



2026:AHC:117235

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 41888 of 2025

Vasik Tyagi

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Vishakha Pande, Javed Alam, Nasim
Uddin

Counsel for Opposite Party(s) : G.A.

Court No. - 72

HON'BLE RAJIV LOCHAN SHUKLA, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
2. The instant second bail application has been filed with a prayer to release the applicant on bail in Case Crime No. 104 of 2025, under Sections 152, 192, 197(1), 353(3) of the B.N.S., Police Station-Charthawal, District- Muzaffarnagar, during the pendency of the trial. The first bail application was rejected by this Court vide order dated 08.09.2025.
3. Learned counsel for the applicant contends that the charge against the applicant pertains to uploading indecent posts insulting the Indian National Flag and making comments aimed at demeaning and insulting the country at large. The learned counsel contends that the applicant never intended to act in a manner suggesting encouragement of separatist activities and would never endanger the sovereignty, unity, or integrity of the country. The learned counsel further contends that the act of the applicant cannot be considered to be an act endangering the sovereignty, unity and integrity of India. The other offences alleged against the applicant do not entail a maximum punishment of more than seven years. The applicant has been in jail since 07.06.2025 and, till date, his trial has not commenced. Although the applicant has a criminal history of two other cases, he is not a previous convict.
4. The learned A.G.A. has opposed the prayer for bail and has contended

that the applicant made insulting posts through his Facebook account extolling Pakistan and insulting the Indian National Flag. The objectionable posts have been extracted in the earlier bail rejection order, which, on the face of it, appear to have been intended to incite secession and to endanger the sovereignty, unity and integrity of India. The learned A.G.A. further contends that such activities by an Indian citizen constitute a very serious matter and ought not be overlooked by this Court.

5. I have considered the submissions made by the learned counsel for the parties.

6. This Court, while considering the second bail application, had come across long adjournments being granted by the learned Magistrate and, had called for a report vide order dated 07.05.2026. The order dated 07.05.2026 is reproduced hereunder:

“1. Heard, the Learned counsel for the applicant and the Learned A.G.A. for the State.

2. A second supplementary affidavit has been filed in which the certified copy of the order-sheet of the Case No.19132 of 2025 (State Vs. Vasik Tyagi), under Sections 152, 192, 197(1), 353(2) BNS, Police Station-Charthawal, District- Muzzafarnagar, indicates that on 15.12.2025, the accused was not produced before the trial Court and the next date fixed was 10.02.2026. On 10.02.2026, the next date that appears to have been fixed is 16.4.2026.

3. Let a report be called for from the Additional Chief Judicial Magistrate, Court No.-II, Muzzafarnagar, as to why such long adjournments were being given even when the accused has not been produced from prison.

4. The report should be positively filed by 18.05.2026.

5. Put up on 19.05.2026 at 02:00 P.M.”

7. The Additional Civil Judge (Senior Division)-II, Muzaffarnagar, has submitted his report dated 16.05.2026, which reads as under:

‘विषय- माननीय उच्च न्यायालय द्वारा क्रिमिनल मिस बेल एप्लीकेशन सं. 41888/2025 मे पारित आदेश दिनांकित 07.05.2026 के अनुपालन में आख्या।

महोदय,

ससम्मान अवगत कराना है कि उपरोक्त मामले की पत्रावली मु.अ.सं. 104/2025 अन्तर्गत

धारा 152,192,197 (1), 353 (2) बी.एन.एस. सरकार बनाम वसिक त्यागी दिनांक 30.04.2026 को हस्तांतरित होकर इस न्यायालय में प्राप्त हुई है। जिसमें दिनांक 20.05.2026 को अभियुक्त को जेल से तलब कर सत्र सुपुर्दगी हेतु नियत है। साथ ही ससम्मान अवगत कराना है कि भविष्य में जेल में निरुद्ध कैदियों की पत्रावली में अनावश्यक स्थगन नहीं दिया जायेगा तथा तारीख भी लम्बी नहीं दी जायेगी।

आख्या महोदय के अवलोकनार्थ सेवा में सादर प्रेषित है।”

8. From a perusal of the report, it is clear that, till date, neither the case has been committed to the Court of Sessions and even charges have not been framed against the applicant. The maximum punishment, that may be awarded to the applicant, in the event of conviction under Section 152 of the B.N.S., is either imprisonment for life or imprisonment up to seven years. Therefore, in the event of a conviction, the applicant may be sentenced either to imprisonment for life or to any term up to seven years. The applicant has been in jail for almost one year.

9. The Supreme Court, recently, vide judgment and order dated 18.05.2026 passed in **Criminal Appeal arising out of SLP (Criminal) No.1090 of 2026 (Syed Iftikhar Andrabi vs. National Investigation Agency, Jammu)**, reiterated the principle that ‘*bail is the rule and jail is the exception*’. In paragraph 35 of the judgment, the Court observed as under :

“The often invoked phrase ‘bail is the rule and jail is the exception’ is not merely an empty statutory slogan flowing from the Cr.PC as Gurwinder has stated. It is a constitutional principle flowing from Articles 21 and 22 of the Constitution and the presumption of innocence which is the cornerstone of any civilised society governed by the rule of law. Statutes may undoubtedly calibrate the manner in which that principle is applied, particularly in cases involving national security or terrorist offences for which the UAP Act is meant, but those cannot altogether invert the constitutional relationship between liberty and detention. The statutory embargo of Section 43-D(5) must remain a circumscribed restriction that operates subject to the guarantee of Articles 21 and 22 of the Constitution. Therefore, we have no manner of doubt in stating that even under the UAP Act, ‘bail is the rule and the jail is the exception’; of course, in an appropriate case, bail can be denied having regard to the facts of that particular case.”

10. The charge against the applicant is, no doubt, grave; however, the same cannot denude him of his rights guaranteed under Article 21 of the Constitution of India. The applicant’s pre-trial detention cannot be

indefinite.

11. As observed above, till date, even charges have not been framed against the applicant. In the opinion of this Court, the trial is not likely to conclude in the near future. The detention of the applicant before conviction cannot be punitive in nature. Punishment can be imposed only after conviction.

12. Taking into account the entire facts and circumstances of the case, especially the fact that the trial against the applicant has not yet commenced, a prima facie case for bail is made out.

13. The bail application is allowed.

14. Let the applicant – **Vasik Tyagi**, involved in the aforementioned crime be released on bail, on his furnishing a personal bond and two reliable sureties each in the like amount, to the satisfaction of the Court concerned, subject to the following conditions:

i. The applicant will not tamper with the evidence.

ii. The applicant will not indulge in any criminal activity.

iii. The applicant will not pressurize/intimidate the prosecution witnesses and co-operate in the trial.

iv. The applicant will appear regularly on each and every date fixed by the trial Court, unless his personal appearance is exempted by the Court concerned.

15. In the event of breach of any of the aforesaid conditions, the trial Court will be at liberty to proceed to cancel his/her bail.

16. It is made clear that the applicant shall be released on the basis of computer generated copy of this order, downloaded 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.

17. 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.

18. The observations made hereinabove are exclusively for deciding the instant bail application and shall not be construed as an opinion on the merits of the case.

(Rajiv Lochan Shukla,J.)

May 20, 2026
Kushal