial court shall send the release order to the concerned jail through Bail Order Management System (BOMS) to ensure early release of the applicant.

12. Office is directed to send a copy of this order to the applicant through concerned Jail Superintendent via e-mail or e-prison portal within 24 hours in compliance of the order of the Apex Court in the case of ***Policy Strategy for Grant of Bail, In Re: Suo Motu Writ Petition (Crl.) No.4 of 2021*** decided on 31.01.2023 reported in ***(2024) 10 SCC 685.***

(Jitendra Kumar Sinha,J.)

October 9, 2026
Madhurima

Digitally signed by :-
MADHURIMA GARG
High Court of Judicature at Allahabad