2026:AHC:207444

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 35357 of 2026

Diwakar Kumar

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Ali Hasan, Asif Hasan
Counsel for Opposite Party(s)	:	G.A.

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Supplementary affidavit filed by the applicant is taken on record.

2. Heard Sri Istiyak Ali, learned Advocate holding brief of Sri Ali Hasan, learned counsel for the applicant and Sri Shatruhan Yadav, learned AGA for the State.

3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 50 of 2026, under Sections 109(1), 309(4), 317(2), 103(1), 311, 3(5) BNS, Police Station Jafrabad, District Jaunpur during pendency of the trial.

4. Learned counsel for the applicant submits, however, it is a case of loot with murder but nobody was named in the FIR and during investigation on the basis of confessional statement of applicant and co-accused recorded by the Investigating Officer applicant has been made accused in the present matter.

5. He further submits, apart from the statement of accused recorded by the Investigating Officer as per prosecution from the possession of applicant Rs. 8700/- was also recovered, which was part of the looted money but this money belongs to the applicant and a specific averment in this regard has been made by the applicant in paragraph-17 of the instant bail application.

6. He further submits, along with applicant co-accused Aman Yadav was also made accused on the basis of same evidence and from his possession also Rs. 8800/- was recovered and he has been released on bail by this Court and his bail order has been annexed at page-17 of the supplementary affidavit filed in support of instant bail application and case of applicant is at par with him.

7. He further submits, apart from the present case applicant was having previous criminal history of one another case relating to theft but when he was arrested in the present matter then he was also made accused in two other cases including the cases under the provisions of Arms Act and Section 109 BNS and his entire criminal history has been explained in the instant bail application.

8. He further submits, in the present matter applicant is in jail since 13.03.2026 i.e. for last more than six months.

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

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

11. However, it is case of loot with murder but during investigation through the confessional statement of applicant and co-accused recorded by the Investigating Officer he has been made accused in the present matter along with others.

12. Further, however, apart from the confessional statement of applicant recorded by the Investigating Officer as per prosecution even from the possession of applicant Rs. 8700/- were also recovered which were part of looted money but according to the applicant, the alleged recovered money belonged to him and avermnet made by the applicant in this regard cannot be ruled out at this stage.

13. Further, even co-accused Aman Yadav who was also arrested along with applicant and from whose possession Rs. 8800/- were recovered has been released on bail and case of applicant is at par with him.

14. Further, apart from the present case applicant is having previous criminal history of one another case relating to theft but when he was arrested in the present matter then he was also made accused in two other cases and his entire criminal history has been explained in the instant bail application.

15. Further, in the present matter applicant is in jail since 13.03.2026 i.e. for last more than six months.

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

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

18. Let the applicant - Diwakar Kumar 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.

19. 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.

20. 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