



2026:AHC:4683-DB

Reserved On :- 16.12.2025

Delivered On :- 08.01.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1853 of 2025

Dhanveer

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Manvendra Singh, Saurabh Yadav
Counsel for Respondent(s)	:	Bharat Singh, Deepak Dubey, G.A.

In Chamber

HON'BLE SIDDHARTH, J.

HON'BLE PRASHANT MISHRA-I, J.

1. Heard Sri Saurabh Yadav, learned counsel for the appellant/applicant, Sri Deepak Dubey and Sri Bharat Singh, learned counsel for the informant and Ms. Manju Thakur, learned A.G.A-I for the State.

2. This bail application has been moved on behalf of appellant-applicant, Dhanveer, praying to enlarge him on bail in Sessions Trial No. 895 of 2020 (State of U.P. vs. Dhanveer and Another) arising out of Case Crime No. 34 of 2020, under Sections- 302, 504 IPC, Police Station- Alapur, District- Budaun and Session Trial No. 1270 of 2020 (State of U.P. vs. Dhanveer) arising out of Case Crime No. 82 of 2020, under Section 30 of Arms Act, Police Station- Alapur, District- Budaun, during the pendency of this appeal.

3. The prosecution case is that on 25.01.2020 at about 07:30 P.M. Dhanvir son of Ram Bharose and Aagesh son of Ram Prakash Yadav armed with their licensed gun came before the house of the informant and started abusing him. When the informant and his grand-son stopped them, they fired with intention to kill which hit his grand-son, Ashish and persons sitting nearby, namely, Pravesh son of Ramashankar and Ravi son of Rajvir Sharma. Ashish was declared dead at the Hospital, while Ravi was referred to Bareilly. Raghuvir was also with him. Ravi subsequently died.

4. To prove the prosecution case, the prosecution examined P.W.-1, Mahavir Prasad; P.W.-2, Vijay Om son of Lok Sharma; P.W.-3, Lokman son of Sukhlal; P.W.-4, Dr. Mohammad Ubaish; P.W.-5, Sub Inspector, Sunny

Chaudhary; P.W.-6, Constable, Bhupendra Kumar; P.W.-7, Dr. Vishnu Agrawal; P.W.-8, Sub Inspector Vrikshpal Singh; P.W.-9, Inspector, Krishna Gopal Sharma; P.W.-10, Constable Kanak yadav; P.W.-11, Constable Preeti Golyan; P.W.-12, Incharge Inspector, Sanjay Singh and P.W.-13, Sub Inspector, Prayagraj Singh.

5. The statement of the accused were recorded under Section-313 Cr.P.C., wherein, they denied committing alleged offences and also alleged false implication in this case.

6. The defence produced D.W.-1, Lalaram son of Vedram and D.W.-2, Bhure son of Prakash as defence witnesses.

7. P.W.-1, in his examination-in-chief- proved the version of the incident as stated in the F.I.R. He stated that while he escaped unhurt his grand-son, Ashish and Ravi, suffered gun shot injuries on their head. While, the incident took place Vijay Om, Satya Om, Lokman Sharma and Srinivas, were also sitting near the bon fire, who also saw the incident. There was electricity light, wherein, all of them saw the accused and recognized them. At the time of incident, Raghuvir, brother of Dhanvir, had also came on the place of incident, thereafter the accused persons after making firing went towards their house. He got the report written by Lokman by dictating him and after it was read over to him, he made his signatures on the application and gave the same at the Police Station. Thereafter, his statement was recorded by the Investigating Officer and he showed him the place of incident. Ravi subsequently died at Bareilly during treatment.

8. P.W.-2, Vijay Om, father of the deceased, Ashish; gave his statement almost as per statement of P.W.-1. He further stated that accused Dhanvir fired from his licensed single barrel gun and accused, Aagesh fired from his 12 bore country made pistol, which hit Ashish, Pravesh and Ravi.

9. P.W.-3, Lokman proved that accused, Dhanvir, fired from his licensed single barrel gun and accused, Aagesh, fired from his 12 bore country made pistol, which hit Ashish, Pravesh and Ravi.

10. The learned counsel for appellants submitted that P.W.-1 and P.W.-2 have assigned general role of firing to both the accused, Dhanvir and Aagesh, on the two deceased and one injured, but P.W.-3 has assigned specific role of causing fatal injuries to the deceased to accused Aagesh only from his 12 bore country made pistol. P.W.-4 found five pellet injuries on the body of deceased, Ashish. P.W.-7, also found seven pellet injuries on the body of deceased, Ravi. Therefore, the injuries suffered by both the deceased were caused by 12 bore country made pistol, which was got recovered on the pointing out of accused, Aagesh. The F.S.L. Report of the 12 bore country made pistol recovered on the pointing out of accused, Aagesh, proved that it

was used in committing the murder of two persons. There was no motive of crime assigned to the appellant as to why he abused P.W.-1 and then when P.W.-1 tried to stop him and the co-accused, they fired. Therefore, the implication of the appellant, Dhanvir in this case was unwarranted. He was also on bail during the trial and is in jail since 10.01.2025 after conviction in this case. The appellant has been convicted under Section-302 and 504 of I.P.C. and Section-30 of the Arms Act, he has no previous antecedents to his credit.

11. The learned counsel for the informant, Sri Deepak Dubey and Sri Bharat Singh have vehemently opposed the prayer made on behalf of the appellant for grant of bail. They have submitted that the conduct of the appellant of running away from the place of incident and thereafter, depositing his gun in the Arms Shop proves that he tried to wipe out the evidence regarding use of his gun in the alleged offence. It has further been submitted that where the prosecution is based on the eye witnesses account, the indecisive opinion given by experts would not affect the prosecution case as held by the Apex Court in the case of **Balvir Singh Vs. State of M.P., (2019) 15 SCC 599**. It has further been submitted that in the case of contradiction between medical evidence and ocular evidence, the ocular testimony will prevail over medical evidence as held by Apex Court in the case of **Himanshu Mohan Rai Versus State of Uttar Pradesh and Another, (2017) 4 SCC 161**.

12. Learned A.G.A has also opposed the submissions made by the learned Counsel for appellant.

13. After hearing the rival submissions, we find that P.W.-3 has clearly stated that it was accused, Aagesh, who caused fatal injuries on the deceased by his 12 bore country made pistol. He did not assigned any role of causing fatal injury to the appellant, Dhanvir. P.W.-1 and P.W.-2 the other witnesses of fact have assigned general role to both the accused. The counsel for informant has not submitted any reply to the aforesaid argument regarding statement of P.W.-2 advanced by the learned counsel for the appellant. In view of the above we are of the view that appellant, Dhanvir deserves to be enlarged on bail during pendency of this appeal.

14. 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.

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

16. 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.

17. 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.

18. 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.

19. 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

20. Lower court record has been received.

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

22. List this appeal for hearing in due course.

January 8, 2026

Rohit

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