2025:AHC:197269

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 33908 of 2025

Krishna Alias Kishna

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Mithilesh Kumar Shukla
Counsel for Opposite Party(s)	:	G.A.

Court No. - 69

HON'BLE ARUN KUMAR SINGH DESHWAL, J.

1. Heard Sri Mithilesh Kr. Shukla, learned counsel for the applicant, Sri D.P.S. Chauhan, learned A.G.A. and perused the record.

2. The instant bail application has been filed with a prayer to release the applicant on bail in Case Crime No. 278 of 2025, under Sections 110, 115(2), 118(1), 352, 351(2) BNS, P.S. Shikohabad, District Firozabad, during the pendency of the trial.

3. This matter was heard on 13.10.2025 and again on 30.10.2025. In compliance of the order dated 13.10.2025 I.O of this case Mr. Faisal Khan (S.I.) and Dr. Ashwani Kumar Pachauri are present. On 13.10.2025 the following order was passed:-

"*1. Heard Sri Mithilesh Kumar Shukla, learned counsel for the applicant and Sri D.P.S. Chauhan, learned AGA for the State.*

2. This matter was heard on 07.10.2025 and the court has passed the following order:

"1. Heard Sri Mithilesh Kr. Shukla, learned counsel for the applicant and Sri D.P.S. Chauhan, learned A.G.A. for the State.

2. The instant application has been filed to enlarge the applicant on bail in case crime no. 278 of 2025, under Sections 110, 115(2), 118(1), 352, 351(2) BNS, P.S. Shikohabad, District Firozabad.

3. Learned counsel for the applicant submits that general allegation has been made against the applicant and other co-accused and as per the doctor, no bony injury was found on the skull of injured Sunny. In support of his contention, learned counsel for the applicant has relied upon statement of Dr. Ashwani Kr. Pachauri, Physician, Raj Narayan Maheshwari Sanyukt Chikitsalaya, Shikohabad, who has stated that he had conducted the medical examination of the injured Sunny on 2.5.2025 which was followed by X-ray of his injuries and no bony injury was found on the skull of the injured. However, CT Scan of the injured (Annexure No.4) dated 3.5.2025 shows that there is comminuted depressed fracture of anterior and posterior wall of both frontal sinus with hemosinus.

4. This Court, just to take medical opinion, regarding the medical report, summoned Dr. P.C. Dubey and Dr. U.B. Singh from the High Court Dispensary who advised that comminuted depressed fracture can easily be detected in an X-ray which is serious in nature and they also pointed out that the statement of Dr. Ashwani Kr. Pachauri needs to be verified with the original X-ray plate by which the skull injury of the injured Sunny was conducted.

5. In such view of the matter, this Court directs the Investigating Officer of this case as well as Dr. Ashwani Kr. Pachauri to appear before this Court along with the original X-ray plate of the skull injury of the injured Sunny before this Court on 13.10.2025 at 10:00 AM.

6. S.S.P., Firozabad as well as C.M.O., Firozabad are directed to ensure presence of the concerned I.O. and Dr. Ashwani Kr. Pachori, respectively, before this Court on the next date of listing.

7. Put up this case on 13.10.2025 as fresh.

8. Registrar (Compliance) is directed to communicate this order forthwith to the S.S.P., Firozabad as well as C.M.O., Firozabad for compliance."

3. In compliance of the above order, Investigating Officer of this case, Faisal Khan, Sub-Inspector posted at Police Station-Shikohabad as well as Dr. Ashwani Kumar Pachauri, Physician posted at Raj Narayan Maheshwari Sanyukt Chikitsalaya, Shikohabad, are present.

4. On making enquiry, Dr. Ashwani Kumar Pachauri opined that if comminuted depressed fracture is detected in CT scan on 03.05.2025, the same can also be

corrected through X-ray on 31.05.2025 because healing of fracture in skull takes time and same is also the opinion of Dr. U.B. Singh posted in High Court Dispensary, who has also been requested to assist the court. It is surprising that the victim himself in his statement dated 19.05.2025 clearly stated that in CT scan, a fracture in skull has been detected and the CT scan itself was conducted on 03.05.2025. The report thereof was also made part of the case diary in parcha no.3 on 05.05.2025. Subsequently, the X-ray of the skull of the injured was conducted on 31.05.2025 despite the fact that Dr. Ashwani Kumar Pachauri in his opinion dated 02.05.2025 advised X-ray for the skull injury of the injured and even more surprising is the fact that X-ray was conducted on 31.05.2025 which shows no fracture in skull of the injured, which is absolutely improbable and appears to be manipulated, may be on the part of the concerned radiologist and the Investigating Officer, also appears to be negligent. This court takes into account that once the Investigating Officer found that comminuted depressed skull fracture had already been detected on 03.05.2025 and same is a part of case diary, how he got conducted the X-ray of the injured on 31.05.2025 and on the basis of opinion of Dr. Ashwani Kumar Pachauri, who relied upon the disputed X-ray that no fracture is detected in the skull, submitted chargesheet u/s 308 IPC. Though, prima facie, in such cases, chargesheet should have been filed u/s 307 IPC as the injury itself is grievous in nature and on the vital part. Apart from this injury there are four other injuries on the person ofinjured. Therefore, to verify the aforesaid fact, it would be appropriate to conduct enquiry.

5. In view of the above, Senior Superintendent of Police, Firozabad is directed to conduct an enquiry against Faisal Khan, Sub-Inspector and ascertain whether he was negligent in conducting the investigation, taking into account the aforesaid fact.

6. C.M.O., Firozabad is also directed to conduct an enquiry in this matter taking help of senior radiologist including any other physician or surgeon and submit his report on the point whether the X-ray conducted on 31.05.2025 is manipulated, just to show that no fracture is found in the skull of injured despite the fact same is detected in CT scan.

7. The aforesaid exercise shall be concluded by the S.S.P., Firozabad as well as C.M.O., Firozabad, as the result of this enquiry will have effect on this bail. Therefore, this court is not inclined to release the applicant on bail today. However, instead of rejecting the bail, I deem it appropriate to consider it on the next date after perusal of the aforesaid enquiry.

8. Put up as fresh on 30.10.2025 at 10:00 am.

9. Registrar (Compliance) is directed to send a copy of this order to S.S.P., Firozabad as well as C.M.O., Firozabad.

10. On the next date of listing, Investigating Officer, Faisal Khan as well as Dr. Ashwani Kumar Pachauri, Physician, will again appear before this court. "

4. In pursuance of order dated 30.10.2025, a report has been submitted by the Chief Medical Officer, Firozabad, mentioning therein that the X-ray of the injured was conducted on 31.5.2025, though the CT Scan had been conducted on 3.5.2025 and because of passage of time, there are chances that the blood may have deposited on the fractured part and for that reason the X-ray could not show the fracture and there appears to be no interpolation in the X-ray report. However, from the perusal of the record, this Court found that discharge summary of the injured Sunny shows that he was admitted in the government hospital on 3.5.2025 and got discharged on 7.5.2025. The discharge slip, which was signed by Dr. Vipin, shows that as per the CT Scan report, there was comminuted depressed fracture post wall of both frontal sinus and it is also clear from the aforesaid report that it was Dr. Ashwani Kumar Pachauri who himself examined the injured on 2.5.2025 and advised him CT Scan as well as X-ray of the injuries of the injured Sunny.

5. It is surprising that if the physician Dr. Ashwani Kumar Pachauri himself advised the injured for CT Scan and X-ray and the discharge slip itself having the mention of the result of CT Scan, then how the CT Scan report was not taken into consideration by him while preparing the medical report on the basis of X-ray report, conducted on 31.5.2025. Therefore, prima facie, there is a serious negligence on the part of Dr. Ashwani Kumar Pachauri. However, as Dr. Ashwani Kumar Pachauri has already retired, therefore, this Court resists itself from passing any adverse order against him, but a cost of Rs.10,000/ is imposed which shall be deposited by Dr. Ashwani Kumar Pachauri in the District Legal Service Authority, Firozabad within a period of 15 days from today.

6. From perusal of the record, one more fact has come into picture that if Dr. Ashwani Kumar Pachauri refused to prepare the supplementary report on the

basis of available medical report which also included discharge summary dated 7.5.2025, then the I.O. should have informed his higher officers or approached the C.M.O. However, surprisingly, instead of informing this fact to his higher officers or the C.M.O., the concerned I.O. hurriedly submitted the charge sheet under Section 308 I.P.C. only, on the basis of incorrect X-ray report which was in contradiction to the earlier CT Scan report.

7. Though, *prima facie*, the I.O. Mr. Faisal Khan (S.I.) is negligent, but this Court resists itself from passing any adverse order against him. However, this Court directs the Superintendent of Police, Firozabad to conduct an enquiry whetherthere is negligence on the part of Sub-Inspector Mr. Faisal Khan and take appropriate action.

8. This Court believes that in the administration of criminal justice, police officers and all public servants, including doctors, must perform their duties fairly. Any negligence or unfairness by a public servant involved in the criminal justice system can undermine public trust in the State, ultimately defeating the important objectives of the Constitution of India. It is the responsibility of higher officials in every government department to eliminate inefficiencies from the system in order to maintain integrity and fairness, particularly in the criminal justice system.

9. The Supreme Court, in the case of **Satender Kumar Antil vs. Central Bureau of Investigation and another, (2021) 10 SCC 773**, has stated that in cases where the maximum punishment is up to seven years, courts should generally grant bail, with certain exceptions. However, the Court has encountered numerous instances where police authorities, in an attempt to misuse this directive, have intentionally manipulated the injury reports and other evidence gathered during investigations. They file charge sheets under Section 308 of the Indian Penal Code instead of Section 307, which results in a lesser charge punishable by up to seven years. In such scenarios, the role of the concerned Magistrate at the district court becomes crucial.

10. It is relevant to mention that district courts and advocates some times misinterpret the judgement of Apex Court in **Satender Kumar Antil vs Central Bureau of Investigation and another, (2021) 10 SCC 773.**

11. The Apex Court in **Satender Kumar Antil (supra) (2021)** issued

direction to district courts to decide the bail application of the accused after filing of final police report (charge sheet), regarding all four categories of cases, including cases punishable up to 7 years and not for the bail applications during investigation. Paragraph No.3 of **Satender Kumar Antil vs Central Bureau of Investigation and another, (2021) 10 SCC 773** is being quoted as under:-

*"**3.** We are inclined to accept the guidelines and make them a part of the order of the Court for the benefit of the courts below. The guidelines are as under:*

*"**Categories/Types of Offences***

(A) Offences punishable with imprisonment of 7 years or less not falling in Categories B and D.

(B) Offences punishable with death, imprisonment for life, or imprisonment for more than 7 years.

(C) Offences punishable under Special Acts containing stringent provisions for bail like NDPS (Section 37), PMLA (Section 45), UAPA [Section 43-D(5)], Companies Act [Section 212(6)], etc.

(D) Economic offences not covered by Special Acts.

Requisite Conditions

(1) Not arrested during investigation.

(2) Cooperated throughout in the investigation including appearing before investigating officer whenever called.

(No need to forward such an accused along with the charge-sheet Siddharth v. State of U.P. [Siddharth v. State of U.P., (2022) 1 SCC 676])

Category A

After filing of charge-sheet/complaint taking of cognizance

(a) Ordinary summons at the 1st instance/including permitting appearance through lawyer.

(b) If such an accused does not appear despite service of summons, then bailable warrant for physical appearance may be issued.

(c) NBW on failure to appear despite issuance of bailable warrant.

(d) NBW may be cancelled or converted into a bailable warrant/summons without insisting physical appearance of the accused, if such an application is moved on behalf of the accused before execution of the NBW on an undertaking of the accused to appear physically on the next date/s of hearing.

(e) Bail applications of such accused on appearance may be decided without the accused being taken in physical custody or by granting interim bail till the bail application is decided.

Category B/D

On appearance of the accused in court pursuant to process issued bail application to be decided on merits.

Category C

Same as Categories B and D with the additional condition of compliance of the provisions of bail under NDPS (Section 37), Section 45 of the PMLA, Section 212(6) of the Companies Act, Section 43-D(5) of the UAPA, Pocso, etc."""

12. The Hon'ble Apex Court further stated that the guidelines for considering bail do not apply in all cases. A bail application may be rejected if the accused has not cooperated during the investigation. Additionally, if the court believes that judicial custody of the accused is necessary for the completion of the trial, or if further investigation or potential recovery is needed, the bail may also be denied. Paragraph No.5 of **Satender Kumar Antil vs Central Bureau of Investigation and another, (2021) 10 SCC 773** is being quoted as under:-

*"**5**. The trial courts and the High Courts will keep in mind the aforesaid guidelines while considering bail applications.The caveat which has been put by the learned ASG is that where the accused have not cooperated in the investigation nor appeared before the investigating officers, nor answered summons when the court feels that judicial custody of the accused is necessary for the completion of the trial, where*

further investigation including a possible recovery is needed, the aforesaid approach cannot give them benefit, something we agree with."

13. In the case of **Satender Kumar Antil vs. Central Bureau of Investigation and another, (2022) 10 SCC 51**, the Honorable Supreme Court issued directions for investigating authorities regarding investigations, particularly for offenses punishable by up to seven years. The Court also directed magistrates and concerned courts to supervise the arrest procedures in light of the ruling in **Arnesh Kumar vs. State of Bihar and another; (2014) 8 SCC 273**. They are to issue appropriate orders, including the release of the accused if there is a violation of the Supreme Court's directions as outlined in **Arnesh Kumar (supra).** Paragraph No. 100 to 100.11 of **Satender Kumar Antil vs Central Bureau of Investigation and another, (2021) 10 SCC 773** is being quoted as under:-

"***Summary/Conclusion***

100. *In conclusion, we would like to issue certain directions. These directions are meant for the investigating agencies and also for the courts. Accordingly, we deem it appropriate to issue the following directions, which may be subject to State amendments:*

100.1. *The Government of India may consider the introduction of a separate enactment in the nature of a Bail Act so as tostreamline the grant of bails.*

100.2. *The investigating agencies and their officers are duty-bound to comply with the mandate of Sections 41 and 41-A of the Code and the directions issued by this Court in Arnesh Kumar [Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449] . Any dereliction on their part has to be brought to the notice of the higher authorities by the court followed by appropriate action.*

100.3. *The courts will have to satisfy themselves on the compliance of Sections 41 and 41-A of the Code. Any non-compliance would entitle the accused for grant of bail.*

100.4. *All the State Governments and the Union Territories are directed to facilitate Standing Orders for the procedure to be followed under Section 41 and 41-A of the Code while taking note of the order of the High Court of Delhi dated 7-2-2018 in Amandeep Singh Johar v. State (NCT of Delhi) [Amandeep Singh Johar v. State (NCT of Delhi), 2018 SCC OnLine Del 13448] and the Standing Order issued by Delhi*

Police i.e. Standing Order 109 of 2020, to comply with the mandate of Section 41-A of the Code.

100.5. *There need not be any insistence of a bail application while considering the application under Sections 88, 170, 204 and 209 of the Code.*

100.6. *There needs to be a strict compliance of the mandate laid down in the judgment of this Court in Siddharth [Siddharth v. State of U.P., (2022) 1 SCC 676 : (2022) 1 SCC (Cri) 423] .*

100.7. *The State and Central Governments will have to comply with the directions issued by this Court from time to time with respect to constitution of special courts. The High Court in consultation with the State Governments will have to undertake an exercise on the need for the special courts. The vacancies in the position of Presiding Officers of the special courts will have to be filled up expeditiously.*

100.8. *The High Courts are directed to undertake the exercise of finding out the undertrial prisoners who are not able to comply with the bail conditions. After doing so, appropriate action will have to be taken in light of Section 440 of the Code, facilitating the release.*

100.9. *While insisting upon sureties the mandate of Section 440 of the Code has to be kept in mind.*

100.10. *An exercise will have to be done in a similar manner to comply with the mandate of Section 436-A of the Code both at the district judiciary level and the High Court as earlier directed by this Court in Bhim Singh [Bhim Singh v. Union of India, (2015) 13 SCC 605 : (2016) 1 SCC (Cri) 663] , followed by appropriate orders.*

100.11. *Bail applications ought to be disposed of within a period of two weeks except if the provisions mandate otherwise, with the exception being an intervening application. Applications for anticipatory bail are expected to be disposed of within a period of six weeks with the exception of any intervening application."*

14. This Court acknowledges the efforts of Sri Sunil Kumar Singh, the Incharge Sessions Judge of Firozabad, who, after carefully examining the available medical report, had the courage to reject the bail application of the applicant. This decision was made despite the fact that the offense was incorrectly classified as punishable by up to seven years. The concerned

judge thoughtfully considered the evidence in the case diary, including the CT scan report.

15. The applicant's counsel argues that the allegations against the applicant and the co-accused, Aryan, are general in nature, asserting that they beat and caused injuries to the victim. Even if we accept the CT scan report, it indicates that there is only one injury classified as grievous, and no specific role has been attributed to the applicant in causing that injury. Additionally, the counsel points out that a charge sheet has already been filed in this case, indicating that custodial interrogation is unnecessary. The applicant has no prior criminal record and has been incarcerated since June 2, 2025. If granted bail, he assures that he will not misuse this privilege and will cooperate fully with the investigation and trial proceedings.

16. On the other hand, learned A.G.A. for the State opposed the prayer for bail, but he could not dispute the aforesaid fact.

17. Considering the submissions of learned counsel for the parties and taking into account the nature of allegation and reports available on record as well as the fact that charge sheet has already been filed and the applicant is a man of clean antecedents, this court is of the opinion that the applicant is entitled to be enlarged on bail. Accordingly bail application is **allowed**.

18. Let the applicant- **Krishna @ Kishna**, 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.

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

20. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

21. The applicant shall be released on the basis of downloaded copy of this order from the official website of High Court Allahabad and verified by the concerned counsel with the undertaking that the certified copy will be filed within 15 days.

22. 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.

23. Office is directed to send a copy of this order to the applicant through concerned Jail Superintendent via e-mail or e-prison portal 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; ꭇeported in **(2024) 10 SCC 685.**

24. **Registrar (Compliance)** is directed to forthwith communicate this order to the S.P., Firozabad for compliance .Additionally , a copy of this order should also be sent to he Director, J.T.R.I. to inform judicial officers about the ratio of **Satender Kumar Antil case**.

25. Personal appearance of Dr. Ashwani Kumar Pachauri and I.O. Mr. Faisal Khan (S.I.) is exempted.

(Arun Kumar Singh Deshwal,J.)

November 10, 2025
Vandana

Digitally signed by :-
VANDANA GAUTAM
High Court of Judicature at Allahabad