2026:AHC:230795

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 39653 of 2026

Sarwan @ Shrawan

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Rajesh Kumar Dubey
Counsel for Opposite Party(s)	:	G.A.

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Heard Sri Rajesh Kumar Dubey, learned counsel for the applicant and Sri Vijay Kumar, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 253 of 2026, under Sections 191(2), 191(3), 190, 103(1), 115(2), 352, 351(3) BNS & Section 3/25/27 Arms Act, Police Station Cantt, District Bareilly, during pendency of the trial in the court below.

3. Learned counsel for the applicant submitted that FIR of the present case was lodged on 24.5.2026 at nine hours and however applicant is named in the FIR and according to the FIR applicant was the prime accused who by causing firearm injury committed the murder of the deceased but admittedly informant of the case was not the eye witness.

4. He further submitted that even incident allegedly occurred on 23.5.2026 between 9:30 to 10:00 pm in the night but FIR has been lodged next day after 12 hours, therefore, FIR is highly delayed.

5. He further submitted that however during investigation Investigating Officer recorded the statement of one Ramveer the close relative of the deceased and he also reiterated the version of the FIR but even from his statement it could not be reflected that he was the eye witness. He further submitted that when second statement of this witness was recorded then he started claiming himself to be an eye witness but in the light of the FIR and his first statement, prima facie, his second statement appears to be doubtful.

6. He further submitted that actually it is a case of blind murder and nobody could see the real incident but due to previous enmity after 12 hours a false story has been cooked up and applicant has been made accused in the present matter alongwith five others.

7. He further submitted that even from the record, it reflects, after the incident deceased was taken to the hospital by the police where he died and this fact again suggests that actually nobody could see the real incident.

8. He further submitted that applicant is having no previous criminal history and he is in jail in the present matter since 25.5.2026.

9. Per contra, learned AGA opposed the prayer for bail and submitted that from the second statement of the witness Ramveer it reflects, he witnessed the incident and according to him applicant by causing firearm injury committed the murder of the deceased but could not dispute the fact that when first statement of this witness was recorded then he did not state that he also witnessed the incident.

10. Learned AGA further could not dispute the fact that from the record, it reflects, after the incident police took the deceased to the hospital where he died.

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

12. However applicant is named in the FIR and according to the FIR applicant was the prime accused who caused firearm injury to the deceased but admittedly informant of the case was not the eye witness. Further even there is delay of 12 hours in lodging the FIR.

13. Further however according to the prosecution witness Ramveer was the eye witness and he also in his both the statements recorded during investigation stated that applicant caused firearm injury to the deceased but this witness in his first statement did not state that he witnessed the incident too and therefore, his second statement, prima facie, appears to be doubtful.

14. It reflects that apart from the witness Ramveer even according to the prosecution, there is no other eye witness account.

15. Further, record also suggests that deceased after the incident was admitted to the hospital by the police where he died.

16. Considering the overall facts and circumstances of the case, argument advanced by learned counsel for the applicant that it reflects, it is a case of blind murder and nobody could see the real incident cannot be ruled out, at this stage.

17. Further, applicant is not having any previous criminal history and in the present matter he is in jail since 25.5.2026 i.e. for last more than five months.

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

19. Accordingly, without expressing any opinion on the merits of the case, the instant

bail application is **allowed**.

20. Let the applicant-**Sarwan @ Shrawan,** 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.

21. 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.

22. 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.

November 5, 2026
Ankita

(Sameer Jain,J.)

Digitally signed by :-
ANKITA SRIVASTAVA
High Court of Judicature at Allahabad