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**(2006) 05 AHC CK 0242**

**In the Allahabad High Court**

**Case No :** Criminal Miscellaneous (II) Bail Application No. 22273 of 2005

Ahsan (In Jail)

APPELLANT

Vs

State of U.P.

RESPONDENT

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**Date of Decision :** 09-05-2006

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 319  
Penal Code, 1860 (IPC) — Section 307, 316, 452, 504

**Citation :** (2006) 05 AHC CK 0242

**Hon'ble Judges :** Ravindra Singh, J

**Bench :** Single Bench

**Advocate :** N.I. Jafri, A.B. Sinha, V.P. Srivastava and S.K. Srivastava, for the Appellant; Vikrant Rana and A.G.A., for the Respondent

**Final Decision :** Disposed Of

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## **Judgement**

Ravindra Singh, J.—This application has been filed by the applicant Ahsan with a prayer that he may be released on bail in case crime No. 313 of 2004 under Sections 452, 307, 504, 316 I.P.C. Police Station Shamli district Muzaffarnagar.

2. This is second bail application. Criminal Misc. First Bail Application No. 1228 of 2005 has been rejected by this Court on 25.5.2005. Thereafter criminal Misc. Short term bail application No. 12588 of 2005 was allowed by this Court and the applicant was released on short term bail for a period of two months. Thereafter criminal misc. parole extension application (Short term bail) application No. 12588 was also allowed on 22.9.2005 and period of short term bail was extended for a further period of four weeks. The short term bail was granted on humanitarian ground because the wife of the applicant was ailing.

3. Heard Sri N.I. Jafri, learned Counsel for the applicant and the learned A.G.A. and Sri Vikrant Rana, learned Counsel for the complainant.

4. It is contended by the learned Counsel for the applicant:

I. That according to the prosecution version the alleged occurrence had taken

place on 8.10.2004 at about 7.30 p.m. in which it is alleged that the applicant and co-accused Kamil and Manshad fired with their country made pistol consequently three persons received injuries and it has been specifically alleged that the shot discharged by the applicant hit the head of the injured Shahzad, the shot discharged by the co-accused Manshad hit the injured Istekhar and the shot of the co-accused Kamil hit the abdomen of Smt. Rukhsana, who was having the pregnancy of seven month but during the investigation the I.O. came to the conclusion that the co-accused Kamil was falsely implicated therefore, no charge sheet was submitted against him. The charge sheet was submitted only against the applicant, co-accused Manshad, in such a situation no reliance can be placed on the prosecution story.

II. That the injured who have received injury have been discharged from the hospital, they are hail and hearty and are doing their usual work.

III. That the co-accused Manshad who was assigned the role of firing has been released on bail by the court below on account of juvenile.

IV. That the applicant is innocent. He has not committed the alleged offence and he has been falsely implicated due to parti bandi.

V. That the applicant remained on short term bail but he has not misused the same and surrendered on the due date.

VI. That the applicant is not having any criminal antecedent, therefore, he may be released on bail.

5. It is opposed by the learned A.G.A. by submitting :

1. That this is second bail application. The first Criminal Misc. Bail application of the applicant has been rejected after considering the case of the applicant on its merit. So far as the non submission of the charge sheet against Kamil is concerned, an undue favour was given to him by the I.O. he has been summoned by the trial court as an accused in exercise of the power conferred u/s 319 Cr.P.C. on 3.1.2006.

2. That there is no new ground to release the applicant on bail, therefore, the applicant is not entitled for bail.

3. That the case of the applicant is at advance stage of the trial where the witnesses are under deposition and on the basis of the statement of P.W. 1 co-accused Kamil has been summoned to face the trial, at this stage it will not be proper to release the applicant on bail.

Considering the facts and circumstances of the case and the submission made by the learned Counsel for the applicant and the learned A.G.A., I am of the view that there is no good ground for releasing the applicant on bail and the case of the applicant is at advance stage and at this stage it will not be proper to release the applicant on bail because it may prejudice the mind of the trial court. The applicant is not entitled for bail. Therefore, prayer for bail is refused.

However, considering the period of detention of the applicant it is directed that the proceedings of the trial may be expedited without granting unnecessary adjournments. The office is directed to communicate a copy of this order to the learned Sessions Judge concerned within a week.

6, Accordingly this application is disposed of.