



2026:AHC:169237

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 27307 of 2026

Gul Khan

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Ashutosh
Counsel for Opposite Party(s)	:	G.A., Sudarshan Singh

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Heard Sri Ashutosh, learned counsel for the applicant, Sri Sudarshan Singh, learned counsel for informant and Dr. S.B. Maurya, learned AGA-I for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 205 of 2025, under Sections 191(2), 191(3), 190, 3(5), 103(1), 61(2) BNS, Police Station Faridpur, District Bareilly during pendency of the trial.

3. Learned counsel for the applicant submits, however, applicant is named in the FIR but in the FIR along with applicant eight others were also named and only general role of firing has been assigned to all the accused and this fact prima facie suggests that applicant is innocent and only due to old and previous enmity he has been made accused in the present matter along with others.

4. He further submits, however, in the alleged incident two persons died but from their post mortem report it reflects, they sustained total five firearm injuries, therefore, prima facie it appears to be a case of over implication as according to the prosecution as many as nine persons opened indiscriminate firing.

5. He further submits, even informant of the case who claimed himself to be eye witness has been examined by the trial court and from his statement recorded before the trial court it reflects, he was not the eye witness.

6. He further submits, even after considering the entire facts of the case co-

accused Gulam Khwaza who was also named in the FIR along with applicant has been released on bail by the co-ordinate Bench of this Court and his bail order has been annexed at page-167 of the paper-book and case of applicant is at par with him.

7. He further submits, however, apart from the present case applicant is having criminal history of one another case but in that case he is on bail. He further submits, in the present matter applicant is in jail since 28.04.2025 i.e. for last more than a year.

8. He further submits, therefore, considering the facts of the case applicant may be released on bail.

9. Per contra, learned AGA as well as learned counsel for informant opposed the prayer for bail and submit, it is a case of double murder and as per allegation applicant and eight others opened fire due to which both deceased sustained injuries and died and considering their post mortem report it is apparent that they sustained number of firearm wounds and therefore prima facie present case does not appear to be a case of over implication.

10. They further submit, during trial informant of the case has been examined and from his statement it could not be reflected, he was not the eye witness. They further submit, even apart from the informant there are also several other eye witnesses and till date they could not be examined before the trial court.

11. They further submit, however, bail application of co-accused Gulam Khwaza has been allowed by the co-ordinate Bench of this Court but bail applications of co-accused Shamsher Khan and Anis have been dismissed by another co-ordinate Bench of this Court vide orders dated 08.12.2025 and 16.10.2025 passed in Criminal Misc. Bail Application Nos. 43155 of 2025 and 33355 of 2025 respectively.

12. They further submit, considering the fact that till date all the eye witnesses could not be examined there is every possibility that after release on bail applicant may tamper the prosecution evidence.

13. They further submit, therefore, considering the facts of the case, the instant bail application may be dismissed.

14. I have heard learned counsel for the parties and perused the record of the

case.

15. It is a case of double murder and applicant is named in the FIR and according to the FIR he along with eight others opened indiscriminate firing due to which two persons sustained injuries and died and post mortem report of both the deceased also suggests that they sustained number of firearm injuries and considering the overall facts and circumstances of the case prima facie it cannot be said that it is a case of over implication.

16. Further, however, as per learned counsel for applicant from the statement of informant recorded before the trial court it reflects, he was not the eye witness but in view of this Court the statement of informant recorded before the trial court cannot be appreciated at this stage and only trial court can appreciate the evidence during trial.

17. Further, even record also suggests that apart from the informant there are number of eye witnesses too and till date they could not be examined.

18. Further, however, bail application of co-accused Gulam Khwaza has been allowed by the co-ordinate Bench of this Court but from the bail granting order dated 01.05.2026 it reflects, without assigning any reason after hearing the argument of learned counsel for applicant he was enlarged on bail. Further, even law is settled that doctrine of parity is not absolute and considering the facts and circumstances of the case, Court may take contrary view.

19. Further, even it reflects, bail application of co-accused Shamsher Khan and Anis have been dismissed by another co-ordinate Bench of this Court and it reflects, this fact was not disclosed by the counsel of applicant Gulam Khwaza before the co-ordinate Bench of this Court, therefore, it also reflects, co-accused Gulam Khwaza obtained bail by concealing material facts.

20. Further, however, applicant is in jail since April, 2025 i.e. for last more than a year but it is a case of indiscriminate firing in which two persons died. Further, even applicant is facing trial of murder in which minimum punishment is life imprisonment. Therefore, considering the facts and circumstances of the case in view of this Court merely on the ground of incarceration of the applicant of more than a year it is not proper to release him on bail.

21. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is not entitled to be released on bail.

22. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **rejected**.

23. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

August 12, 2026
AK Pandey

(Sameer Jain,J.)