HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 35146 of 2026

Bachchelal

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s) : Roshani Dwivedi, Sarvesh Kumar Dubey
Counsel for Opposite Party(s) : G.A.

Court No. - 47

HON'BLE RAJEEV MISRA, J.

1. Heard Mr. Sarvesh Kumar Dubey, the learned Counsel for applicant and learned AGA representing State/opposite party No. 1.

2. Perused the record.

3.This 3rd application for bail has been filed by applicant- Bachchelal seeking his enlargement on bail in Case Crime No. 163 of 2022 under Sections 147, 148, 323, 308, 504, 506, 302 IPC, Police Station-Sikrara, District-Jaunpur during dependency of trial.

3. The first bail application of applicant was rejected by this Court by a detailed order dated 10.11.2022 passed in Criminal Miscellaneous Bail Application No. 501two59 of 2022 (Bachchelal Vs. State of U.P.). Thereafter, applicant filed a second application, which was registered as Criminal Misc. Bail Application No. 45161 of 2024 (Bachchelal Vs. Stated of U.P.), which came to be rejected vide order dated 10.01.2025. For ready reference, the order dated 10.01.2025 is reproduced herein below:

"Heard Ms. Roshani Dwivedi, the learned counsel for applicant, the learned A.G.A. for State and Mr. Abhishek Kumar, the learned counsel for first informant.

This repeat application for bail has been filed by applicant-Bachchelal seeking his enlargement on bail in Case Crime No. 163 of 2022, under sections 148, 308, 504, 506, 302 IPC, Police Station- Sikrara, District Jaunpur, during the pendency of trial i.e Sessions Trial No. 430 of 2022 (State Vs. Bachelal and Others) under sections 148, 308, 504, 506, 302 IPC, Police Station- Sikrara, District Jaunpur, now pending the Court of Additional District and Sessions Judge, E.C. Act, Jaunpur.

The first bail application of applicant was rejected by this Court by a detailed order dated 10.11.2022, passed in Criminal Misc. Bail Application No. 50159 of 2022 (Bachchelal Vs. State). For ready reference the order dated 10.11.2022 is reproduced herein under:

"Heard Mr. Dur Vijtwo***ay Singh, Advocate, holding brief of Mrs. Archna Singh Jadaun, the learned counsel for applicant, the learned A.G.A. for State and Mr. Abhishek Kumar, the learned counsel for first informant/opposite party-2 who has put in appearance by filing his vakalatnama today in Court which is taken on record.***

This application for bail has been filed by applicant Bachchelal, seeking his enlargement on bail in Case Crime No. 163 of 2022, under Sections 147, 148, 308, 504, 506, 323, 324, 304/34 IPC, Police Station- Sikara, District Jaunpur during the pendency of trial.

Perused the record.

Record shows that in respect of an incident which is alleged to have occurred on 23.6.2022, a prompt F.I.R. dated 23.6.2022 was lodged by first informant Arun Kumar and was registered as Case Crime No. 163 of 2022, under SectiOrder Date ons 147, 148, 308, 504, 506, 323, 324, 304/34 IPC, Police Station- Sikara, District Jaunpur. In the aforesaid F.I.R. six persons namely, Bachelal, Achelal, Virendra, Nagendra, Kishan, and Jitendra have been nominated as named accused.

The gravaman of the allegations made in the F.I.R. is that named accused with a common object assaulted various persons from the side of first informant on account of which Ramdavar, Manish Kumar, Raju and Sushil Kumar, Manju Devi, Meera Devi and Kiran sustained injuries.
After lodging of aforementioned F.I.R. the injured were referred for medical examination. Following is explicit from the Medico Legal Reports of the injured:

Injuries of injured Mala Kumari-

(1) Lacerated wound and bleeding +nt over Rt. parietal region of skull size (05 cm x 01.cmx deep bone) KUO. Advise. X-ray skull.

(2) Lacerated wound bleeding over right parietal region of skull 02 cm below from injury no. (1) Kuo Advise X-ray skull size (04 cm x 01 cm x bone deep)

(3) Lacerated wound @ bleeding +nt over Rt. parental region of skull 02 cm below from injury no(2) size (04 cm x 01 cm bone deep) KUo Advise. X-ray skull.

Injuries of injured Mala Kumari-

(1) L.W. of injury below Rt nipple of zide 2 x 1.25.

(2) Head injury of size 2x0.5 cm Kuo X-ray skull -Ap

Injuries of injured Manju Devi-

(1) Lacerated wound bleeding the over Lt-parietal region of skull size 05 cm x 01 cm x bone deep Kuo Adv. X--ray skull Ap

(2) Lacerated wound bleeding the over, 05 cm x 0.5 cm Kuo Adv X-ray below Rt. breast Ap.

Injuries of injured Arun Kumar-

(1) L.W. of size 3 1/2 cm size in fronteal tube Kuo X-ray of skull. Ap

(2) Cop of chest

Injuries of injured Manish Kumar-

(1) frontal heal LW of size 2x3 cm. Kuo X-ray skull.

(2) Rt. ear bleeding present fresh in nature

Injuries of injured Raj Kumar

(1) Head injury frontal tube 4 x 1.6 cm lacerated wound 5 x 1.5 cm size lacerated wound in occipital tube Rt. side (skull X-ray Ad- Kuo for the injury).

(2) Rt. wrist swelling 4 x 2 cm (Kuo writ joint X-ray Ap lateral)

(3) Cop Back of chest.

Injuries of injured Sona

(1) Lacerated wound bleedin +nt over Rt. partial region of skull size (05 cm x 01 cm. bone deep) KUO Adv. X-ray of skull Ap.

(2) Cop ChestInjuries of injured Kiran

(1) lacerated wound bleeding +nt over Rt. forearm 12 c. below rt. elbow size (10 cm x 05 cm bone deep) kUo Adv. X-ray Rt. forearm.

(2) Lacerated wound bleeding +nt over lower aspect of Lt. arm 04 cm above from Lt. elbow size (06 cm x 03 cm x bone deep) KUO Advise X-ray Lt. Arm Ap

Injuries of injured Ravi Kumar

(1) Lacerated wound injury (02 cm x .51 cm. Anterior ankle joinit) KUo Adv. X-ray of Ankle Rt. side Ap

Rt. Leg 1 st Cop- (Kuo x-ray of) 1 st finger.

Investigating Officer, thereafter proceeded with the statutory inivestigation of concerned case crime number in terms of Chapter XII Cr.P.C. During course of investigation, the injured Mala died.

The inquest of the body of deceased Mala was conducted on 28.6.2022. In the opinion of witness of inquest (panch witnesses), the nature of death of deceased was characterized as homicidal. Thereafter, the post mortem of the body of deceased was

conducted on the same day i.e. 28.6.2022. The autopsy surgeon found following ante-mortem injuries on the body of deceased:

"(1) 12 stitch wound present over Bilateral Partial region size 12 x 10 cm. Bone deep under line bone fracture with blood clot under region.

(2) Rayal Tube i situe (nose)

(3) Et Tube in Situe (Mouth)

(4) Iv Connell Rt. hand elbow Region"

In the opinion of autopsy surgeon, the cause of death of deceased was "due to septicaemia shock and coma as a result of ante-mortem head and lungs infection."

During course of investigation, Investigating officer examined the first informant and 28 other witnesses including the injured under section 161 Cr.P.C, who have substantially supported the prosecution story. On the basis of above and other material collected by Investigating Officer during the course of investigation which is substantially adverse to named accused, he opined to submit charge-sheet. He, accordingly submitted the charge sheet whereby named accused have been charge sheeted under sections 147, 148, 308, 504, 506, 323, 324, 304/34 IPC.

Learned counsel for applicant submits that as per the prosecution story, it is alleged that some of the named accused were armed with Lathi Danda, Gadasa and Bhala (spear). However none of the injured has sustained punctured wound. It is then contended that none of the witnesses who have been examined under section 161 Cr.P.C. have elaborated the nature of weapons used in the crime. It is further contended by learned counsel for applicant that applicant is in jail since 25.6.2022. As such he has undergone more than four months of incarceration. In case, applicant is enlarged on bail, he shall not misuse the liberty of bail and shall co-operate with the trial. It is lastly submitted that applicant is a man of clean antecedents, inasmuch as he has no criminal history to his credit except the present one. Occurrence giving rise to present criminal proceedings has occurred at the spur of the moment, and not on account of premeditated mind.

Per contra, the learned A.G.A and the learned counsel for opposite party-2 have opposed this application. They submit that subsequently, on account of death of injured Mala, Section 304/34 was also added. As such, there is common intention on the part of named accused in committing the crime in question. In the occurrence giving rise to present criminal proceedings as many as ten persons received injuries. Criminality alleged against applicant is common and therefore same cannot be separated or saggregated. As such, applicant does not deserve any indulgence by this Court.

When confronted with above, the learned counsel for applicant could not overcome the same.

Having heard the learned counsel for applicant, learned A.G.A. for State, upon perusal of material brought on record as well as the complicity of applicant and accusation made, coupled with the fact that in the occurrence giving rise to present proceedings as many as ten persons received injuries, criminality alleged against named accused is common and therefore in capable of being separated or aggregated but without making any comment on the merits of the case this court does not find good ground to enlarge the applicant on bail.

In view of above, present application fails and is liable to be rejected.

It is accordingly rejected. "

Learned counsel for applicant submits that though the application is a named and charge sheeted accused, yet in view of the subsequent developments, he is liable to be enlarged on bail. In furtherance of aforesaid submission, the learned counsel for applicant submits that in the charge sheet so submitted against applicant as many as 29 prosecution witness have been nominated. However, up to this stage, only two prosecution witnesses have deposed before Court below. Even as per depositions of P.W.1 and P.W.2, it cannot be conclusively concluded that applicant is guilty of committing the crime in question. The trial of the applicant commenced in the year 2022 and inspite of the fact that a period of more than two years has rolled by the trial has not yet concluded. There is no likelihood of the trial getting concluded n near future. On the aforesaid premise, the learned counsel for applicant contends that applicant is liable to be enlarged on bail.

Even otherwise, applicant is a man of clean antecedents inasmuch as he has no criminal history to his credit except the present one. Applicant is in jail since 25.6.2022. As such, he has undergone more than two years and six months of incarceration. The police report in terms of Section 173 (2) Cr.P.C. has already been submitted against applicant, as such, the entire evidence sought to be relied upon by prosecution against applicants stands crystalized. However, upto this stage no such incriminating circumstance has emerged necessitating the custodial arrest of applicant during the pendency of trial. It is thus urged that applicant is liable to be enlarged on bail. In case the applicant is enlarged on bail, he shall not misuse the liberty of bail and shall co-operate with the trial.

Per contra, the learned A.G.A. and the learned counsel for first informant have vehemently opposed the prayer for bail. They submit that since applicant is a named as well as charge sheeted accused, therefore he does not deserve any indulgence by this Court. It is further contended by the learned A.G.A. that considering the nature and gravity of offence and the period of punishment that

may be awarded, the period of incarceration undergone by applicant is by itself not so sufficient a ground so as to enlarge the applicant on bail. According to the learned A.G.A. P.W.1 and P.W.2 have not been declared hostile. He thus submits that even though this Court is a superior Court yet dictates of prudence require that this Court should not evaluate and appreciate the evidence which has emerged during the course of trial as any observation made by this Court shall pre-empt the trial and may affect the prosecution or the defence. On the above conspectus, the learned A.G.A. contends that since no new, good or sufficient ground has emerged, this repeat application for bail is liable to be rejected.

Learned counsel for first informant submits that co-accused Kishan filed his application for bail which was rejected by this Court vide order dated 28.8.2024, passed in Criminal Misc. Bail Application No. 25629 of 2024 (Kishan Vs. Vijay Kumar Pandey). For ready reference the order dated 28.8.2024 is extracted herein under:

"1. This is second bail application. First bail application was disposed of on 03.04.2024 by following order :-

"A certified copy of the order of framing charges dated 29.5.2023 against the applicant and other three accused is taken on record.

Learned counsel for the applicant is not present probably being held up in the elections of High Court Bar Association, Allahabad scheduled today.

This bail application has been filed for an offence under Sections 147, 148, 308, 504, 506, 323, 324, 304/34 I.P.C. Police Station:Sikrara, District-Jaunpur in Case Crime No.163 of 2022 on 10.4.2023.

Sri Abhishek Kumar, learned counsel for the informant has placed on record a certified copy of the charges framed against the applicant and other three accused under Sections 148, 308 read with Sections 34, 302 read with Section 34 and Section 504 I.P.C. as such Section 302 has been added, therefore,he submits that applicant has to file a fresh bail application before the learned Trial Court to seek bail in terms of charges framed against two***him.***

Considering the aforesaid submissions, and taking note of order of framing charges passed subsequent to filing of present bail application, even in absence of counsel for applicant and in the interest of justice there is no justification to keep this bail application pending, therefore, this bail application is disposed of with a liberty to the applicant to approach learned Trial Court to take legal remedy available in terms of charges framed against him."

2. Sri Vijay Kumar Pandey, learned counsel for applicant submits that thereafter charges were framed and subsequent bail application of applicant was rejected by

learned Trial Court. Thereafter, applicant has approached this Court by way of filing present bail application in Case Crime No.163 of 2022 under Sections 148, 308, 504, 506, 302 I.P.C. Police Station-Sikrara, District-Jaunpur.

3. Learned counsel for applicant submits that there are cross version of occurrence. There are injured persons from both sides. A general role has been assigned to all accused persons including applicant and no specific allegation has been made against applicant. Learned counsel further submits that one of co-accused-Yuvraj has been granted bail by co-ordinate Bench of this Court by an order dated 24.03.2023.

4. Sri D.P.S. Chauhan, learned A.G.A. for State submits that in present case, since there is a cross case, therefore, presence of applicant does not disputed as well as that from the complainant side, one person has died and other 9 persons have been received injuries on vital parts of body. One of co-accused- Yuvraj has been granted bail mainly on ground that his name was not disclosed in FIR.

5. Heard counsel for parties and perused the record.

6. As referred above, according to prosecution case, applicant and co-accused have formed an unlawful assembly and in furtherance of its common object, assaulted various persons from complainant side, wherein one person has died and about 9 persons have received multiple injuries. The presence of applicant is not much in dispute since there is a cross version also.

7. The applicant is named in the FIR, therefore, his case is distinguishable from the case of co-accused-Yuvraj who has been granted bail by co-ordinate Bench. The manner of occurrence and nature of assault could be figure out from nature of injuries caused to injured persons and to deceased. Deceased has 12 stitches wound whereas injured persons have received multiple injuries on vital part also.

8. In the aforesaid circumstances, the Court also takes note of status report dated 22.08.2024 submitted by learned Trial Court that now charges have been framed and prosecution witness has appeared on 07.08.2024, 16.08.2024 and 21.08.2024, however, Advocates of applicant and other co-accused have not co-operated on those dates so much that the statement of witnesses was not even recorded, therefore, the delay if any, is due to Advocates of applicant and other co-accused.

9. The Court also takes note that bail application of one of co-accused has been rejected whereas bail application of 3 co-accused was dismissed as withdrawn.

10. In the aforesaid circumstances, taking note of above referred facts and circumstances of case as well as manner of assault, number of persons injured and nature of injuries received by injured and deceased, I do not find that it is fit case to grant bail.

11. Accordingly, bail application is rejected. "

It is then contended that another co-accused Jitendra also filed his repeat application for bail, which also came to be rejected by this Court vide order dated 30.8.2024, passed in Criminal Misc. Bail Application No. 29661 of 2024 (Jitendra Vs. State of U.P.). For ready reference, the order dated 30.8.2024 is reproduced herein under:

"1. This is second bail application of the applicant. The first bail application was dismissed as withdrwan vide order dated 04.07.2024 passed in Criminal Misc. Bail Application No.18446 of 2023.

2. Heard Ms. Mamta, learned counsel for the applicant, learned Additional Government Advocate for the State, Mr. Abhishek Kumar, learned counsel for the informant and perused the material available on record.

3. By means of this application, the applicant is seeking enlargement on bail in Case Crime No.163 of 2022, under Sections 148, 308, 504, 506, 302 IPC, Police Station Sikrara, District Jaunpur.

4. At the outset, learned AGA has submitted that initially the impugned FIR was lodged under Section 308 IPC and fater death of injured Ram Daver, the case was converted under Section 304 IPC and charge sheet was submitted under Section 302 IPC. He has further submitted that it is a cross case, therefore, the presence of the applicant is not disputed.

5. Mr. Abhishek Kumar, learned counsel for the informant has submitted that bail application of similarly placed co-accused namely Kishan has already been rejected by a coordinate Bench of this Court vide order dated 28.08.2024 passed in Criminal Misc. Bail Application No.25629 of 2024. He has further submitted that the applicant is named as well as charge-sheeted accused, therefore, he does not deserve any indulgence by this Court.

6. Considering the submissions advanced, the prayer for grant of bail is hereby refused.

7. However, the court below is directed to expedite the trial of the aforesaid case expeditiously, preferably within a period of one year from the date of production of certified copy of this order.

8. The present bail application stands disposed of. " in their respective bail application

On the above premise, the learned counsel for first informant submits that there is no such distinguishing feature on the basis of which case of present applicant can be so distinguished from aforesaid co-accused so as to enlarge him on bail.

Accordingly this repeat application for bail is liable to be rejected.

When confronted with above, the learned counsel for applicant could not overcome the same.

Having heard the learned counsel for applicant, the learned A.G.A. for State, upon perusal of material brought on record, evidence, nature and gravity of offence aaccusation made as well as complicity of applicant, coupled with the fact that objections raised by the learned A.G.A. and the learned counsel representing first informant in opposition to the present repeat application for bail could not be dislodged by the learned counsel for applicant with reference to the record, therefore irrespective of the varied submissions urged by the learned counsel for applicant in support of the present repeat application for bail, but without making any comment on the merits of the case, this Court does not find any new good or sufficient ground so as to enlarge the applicant on bail.

In view of above, the present repeat application for bail fails and is liable to be rejected.

It is accordingly rejected.

Order Date :- 10.1.2025 "

4. Mr. Sarvesh Kumar Dubey, learned Counsel for applicant in support of this third application for bail, submits that though applicant is named as well as charge-sheeted accused and facing trial under incarceration, however, in view of the facts and circumstances as have now crystallized on record, applicant is liable to be enlarged on bail during dependency of trial. In furtherance of aforesaid submission, it is urged by the learned Counsel for applicant that in the FIR giving rise to present criminal proceedings, as many as six persons have been nominated as accused in the F.I.R. However, upon completion of statutory investigation one of the named accused namely Nagendra was exculpated, whereas one another person, namely Yuvraj was implicated as an accused. It is then submitted by the learned counsel for applicant that out of the six charge-sheeted accused, two of the charge-sheeted accused namely Achchhe Lal and Virendra Pratap have been enlarged on bail by this Court vide orders dated 21.08.2026 and 08.10.2026 passed in Criminal Misc. Application Application No. 41766 of 2024 (Achchhe Lal Vs. State of U.P.) and Criminal Misc. Application Application No. 33707 of 2026 (Virendra Pratap Vs. State of U.P.), respectively. According to the learned Counsel for applicant, it is the basic prosecution case that accused persons are alleged to have assaulted the deceased with

lathi, danda, ballam, and pharsa. Applicant is shown to be armed with a spear. He has then referred to the post-mortem report of the deceased, which is on record at page 57 of the paper book. With reference to the same, he submits that the deceased has not sustained any punctured wound. All the injuries sustained by the deceased are lacerated wounds. On the above premise, he therefore submits that none of the injuries sustained by the deceased can be said to have been caused by spear held by the applicant. He therefore contends that in view of above, the case of present applicant is clearly distinguishable from other accused, as applicant cannot be said to be the author of the fatal injuries sustained by the deceased. On the above premise, he therefore submits that since case of present applicant is distinguishable from other accused, therefore, he is liable to be enlarged on bail.

5. Even otherwise, the applicant is a man of clean antecedents, having no criminal history to his credit except the present one. Applicant is in jail since 25.06.2022. As such, he has undergone more than four years of incarceration. The charge-sheet/ police report in terms of Section 173(2) Cr. P. C has already been submitted. Therefore, the entire evidence sought to be relied upon by the prosecution against applicant stands crystallized. Apart from above, the trial of applicant has already commenced before court below, and the deposition of the first informant (PW-1) has already been recorded. He therefore submits that in view of above, in case applicant is enlarged on bail, then in that eventuality, it cannot be said that in case applicant is enlarged on bail, he shall either terrorize the witnesses or shall hamper the course of trial. On the above conspectus, he therefore submits that applicant is liable to be enlarged on bail. In case applicant is enlarged on bail, then in that eventuality, he shall not misuse the liberty of bail and shall cooperate with the trial.

6. Per contra, the learned AGA representing State/opposite party No. 1 has vehemently opposed this third application for bail. He submits that since applicant is a named as well as charge-sheeted accused and facing trial under incarceration, therefore, he does not deserve any indulgence by this Court. Learned AGA further contends that since applicant has been charge-sheeted under Section 149 IPC, therefore, there is a common object with the applicant to commit the crime in question. Considering the nature and gravity of offense and the period of incarceration which may be awarded for the offense complained of, learned AGA submits that no indulgence be

granted by this Court in this third application for bail. However, the learned AGA could not dislodge the factual and legal submissions urged by the learned Counsel for applicant with reference to the record at this stage. Paragraph.

7. Be that as it may, having heard the learned counsel for applicant, the learned A.G.A. for State/opposite party-1 and upon consideration of material on record, evidence, nature and gravity of offence, accusations made as well as complicity of applicant, this court finds that though applicant is a named as well as charge-sheeted accused and facing trial under incarceration, however, the medical evidence clearly does not implicate the applicant to be the author of the fatal injuries sustained by the injured. As per the post-mortem report of the deceased, all the injuries sustained by the deceased were lacerated wounds, whereas applicant is alleged to be armed with a spear. Since no punctured wound was found on the body of the deceased, therefore, applicant cannot be said to be the author of the fatal injuries sustained by the deceased. In view of above, the case of present applicant is clearly distinguishable from other accused. Even otherwise, applicant is a man of clean antecedents, having no criminal history to his credit except the present one. Applicant is in jail since 25.06.2022 As such, he has undergone more than four years of incarceration. The trial of the applicant has already commenced; the deposition of first informant (PW-1) has already been recorded. As such, in case applicant is enlarged on bail, then in that eventuality, it cannot be said that in case applicant is enlarged on bail, he shall either terrorize the witnesses or shall hamper the course of trial. In view of above, and irrespective of the objections raised by the learned AGA in opposition to this third application for bail, this Court finds that applicant has made out a case for grant of bail. As a result, this third application for bail succeeds and is allowed.

8. It is accordingly **allowed**.

9. Let the applicant-**Bachchelal** involved in aforesaid case crime number 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 which are being imposed in the interest of justice:-

(i) Applicant will not tamper with prosecution evidence.

(ii) 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) Applicant will not indulge in any unlawful activities.

(iv) Applicant will not misuse the liberty of bail in any manner whatsoever.

10. 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 of applicant and send him to prison.

October 23, 2026
YK

(Rajeev Misra,J.)

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