**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**CRIMINAL MISC. BAIL APPLICATION No. - 13797 of 2026**

Babita

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

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| Counsel for Applicant(s) | : | Adesh Kumar |
| Counsel for Opposite Party(s) | : | Ashutosh Singh, G.A., Neetu |

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**Court No. - 65**

**HON'BLE SAMEER JAIN, J.**

1. Case called out in revised list. None is present on behalf of informant.

2. Rejoinder affidavit filed by the applicant is taken on record.

3. Heard Sri Adesh Kumar, learned counsel for the applicant and Sri Rajeev Dhar Dwivedi, learned AGA for the State.

4. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 171 of 2024, under Sections 147, 148, 149, 307, 302/34 IPC, Police Station Khatauli, District Muzaffarnagar during pendency of the trial.

5. Learned counsel for the applicant submits, however, applicant is named in the FIR along with four others but only general role has been assigned by the informant to all the accused and according to the FIR all the accused opened fire due to which deceased sustained injuries. He next submits, even entire allegation leveled against applicant is totally false.

6. He next submits, initially FIR of the present case was lodged under Section 307 IPC and other offences but after the death of injured case has been converted under Section 302 IPC.

7. He further submits, however it is a case in which one person died and one person sustained injuries and there are some eye witnesses too and they in their statements recorded under Section 161 Cr.P.C. stated that applicant caused firearm injury to the deceased but there is video statement of the deceased on record and however in this statement he also disclosed the name

of applicant but he did not state that applicant caused injury to him, therefore, in the light of video statement of the deceased, the statements of eye witnesses and injured witness prima facie appears to be doubtful.

8. He further submits, applicant is not having any criminal history and in the present matter he is in jail since 10.01.2025 i.e. for last more than one and half years.

9. Per contra, learned AGA opposed the prayer for bail and submits, considering the statements of eye witnesses and injured witness prima facie applicant appears to be prime accused who by causing firearm injury committed the murder of the deceased. Learned AGA further submits, even deceased disclosed the name of applicant along with others, therefore, it cannot be said that applicant is innocent.

10. Learned AGA further submits, however, in the present matter applicant is in jail for last more than one and half years but he is prime accused and he is facing trial of murder in which minimum punishment is life imprisonment therefore on this ground it is not proper to release the applicant on bail.

11. Learned AGA further submits, therefore, considering the facts of the case, the instant bail application may be dismissed.

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

13. However, informant in the FIR made only general allegation of fire against all the accused but it is a case in which one person died and one person sustained injury and injured and eye witnesses categorically stated that applicant caused injury to injured and as well as to the deceased.

14. Further, even there is one video statement of the deceased on record and in the video statement also deceased disclosed the name of applicant however he did not disclose that applicant caused injury to him.

15. Considering the overall facts and circumstances of the case including statements of eye witnesses, injured witness and video statement of the deceased prima facie it cannot be said that applicant is innocent.

16. Further, however, in the present matter applicant is in jail for last more than one and half years but he is prime accused of the case and he facing

trial of murder in which minimum punishment is life imprisonment, therefore, merely on this ground it is not proper to release the applicant on bail.

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

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

19. 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.

**October 27, 2026**
AK Pandey

**(Sameer Jain,J.)**

Digitally signed by :-
ANUPAM KUMAR PANDEY
High Court of Judicature at Allahabad