2026:AHC:226777

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 38847 of 2026

Aasmuhammad And Another

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Yakub Ali
Counsel for Opposite Party(s)	:	G.A.

Court No. - 64

HON'BLE VIVEK VARMA, J.

1. Sri Vimal Kumar Pandey, Advocate has filed his Vakalatnama on behalf of the informant, the same is taken on record.

2. Heard counsel for the applicants, Sri Vimal Kumar Pandey, counsel for the informant and Sri V.P. Tripathi, learned AGA for the State-opposite party. Perused the material available on record.

3. The present bail application has been filed with the prayer to enlarge the applicants on bail in Case Crime No. 192 of 2026, under Sections 115(2), 352, 351(3), 105 B.N.S., Police Station- Pataherwa, District- Kushinagar, during the pendency of the trial.

4. Counsel for the applicants submits that the applicant have been falsely implicated in the present case. The incident is alleged to have occurred on 19.06.2026, whereas the first information report was lodged on 24.06.2026. The delay in lodging the first information report is fatal to the prosecution case. As per the allegations contained in the first information report, the applicants along with two named accused are alleged to have assaulted the son of the informant by kicks and fists. During the course of treatment, informant's son succumbed to his injuries on 25.6.2026. As per the postmortem report, the deceased sustained two injuries, namely *(1) a contused swelling of size 3cm x 2cm present on right side tempo-occipital region, on cutting skin underneath pus pocket present about 500ml (pus), on opening skull pus present and (2) abrasion 3cm x 1cm right side of lower abdomen blackish in color.* In the opinion of the doctor, *cause of death is septic shock due to antemortem injury*. It is further contended that injury no.1 is the fatal injury. The author of the said injury is not known at this

stage. Vague and general allegations have been levelled against the applicants. Co-accused Nesar @ Chhote has been granted bail by this Court vide order dated 28.09.2026 passed in Criminal Misc. Bail Application No.32772 of 2026. Applicants claim parity. The applicants are in jail since18.09.2026 having no criminal antecedents and in case, they are enlarged on bail, they will not misuse the said liberty.

5. Learned AGA and learned counsel for the informant have opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having heard counsel for the parties and having perused the record this Court prima facie finds that the first information report has been lodged belatedly. Vague and general allegations have been levelled against the applicants. Co-accused Nesar @ Chhote has been granted bail by this Court. Further, the applicants have no criminal antecedents and have remained confined for more than a month and there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicants, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, without commenting on merits of the case, I am of the opinion that the applicants are entitled to be enlarged on bail.

7. Let the applicants **Aasmuhammad and Subtara @ Subhtara**, involved in the aforesaid case crime be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that they:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence;

(iii) shall not pressurize the prosecution witnesses.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

November 2, 2026
Abhishek

(Vivek Varma, J.)

Digitally signed by :-
ABHISHEK SINGH
High Court of Judicature at Allahabad