2026:AHC:208775

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 35524 of 2026

Mahesh

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Vikrant Gupta
Counsel for Opposite Party(s)	:	G.A., Rajesh Kumar Mishra

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Sri Kamesh Kumar Arya, learned Advocate submits, Sri R.K. Mishra, learned Advocate has filed his power on behalf of informant in the office of this Court on 05.10.2026, therefore, his name could not be shown in the cause list.

2. Heard Sri Vikrant Gupta, learned counsel for the applicant, Sri Kamesh Kumar Arya, learned Advocate holding brief of Sri R.K. Mishra, learned counsel for informant and Sri Manoj Kumar Singh, learned Brief Holder for the State.

3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 157 of 2026, under Sections 103(1), 3(5) BNS, Police Station Patwai, District Rampur during pendency of the trial.

4. Learned counsel for the applicant submits, applicant was not named in the FIR but during investigation on the basis of statement of co-accused recorded by the Investigating Officer he has been made accused in the present matter.

5. He further submits, however, as per prosecution one Kunwarpal was the eye witness but according to him co-accused Vinod and Munesh caught hold the deceased and thereafter co-accused Yogesh shot the deceased and he did not even disclose the name of applicant. He next submits, subsequently when his second statement was recorded then he disclosed the name of applicant and stated that applicant came along with co-accused Yogesh but even from his second statement it reflects, co-accused Yogesh was the

person who caused firearm injury to the deceased.

6. He further submits, as per prosecution, when applicant was arrested then from his possession one country made pistol was recovered but entire recovery is false and planted one and even till date the alleged recovered pistol could not be connected with the instant crime.

7. He further submits, applicant is not having any criminal history and in the present matter he is in jail since 02.07.2026.

8. Per contra, learned AGA as well as learned counsel for informant opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

10. Applicant was not named in the FIR. It reflects, during investigation when Investigating Officer recorded the statement of one named accused then he disclosed the name of applicant.

11. Further, however, as per prosecution, incident has been witnessed by Kunwarpal, who was present at spot at the time of incident along with the deceased but he did not even disclose the name of applicant in his first statement. However, it reflects, when his second statement was recorded then he also disclosed the name of applicant but from his both the statements it reflect, co-accused Yogesh was the prime accused who caused firearm injury to the deceased.

12. Further, however as per prosecution when applicant was arrested then from his possession one country made pistol was recovered but till date alleged recovered pistol could not be connected with the instant crime.

13. Further, applicant is not having any criminal history and in the present matter he is in jail since 02.07.2026.

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

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

16. Let the applicant - **Mahesh** 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.

17. 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.

18. 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 6, 2026
AK Pandey

(Sameer Jain,J.)

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