2026:AHC:207369

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 44917 of 2025

Abhinav @ Abhi

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Mohit Kumar Singh, Sujata Choudhary
Counsel for Opposite Party(s)	:	Birendra Kumar, G.A.

Court No. - 74

HON'BLE SAMIT GOPAL, J.

1. List revised.

2. Heard Ms. Sujata Choudhary, learned counsel for the applicant and Sri V.D. Ojha, learned counsel for the State and perused the material on record. Sri Birendra Kumar, learned counsel for the first informant is not present even when the matter is taken in the revised list.

3. This is second bail application of the applicant. The first bail application of the applicant was dismissed as withdrawn by this Court vide order dated 25.09.2025 passed in Criminal Misc. Bail Application No. 25263 of 2025 (Abhinav @ Abhi Vs. State of U.P.).

4. This bail application under Section 483 of B.N.S.S. has been filed by the applicant- **Abhinav @ Abhi**, seeking enlargement on bail during trial in connection with Case Crime No. 85 of 2025, under Sections 103(1), 3(5) B.N.S. and Section 3/25/27 Arms Act, registered at Police Station Bhawanpur, District Meerut.

5. The first information report of the present matter was lodged on 23.03.2025 by Om Prakash against Harsh, Shivam, Deepu and an unknown person alleging therein that his wife Sumitra Devi was sitting outside the house with his son Manish wherein Deepu and one unknown person came there and talking about settlement between them with regard to a case which had occurred around two months back where on at about 9:30 pm Shivam and Harsh came on a motorcycle on which Shivam was driving the motorcycle and Harsh was a pillion rider on which Harsh suddenly took out

country-made pistol and fired on Manish on his neck and then they ran away on the motorcycle. Deepu and his associate also absconded from the place. Manish was taken to the hospital where he was declared dead. His report be lodged and action be taken.

6. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. It is submitted that the applicant is not named in the first information report. It is further submitted that the naming of the applicant has surfaced subsequently in the statement of Smt. Sumitra the mother and Gagan the brother of the deceased but even therein no overt act has been assigned to him whereas the role of firing has been assigned to co-accused Harsh. It is submitted that naming of the applicant is an afterthought just in order to falsely implicate him in the present matter. While placing paragraph 15 of the affidavit it is submitted that the investigation in the matter has concluded and charge-sheet has been submitted against the applicant and other co-accused. While placing paragraph 20 of the affidavit it is submitted that there is no recovery of any incriminating material either from the possession or on the pointing out of the applicant. It is submitted that co-accused Deepu Pal has been granted bail by a co-ordinate Bench of this Court vide order dated 13.11.2025 passed in Criminal Misc. Bail Application No. 39765 of 2025, the copy of the said order is annexed as Annexure-SA-2 to the supplementary affidavit dated 19.12.2025. The applicant has criminal history of one case which has been disclosed & explained in para 26 of the affidavit and is in jail since 24.03.2025.

7. *Per contra*, learned counsel for the State opposed the prayer for bail.

8. After having heard learned counsel for the parties and perusing the record, it is evident that this is second bail application of the applicant. The first bail application of the applicant was rejected by this Court vide order dated 25.09.2025, the same reads as under:-

"1. List revised.

2. Heard Sri Ashwini Kumar Srivastava, learned counsel for the applicant, Sri Birendra Pratap Singh, learned counsel for the State and perused the record.

3. This bail application under Section 483 BNSS has been filed by the applicant Abhinav @ Abhi, seeking release on bail in connection with Case Crime No. 85 of 2025, under Sections 103(1), 3(5) BNS and Section 3/25/27 Arms Act, registered at P.S. Bhawanpur, District Meerut.

4. Learned counsel for State points that as per his instructions apart from the present case, the applicant is reported to be involved in one other case which has not been disclosed and explained and as such para 23 of the affidavit is false and incorrect. He submits that the bail application be dismissed in view of the order/judgement of the Apex Court passed in the cases of Munnesh Vs. State of U.P.: SLP (Crl.) No. 1400 / 2025 and Kaushal Singh Vs. State of Rajasthan : 2025 SCC OnLine SC 1473.

5. Learned counsel for the applicant prays that since the criminal history of the applicant has not been disclosed and explained of the other case, the present bail application under Section 483 BNSS be dismissed as withdrawn as he intends to file a better application with full and complete documents.

6. Prayer is allowed.

7. The bail application is dismissed as withdrawn."

9. The applicant is not named in the first information report. The first information report has been lodged naming three persons and one unknown person. The role of firing on the deceased Manish is assigned to co-accused Harsh. The naming of the applicant is subsequently in the statements of Smt. Sumitra the mother and Gagan the brother of the deceased but no overt act has been assigned to him. The main role of firing has been assigned to co-accused Harsh. Co-accused Deepu Pal has been granted bail by a co-ordinate Bench of this Court.

10. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

11. Let the applicant- **Abhinav @ Abhi**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

(ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the

trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 84 B.N.S.S., 2023 may be issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 209 B.N.S., 2023.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 351 B.N.S.S., 2023. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 269 B.N.S., 2023.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

12. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

13. The bail application is **allowed**.

14. Pending application (s), if any, shall stand disposed of.

October 5, 2026
AS Rathore

(Samit Gopal,J.)

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