2026:AHC:208126

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 35318 of 2026

Kesari

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Aishwarya Goswami, Pawan Giri
Counsel for Opposite Party(s)	:	G.A.

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Heard Sri Pawan Giri, learned counsel for the applicant and Sri Kunwar Tejandra Bahadur, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 462 of 2026, under Sections 103(1), 191(2), 191(3), 190, 109(1) BNS, Police Station Majhola, District Moradabad during pendency of the trial.

3. Learned counsel for the applicant submits, however, applicant is named in the FIR along with six others and as per allegation on 09.05.2026 at about 8 PM in the evening applicant and named accused along with their unknown associates made assault upon informant and his father due to which both sustained injuries but entire allegations made in the FIR are totally false.

4. He further submits, initially FIR of the present case was lodged under Section 109(1) BNS and other offences but when after four days father of the informant died then case has been converted under Section 103(1) BNS.

5. He further submits, in the present matter as per prosecution informant sustained injuries and his father died and applicant and number of accused persons made assault upon them but post mortem report suggests that deceased sustained only single injury, therefore, as far as allegation of causing injury to the deceased is concerned prima facie present case appears to be a case of over implication.

6. He further submits, actually informant side was the aggressor and they tried to intervene the peaceful possession of land of applicant side and due to

this reason incident occurred and in the unfortunate incident informant sustained injuries and his father died. He further submits, even in the incident applicant also sustained serious injuries and he was admitted to the hospital by the police, therefore, prima facie it appears to be a case of free fight.

7. He further submits, there is neither any allegation nor evidence that applicant is author of the head injury sustained by the deceased and only on the basis of general allegation very casually he has been roped in the present matter along with others.

8. He further submits, even co-accused Manoj Kumar Sharma, Ajeet Goswami, Somprakash Saini and Bhupendra Singh Saini, who were also named in the FIR, have been released on bail by this Court and their bail orders have been annexed along with instant bail application and case of applicant is at par with them.

9. He further submits, applicant is not having any criminal history and in the present matter he is in jail since 27.05.2026.

10. Per contra, however learned AGA opposed the prayer for bail and submits, apart from the present case applicant is having criminal history of one another case but he fairly conceded, that case relates to Excise Act. Learned AGA could not dispute the other argument on facts advanced by learned counsel for the applicant.

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

12. However, applicant is named in the FIR and according to the FIR he along with six other named accused and 2-3 unknown associates made assault due to which father of the informant sustained injuries and died but from the post mortem it reflects, deceased sustained only single injury.

13. Further, however, it reflects, in the incident informant also sustained as many as eight injuries but record also suggests applicant also sustained serious injuries. Further, however from the side of applicant till date no FIR could be lodged but from the record it reflects, on same day from the side of applicant an application was moved to police station against the informant side.

14. Considering the overall facts and circumstances of the case, the argument advanced by learned counsel for applicant that it appears to be a case of free fight cannot be ruled out at this stage specially considering the fact that prosecution suppressed the injuries sustained by applicant.

15. Further, even there is no evidence that applicant was the author of injury sustained by the deceased and it reflects, only general allegation of assault has been made against all the accused.

16. Further, even co-accused Manoj Kumar Sharma, Ajeet Goswami, Somprakash Saini and Bhupendra Singh Saini, who were also named in the FIR, have been released on bail by this Court and case of applicant is at par with them.

17. Further, however, apart from the present case applicant is having criminal history of one another case, which has not been explained in the instant bail application but that case relates to Excise Act, therefore, in view of this Court, merely due to this reason, it is not proper to withhold the instant bail application.

18. Further, in the present matter applicant is in jail since 27.05.2026.

19. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

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

21. Let the applicant -Kesari 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.

22. 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.

23. 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.

October 5, 2026
AK Pandey

(Sameer Jain,J.)

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