



2026:AHC:57279

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 27612 of 2025

Makku Alias Maksood

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Devendra Kumar, Parvesh Kumar
Pandey
Counsel for Opposite Party(s) : G.A.

Court No. - 68

HON'BLE ASHUTOSH SRIVASTAVA, J.

Heard learned counsel for the applicant, Shri Ajay Kumar Singh, learned A.G.A. for the State and perused the record of the case.

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. 0233 of 2025, under Section 21/22 of Narcotic Drugs and Psychotropic Substances Act, 1985, and section 317(5) and 336 (2) of B.N.S., Police Station- Kosi Kalan, District- Mathura.

Learned counsel for the applicant has contended that alleged contraband has been recovered from the joint possession of the co-accused persons namely Arif and Muffi alias Mufid, who are released on bail vide orders dated 11.02.2026 and 07.05.2025 passed by this Court in Crl. Misc. Bail Application No. 22477 of 2025 and 13318 of 2025, respectively. Applicant was not arrested on the spot. Nothing has been recovered from the possession or pointing out of the applicant. It is further submitted that since such recovery is not supported by independent witness, possibility of his false implication in the crime cannot be ruled out. It is next contended that in the present case the prosecution has failed to follow strictly the provisions of Section 50 of the N.D.P.S. Act. There is no report of chemical analyst. It is also argued that the applicant is absolutely innocent and has been falsely implicated in the present crime with a view to cause unnecessary harassment and victimize him. The applicant, who is in jail since 30.04.2025. Criminal history of six cases has been explained in para no. 24 of the bail application

and in all the cases the applicant is on bail, and criminal history of two more cases has been explained in para no. 2 of supplementary affidavit. In case the applicant is released on bail he will not misuse the liberty of bail.

Per contra learned A.G.A. has opposed the bail prayer of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage who is involved in supplying contraband, therefore, the applicant does not deserve any indulgence. In case the applicant is released on bail he will again indulge in similar activity.

It is settled position of law that bail is the rule and committal to jail is an exception in the case of ***State of Rajasthan Vs. Balchand @ Baliya (1977) 4 SCC 308***, the Apex Court observed that refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution and opined para 2 "The basic rule may perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like, by the petitioner who seeks enlargement on bail from the court. We do. not intend to be exhaustive but only illustrative." and considering the facts of the case and keeping in mind, the ratio of the Apex Court's judgment in the case of ***Gudikanti Narasimhulu And Ors vs Public Prosecutor, High Court Of Andhra Pradesh, AIR 1978 SC 429***, larger mandate of Article 21 of the constitution of India, the nature of accusations, the nature of evidence in support thereof, the severity of punishment which conviction will entail, the character of the accused-applicant, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interest of the public/ State and other circumstances, but without expressing any opinion on the merits, I am of the view that it is a fit case for grant of bail.

Without expressing any opinion on the merits, let the ***accused-applicant Makku @ Maksood, involved in abovesaid case 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 that :-

1. The applicant shall not tamper with the prosecution evidence by intimidating/

pressurizing the witnesses, during the investigation or trial.

2. The applicant shall cooperate in the trial sincerely without seeking any adjournment.

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

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

(Ashutosh Srivastava,J.)

March 19, 2026

Vibha Singh