2026:AHC:211415

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 37396 of 2025

Khemchandra Aharwar @ Khema

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Ruksana
Counsel for Opposite Party(s)	:	G.A., Vaibhav Gupta

Court No. - 67

HON'BLE JITENDRA KUMAR SINHA, J.

1. Rejoinder affidavit has been filed on behalf of the applicant is taken on record.

2. Heard Ms. Ruksana, learned counsel for the applicant, Shri Vaibhav Gupta, learned counsel for the first informant and Shri R.B. Chaudhary, learned A.G.A. for the State and perused the record.

3. The instant bail application has been filed with a prayer to release the applicant on bail in Case Crime No. 24 of 2025, under Section 103(1) of B.N.S., Police Station Kulpahadh, District Mahoba, during the pendency of the trial.

4. Learned counsel for the applicant has submitted that the applicant has been falsely implicated in the present case though there is no incriminating material against him. It is further submitted that the first information report has been lodged after delay of 2 days and the deceased is the real brother of the applicant and there is no motive on the part of the applicant to commit the offence. It is further submitted that after the condition of the deceased deteriorated, the applicant himself took him to the hospital for his treatment and the first information report has been lodged at the behest of villagers by the first informant. It is further submitted that there is no evidence that the applicant administered the poisonous substance in the liquor of the deceased. It is further submitted that one empty packet of sulfas is said to have been recovered at the pointing out of the applicant and no disclosure statement of the applicant has been recorded before effecting the

said recovery. It is further submitted that the applicant is having no criminal history and the applicant has been languishing in jail since 21.01.2025 and till date only two witnesses have been examined and the trial is not likely to conclude in near future, in case, he is granted bail, he will not misuse the liberty of bail and would cooperate in the trial proceedings.

5. Per contra, learned counsel for the first informant and learned A.G.A. have vehemently opposed the prayer for bail and it has been submitted by them that the applicant and the deceased were consuming liquor, and the applicant administered Sulfas pills in the liquor of the deceased, who consumed the same and subsequently died and one empty packet of sulfas is said to have been recovered at the pointing out of the applicant.

6. As per first information report, the applicant is said to have administered sulfas pills (poisonous substance) in the liquor of his brother, who consumed it and subsequently died. As per postmortem report of the deceased, cause of death could not be ascertained and viscera was preserved for chemical analysis and in the viscera report, aluminium phosphide poison has been found. It is further submitted that the first information report has been lodged after delay of 2 days and the deceased is the real brother of the applicant and there is no motive on the part of the applicant to commit the offence. It is further submitted that after the condition of the deceased deteriorated, the applicant himself took him to the hospital for his treatment and the first information report has been lodged at the behest of villagers by the first informant. It is further submitted that there is no evidence that the applicant administered the poisonous substance in the liquor of the deceased. It is further submitted that one empty packet of sulfas is said to have been recovered at the pointing out of the applicant and no disclosure statement of the applicant has been recorded before effecting the said recovery. It is further submitted that the applicant is having no criminal history and the applicant has been languishing in jail since 21.01.2025 and till date only two witnesses have been examined and the trial is not likely to conclude in near future.

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. Accordingly, the present application is **ALLOWED**.

9. Let the applicant- **Khemchandra Aharwar @ Khema** 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.

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

11. 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.

12. 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.

13. Office is directed to send a copy of this order to the applicant through **Jail Superintendent**, Mahoba 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 8, 2026
RKM

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