2026:AHC:210113

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 35778 of 2026

Vinod Mushar

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Byas Kumar Prasad, Suresh Kumar Yadav
Counsel for Opposite Party(s)	:	G.A.

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Heard Sri Byas Kumar Prasad, learned counsel for the applicant and Dr. S.B. Maurya, learned AGA-I for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 370 of 2025, under Sections 103(1), 305, 331, 3(5), 61(2) and 310(3) BNS, Police Station Sayedraja, District Chandauli during pendency of the trial.

3. Learned counsel for the applicant submits, it is a case of circumstantial evidence and nobody was named in the FIR but during investigation one Nihor Mushar was made accused and when his statement was recorded by the Investigating Officer then he disclosed the name of applicant.

4. He further submits, except the statement of co-accused and confessional statement of applicant recorded by the Investigating Officer there is no other evidence against the applicant on record.

5. He further submits, applicant is not having any criminal history and in the present matter he is in jail since 18.12.2025.

6. Per contra, learned AGA opposed the prayer for bail and submits, apart from the present case applicant is having criminal history of two other cases of theft but could not dispute the fact that in these cases applicant has been made accused after the present matter. Learned AGA further could not dispute the other argument on facts advanced by learned counsel for applicant.

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

8. It is a case of circumstantial evidence and nobody was named in the FIR but during investigation co-accused Nihor Mushar was made accused and when his statement was recorded by the Investigating Officer then he disclosed the name of applicant.

9. It reflects, apart from the statement of co-accused and confessional statement of applicant recorded by investigating officer there is no other evidence against the applicant on record.

10. Further, however, it reflects, apart from the present case applicant is having criminal history of two other accused and applicant did not explain his criminal history in the instant bail application but both the cases were of minor nature and even in both the cases applicant has been made accused after the FIR of the present case. Considering this fact in view of this Court it is not proper to withhold the bail application of the applicant merely on the basis of his unexplained criminal history.

11. Further, in the present matter applicant is in jail since 18.12.2025 i.e. for last more than nine months.

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

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

14. Let the applicant - Vinod Mushar 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.

15. 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.

16. 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 7, 2026
AK Pandey

(Sameer Jain,J.)

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