



2026:AHC:10288-DB

Reserved On :- 18.12.2025

Delivered On :- 14.01.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 264 of 2023

Mudassir

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Atharva Dixit, Manoj Kumar Dubey, Manoj Kumar Rai, Mohammad Faisal Khan, Rajiv Lochan Shukla
Counsel for Respondent(s)	: Ambreen Masroor, G.A., Prakhar Saran Srivastava, Sadrul Islam Jafri

In Chamber

HON'BLE SIDDHARTH, J.

HON'BLE PRASHANT MISHRA-I, J.

(Delivered By Hon'ble Siddharth, J.)

1. Heard Sri Manish Tiwary, learned Senior Counsel assisted by Sri Atharva Dixit, learned counsel for the appellant; Sri N.I. Jafri, learned Senior Counsel assisted by Sri Nushra Siddiqui and Sri Vivek Misra, learned counsel for the informant; Mrs. Manju Thakur, learned AGA-Ist for State-respondents and perused the record.

2. This bail application has been moved on behalf of appellant-applicant, Mudassir, praying to enlarge him on bail in Sessions Trial No. 731 of 2007, Case Crime No. 06 of 2007, under Sections- 147, 148, 302, 149 IPC, Police Station- Kakrauli, District- Muzaffar Nagar, during the pendency of this appeal.

3. The prosecution case is that on 01.07.2007, the informant and his son, Jan Mohammad had gone to offer Namaz in the Masjid. At about 02:00 P.M., when they were about to leave for their house from Masjid, then their co-villager Mukarram and Bhura alias Mudassir son of Kalim Baksh and Javed armed with rifles and Shaida Hasan and Munauwar armed with country made pistols entered in side the Masjid, who had prior enmity with the informant. Shaida Hasan exhorted his associates to finish Jan Mohammad and all the accused fired from their weapons on Jan Mohammad. Jan Mohammad fell down after suffering gun shot injuries. The informant

and his brother, Islam tried to save Jan Mohammad and then the accused fired on them. They ran to save their lives. The aforesaid incident was seen by the informant, his brother Islam and Sarfarraj son of Islam, Fazul and many other persons who have come to offer Namaz at Masjid. Jan Mohammad died on spot

4. The learned counsel for the appellants submit that F.I.R. of this case was ante-timed since it was lodged within one hour and ten minutes of the incident; the prosecution failed to prove any motive behind the commission of the alleged offence; the place of incident was not proved by the prosecution since no signs of firing were found inside the mosque and no independent witness present in the mosque was examined before the trial court; the F.S.L. Report of the weapons allegedly recovered from the appellant failed and hence he has been acquitted of the charges under Section-25 of the Arms Act.: P.W.-1 and P.W.-2 escaped unhurt and therefore, the appellant was acquitted of the charges under Section-307/149 of I.P.C.; the prosecution failed to explain the grievous injury sustained by Mazoor Hasan, father of appellant no.1 and the cross version of the incident was not considered by the trial court. In the statement of P.W.-3, Sub Inspector, Indrapal Singh, he stated that in the presence of senior officials and on enquiry from the people residing in the locality, he came to know that firing was made from both the sides. Some of the persons informed that the firing was first made from the side of the deceased, Shahnawaz, while some of them were stating otherwise.. The appellant was on bail during the trial and has criminal history of one case of 2007 under the U.P. Control of Goondas Act, which has already come to an end, apart from the present case. He is in jail since the date and judgment of the trial court dated 17.11.2022.

5. Learned counsel for the informant and learned counsel for the state vehemently opposed the bail application of the appellant, but have not been able to rebut the submissions made on behalf of the appellant.

6. Learned A.G.A. has vehemently opposed the prayer for bail of applicant-appellant but could not dispute the contentions of the learned counsel for the appellant.

7. After hearing the rival submissions and considering the fact that there are more than two hundreds criminal appeals being listed before this court per day and it is not humanly possible to decide all on merit. There is remote possibility of hearing of this appeal in near future hence prayer for grant of bail to the applicant is allowed.

8. Let the applicant-appellant convicted and sentenced in the aforesaid crime

be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned.

9. The sentence awarded to applicant-appellant shall also remain suspended during the pendency of this appeal.

10. Applicant-appellant shall not transfer, sell, alienate or create any charge on the immovable property in his name, while on bail save with leave of this court.

11. As soon as personal and surety bonds are furnished, photocopies of the same are directed to be transmitted to this Court forthwith by the concerned court to be kept on record.

12. The appellant-applicant is directed to deposit 50% of fine within a period of one month from the date of his release from jail. Remaining 50% of fine shall remain stayed till the pendency of criminal appeal.

13. It is made clear that in case, the fine is not deposited within the time as specified above, the same shall be recovered in accordance with law.

Order on Criminal Appeal

14. Lower court record has been received.

15. Office is directed to get the paper book prepared within six weeks.

16. List this appeal for hearing in due course.

January 14, 2026

Rohit

(Prashant Mishra-I,J.) (Siddharth,J.)