2026:AHC:208325

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 43618 of 2025

Farman

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Prateek Srivastava, Vivek Kumar Mishra
Counsel for Opposite Party(s)	:	G.A., Mirza Ali Zulfaqar

Court No. - 67

HON'BLE JITENDRA KUMAR SINHA, J.

1. Heard Sri Vivek Kumar Mishra, learned counsel for the applicant, Sri Mirza Ali Zulfaqar, learned counsel for the first informant, Sri B.P. Singh, learned AGA for the State-respondents and perused the record.

2. The present bail application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed on behalf of applicant with a prayer to release him on bail in Case Crime No. 125 of 2025 under Sections 103(1), 140(1), 324(4)(5) 238 BNS registered at Police Station Ganj, District Rampur during pendency of the trial.

3. It is contended by learned counsel for the applicant that the case is based on circumstantial evidence and the dead body of the deceased is said to have been recovered at the pointing out of the applicant from an open and accessible place, therefore, the said recovery is not reliable and it does not come under the purview of section 27 of Indian Evidence Act/proviso of section 23 BSA. It is next submitted that during investigation, it has surfaced that the deceased was sitting on a bike between two persons out of them, one was wearing helmet and face of the other person was also covered with a cloth, therefore, last seen evidence is also not established against the applicant. It is next submitted that weapon of offence has not been recovered from the possession of the applicant or at his pointing out. It is further submitted that applicant has been languishing in jail since 16.6.2025 and till date, only four witnesses have been examined by the learned trial court and the trial is not likely to conclude in near future. It is also submitted that the applicant undertakes that he will not misuse the liberty, if granted. It has also been pointed out that in the wake of heavy pendency of cases in the Court, there is no likelihood of any early conclusion of trial.

4. On the other hand, learned A.G.A. as well as learned counsel for the first informant opposed the prayer for grant of bail to the applicant and submit that dead body of the deceased has been recovered at pointing out of the applicant and he was last seen with the deceased in the CCTV footage, hence, chain of evidence against the applicant is complete.

5. Initially, a report regarding missing of the deceased was lodged by the first informant and after two days of the said missing report, FIR has been lodged alleging therein that the deceased Nihal was abducted by the applicant and two other accused persons and he was murdered and his dead body has been disposed of. The case is based on circumstantial evidence and during investigation, it has surfaced in the CCTV footage that the deceased was found sitting between two persons, out of them, one was wearing helmet and face of the other person was also covered with a cloth. It is submitted that applicant has not been identified in the said CCTV footage and no weapon of offence is said to have been recovered either from possession or from pointing out of the applicant. Applicant has been languishing in jail since 16.6.2025 and till date, only four witnesses have been examined by the trial court.

6. Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the nature of offence, evidence, complicity of the accused and taking into account overcrowded jails and heavy pendency of criminal cases before the trial courts as well as considering the mandate of the judgement of the Apex Court in the case of ***Kapil Wadhawan vs Central Bureau of Investigation*** reported in ***2025 SCC OnLine SC 3038*** as well as guideline of this Court in the case of ***Maya Tiwari Vs. State of U.P.*** reported in ***2024 SCC Online All 6765*** regarding grant of bail and without expressing any opinion on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant **Farman** involved in the aforementioned crime be released on bail, on his 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 not directly or indirectly make any 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 to any police officer or tamper with the evidence.

(ii) The applicant shall cooperate in the trial/investigation sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

(iv) The applicant shall attend in accordance with the conditions of the bond executed by him.

8. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

9. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted. Verification of mobile number and Aadhaar card of the applicant as well as sureties should be verified by the court

concerned.

10. It is further directed that the trial court shall send the release order to the concerned jail through Bail Order Management System (BOMS) to ensure early release of the applicant.

11. Office is directed to send a copy of this order to the applicant through concerned Jail Superintendent via e-mail or e-prison portal within 24 hours in compliance of the order of the Apex Court in the case of ***Policy Strategy for Grant of Bail, In Re: Suo Motu Writ Petition (Crl.) No.4 of 2021*** decided on 31.01.2023 reported in ***(2024) 10 SCC 685.***

12. Learned trial court is directed to expedite the trial of the present case as expeditiously as possible preferably within a period of one year provided the applicant co-operates in the trial.

October 5, 2026
Madhurima

(Jitendra Kumar Sinha,J.)

Digitally signed by :-
MADHURIMA GARG
High Court of Judicature at Allahabad