



2026:UHC:3987

HIGH COURT OF UTTARAKHAND AT NAINITAL

8th Bail Application No. 2 of 2025

21st May, 2026

Vineet Sharma Alias Cheenu PanditApplicant

Versus

State Of UttarakhandRespondent

Presence:-

Ms. Divya Jain, Shweta Jain and Mr. Navneet Kaushik, learned counsel for the applicant.

Mr. G.S. Sandhu, learned Additional Advocate General along with Mr. Deepak Bhardwaj, learned Brief Holder for the State.

Hon'ble Mr. Alok Mahra, J. (Oral)

The present bail application has been moved seeking grant of regular bail in connection with F.I.R. No. 115 of 2016 (Sessions Trial No.43 of 2017 now S.T. No.175 of 2016) under Sections 302, 34 of I.P.C. and Section 5/27 of the Arms Act, 1959 registered at Police Station Gangnagar, Roorkee, District Haridwar.

2. Heard learned Senior Counsel for the parties and perused the material available on record.

3. This is the eighth bail application moved on behalf of the applicant. The first bail application was dismissed for non-prosecution vide order dated 31.10.2018; the second bail application was dismissed as withdrawn on 05.12.2018; the third bail application was rejected on 01.04.2019; the fourth bail application was rejected on 01.11.2021; the fifth bail application was dismissed as



2026:UHC:3987

withdrawn on 24.09.2022; the sixth bail application was rejected on 02.03.2023; and the seventh bail application was rejected on 18.11.2024. It has further been brought to the notice of this Court that the Special Leave Petition preferred before the Hon'ble Supreme Court against rejection of bail also came to be dismissed vide order dated 17.02.2025.

4. Learned counsel for the applicant would submit that, as per the prosecution case set forth in the First Information Report, on 06.05.2016 at about 7:00 p.m., co-accused Rajeev Sharma allegedly took the informant's nephew, namely Akash Tyagi, along with him. It is alleged that when the deceased did not return home till about 10:30 p.m., his sister, namely Suman, repeatedly contacted him on his mobile phone but no response was received. Thereafter, the informant along with Amit Verma allegedly proceeded in search of the deceased and at about 10:45 p.m., upon reaching near Classic Bar situated at Ramnagar Chowk, they allegedly found the motorcycle of the deceased parked outside the said establishment. It is further alleged that upon entering the bar premises, the informant witnessed the present applicant, namely Vineet Sharma @ Cheenu Pandit, firing upon Akash Tyagi, while co-accused Shagun Sharma and Rajeev Sharma were allegedly standing nearby armed with pistols; that, after completion of investigation, charge-sheet came to be submitted on 02.11.2016 and cognizance thereupon was taken on the same date; that, the charges



against the accused persons were framed on 26.07.2017; that, as many as sixteen witnesses have already been examined by the prosecution.

5. Learned counsel for the applicant would further submit that the case of the applicant and the co-accused were consolidated on 26.07.2017 as S.T. No.175 of 2026 =; that, the applicant had earlier moved an application under Section 311 Cr.P.C. seeking recall of PW-14 for further cross-examination, which was allowed by a Coordinate Bench of this Court vide order dated 18.12.2019; that, thereafter, another application under Section 311 Cr.P.C. seeking recall of PW-1 and PW-2 was preferred; that, since PW-1 had expired, the said application came to be rejected by the learned trial court; that, aggrieved thereby, the applicant approached this Court and a Coordinate Bench, vide order dated 18.07.2022, stayed further proceedings of Sessions Trial No.175 of 2016; that, till date no application for vacation of the aforesaid interim order has been moved on behalf of the State; that, subsequently, vide order dated 13.08.2025, a Coordinate Bench permitted further cross-examination of PW-2 and, pursuant thereto, PW-2 has since been cross-examined by the defence.

6. Learned counsel for the applicant would submit that despite repeated opportunities, PW-14 has not been produced by the prosecution either physically or through video conferencing for the purpose of cross-examination;



that, from the year 2019 till 2025, approximately fifty dates have been fixed by the learned trial court for cross-examination of PW-14, however, on most of the dates the said witness remained absent and could not be secured by the prosecution. It is also submitted that an additional application under Section 311 Cr.P.C. seeking recall of PW-6 is still pending consideration before the learned trial court.

7. Learned counsel would further submit that the applicant is in judicial custody since 13.07.2016 and has undergone incarceration for nearly ten years as an undertrial prisoner; that, applicant was granted short-term bail on four occasions and the period of temporary bail was extended on three occasions; however, during the entire period of temporary release, there has been no allegation of misuse of liberty or violation of any condition imposed by the Court; that, the applicant duly surrendered before the concerned authorities within the stipulated time on every occasion; that, the continued incarceration of the applicant for an indefinite period, coupled with the inordinate delay in conclusion of trial, amounts to violation of the fundamental right guaranteed under Article 21 of the Constitution of India. It is submitted that the delay in trial proceedings is attributable primarily to the prosecution, which has failed to secure the presence of material witnesses despite repeated opportunities granted by the learned trial court, and there appears to be no likelihood of conclusion of trial in the near



future.

8. In support of the aforesaid submissions, learned counsel for the applicant has placed reliance upon the judgment of the Hon'ble Supreme Court in *Vaibhav Singh Vs. State of Uttar Pradesh* passed in Petition for Special Leave to Appeal (Criminal) No.7416 of 2026, wherein the Hon'ble Apex Court observed that where an undertrial prisoner has remained incarcerated for more than nine years and the trial has not concluded, constitutional courts are duty-bound to safeguard the fundamental right to speedy trial guaranteed under Article 21 of the Constitution of India. The Hon'ble Apex Court further observed that however grave the offence may be, an accused cannot be detained in custody for an indefinite period for no fault attributable to him. Reliance has also been placed upon the judgments rendered by the Hon'ble Supreme Court in *Rupe Bahadur @ Sanki @ Robin Vs. State of West Bengal*, *Balwinder Singh Vs. State of Punjab & Another*, 2024 SCC OnLine SC 4354, *Union of India Vs. K.A. Najeeb*, (2021) 3 SCC 713, and *Kattavellai @ Devakar Vs. State of Tamil Nadu* decided on 15.07.2025, wherein the Hon'ble Apex Court reiterated that prolonged incarceration of an undertrial prisoner and undue delay in conclusion of trial are relevant considerations for grant of bail and that punitive detention before conviction cannot be permitted to become indefinite.

9. Learned counsel for the applicant would further



2026:UHC:3987

submit that the charge-sheet has already been filed and, therefore, no custodial interrogation of the applicant is now required; that, there is no likelihood of tampering with the prosecution evidence; that, the conduct of the applicant during incarceration as well as during the period of temporary bail has remained satisfactory; that, the applicant is a permanent resident of District Haridwar and there is no likelihood of his absconding or fleeing from the course of justice; that, the applicant is ready and willing to furnish adequate bail bonds and reliable sureties to the satisfaction of the Court and undertakes to abide by all conditions that may be imposed while enlarging him on bail.

10. Per contra, Mr. G.S. Sandhu, learned Additional Advocate General appearing for the State would vehemently oppose the bail application contending that serious allegations pertaining to the offence of murder have been levelled against the applicant; that, the applicant is a history-sheeter and as many as thirty-six criminal cases are alleged to be pending against him; that, in the event the applicant is enlarged on bail, the same may adversely affect public order and there exists a likelihood of gang rivalry and disturbance of peace in the locality where the applicant resides and adjoining areas. It is also submitted that PW-14 is a police official and, owing to official exigencies, his examination/cross-examination is not likely to take place in the near future.



11. To this, learned counsel for the applicant would submit that out of the aforesaid thirty-six criminal cases, the applicant has already been acquitted in approximately thirty cases and in the remaining cases he has been enlarged on bail by the competent courts. It is submitted that notwithstanding the gravity of allegations, the applicant is entitled to be enlarged on bail on the ground of prolonged incarceration and delay in conclusion of trial, in view of the settled principles of law laid down by the Hon'ble Apex Court.

12. Having heard learned counsel for the parties and upon perusal of the material brought on record, this Court finds that the applicant has remained in judicial custody since 13.07.2016 and has undergone incarceration for nearly ten years as an undertrial prisoner. It is also not disputed that the trial has yet not concluded and some of the material witnesses are yet to be cross-examined. The record further reveals that the applicant was granted short term bail on several occasions and there is no allegation of misuse of liberty during the said period.

13. The right to speedy trial is an integral facet of Article 21 of the Constitution of India and prolonged incarceration of an undertrial prisoner without likelihood of early conclusion of trial cannot be countenanced indefinitely. Without expressing any opinion on the merits of the case and considering the overall facts and



2026:UHC:3987

circumstances, the nature of accusations, the period of incarceration already undergone by the applicant, and the delay in conclusion of trial, this Court is of the considered view that the applicant has made out a fit case for grant of bail.

14. Accordingly, the present bail application is allowed.

15. Let the applicant, namely Vineet Sharma @ Cheenu Pandit, be released on bail in connection with F.I.R. No.115 of 2016, under Sections 302 and 34 I.P.C. and Section 5/27 of the Arms Act, Police Station Gangnagar, District Haridwar, 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 shall appear before the learned Trial Court on each and every date fixed, unless his personal attendance is exempted in accordance with law, and shall cooperate with the trial proceedings without seeking unnecessary adjournments.

(ii) The applicant shall not directly or indirectly make any inducement, threat, promise, or attempt to influence any prosecution witness or any person acquainted with the facts of the case so as to dissuade such person from disclosing the truth before the Court or any investigating agency.

(iii) The applicant shall not tamper with the prosecution evidence in any manner whatsoever.

(iv) The applicant shall not leave the territorial limits of the State of Uttarakhand without prior permission of the



learned Trial Court concerned.

(v) The applicant shall deposit his passport, if any, before the learned Trial Court forthwith. In the event the applicant does not possess any passport, he shall file an affidavit to that effect before the learned Trial Court.

(vi) The applicant shall maintain peace and good behaviour during the period of bail and shall not involve himself in any criminal activity of whatsoever nature.

(vii) The applicant shall furnish his mobile number and residential address before the learned Trial Court and shall keep the same operational at all times during the pendency of trial. In case of any change in address or contact details, the same shall be intimated to the Court concerned forthwith.

(viii) In the event of breach of any of the aforesaid conditions, it shall be open to the prosecution to move an appropriate application seeking cancellation of bail before the competent Court, in accordance with law.

16. This Court cannot overlook the serious situation emerging from the record of the present case. It is apparent that PW-14, who is a police official serving under the State, has failed to appear before the learned Trial Court for his cross-examination on more than fifty dates spread over a long period of time. Due to his repeated non-appearance, the trial proceedings have remained stalled for a considerable duration. Such conduct on the part of a prosecution witness, particularly a public servant who is expected to assist the Court in the administration of criminal justice, has caused undue delay in the conclusion of the trial. The repeated adjournments have seriously affected the right of the accused to a fair and speedy trial guaranteed under



Article 21 of the Constitution of India. At the same time, the complainant/victim side has also been made to suffer prolonged delay, uncertainty, and mental hardship on account of the pendency of the proceedings.

17. This Court is further of the considered opinion that prolonged delay in criminal trials on account of avoidable adjournments and repeated absence of witnesses causes prejudice not only to the accused but also to the victims, witnesses, and society at large. The constitutional mandate of speedy justice requires all stakeholders, including the investigating agency, prosecuting authorities, and the Trial Courts, to act with due diligence and ensure that criminal proceedings are conducted efficiently and concluded within a reasonable time in accordance with law.

18. Accordingly, the Court of learned Additional Chief Judicial Magistrate-I, Roorkee, District Haridwar/Special Court concerned, before whom Sessions Trial No.175 of 2016 is pending, is directed to ensure the presence of PW-14 on the next date fixed and on all subsequent dates, if required, for the purpose of completion of his cross-examination. In the event PW-14 again fails to appear without sufficient cause, the learned Trial Court shall be at liberty to take appropriate coercive measures in accordance with law and shall also recommend initiation of suitable departmental/disciplinary proceedings against the concerned official before the competent authority.



2026:UHC:3987

19. Since the Sessions Trial pertains to the year 2016 and nearly ten years have elapsed, the learned Trial Court is further directed to make all possible endeavours to conclude the trial expeditiously, preferably within a reasonable period, without granting unnecessary adjournments to either of the parties.

20. The prosecution authorities as well as all police officials concerned throughout the State are directed to extend full assistance and necessary cooperation to the learned Trial Courts in securing the presence of prosecution witnesses and ensuring due execution of summons, warrants and other coercive processes, so that long-pending criminal trials may be concluded expeditiously and brought to their logical conclusion in accordance with law.

21. The Registrar General shall circulate a copy of this order to all District Judges in the State as well as to the Director General of Police, who shall further communicate the same to all Senior Superintendents of Police/Superintendents of Police and concerned police authorities for strict compliance.

(ALOK MAHRA,J.)
21.05.2026

Mamta