2026:AHC:211641

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 29238 of 2026

Kifait Alias Kifaytulla Alias Amir

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Ravitendra Pratap Singh Chandel, Shikhar Awasthi, Subham Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 69

HON'BLE AVNISH SAXENA, J.

1. The case is nominated by Hon'ble The Chief Justice.

1A. Heard Sri Ravitendra Pratap Singh Chandel, learned counsel for accused applicant and learned A.G.A. for the State.

2. The present bail application has been moved by the applicant accused-**Kifait Alias Kifaytulla Alias Amir** to enlarge him on bail in Case Crime No. 217 of 2026, under Section 109(1) of BNS, Sections 3/25/28 Arms Act and Sections 8/20/60 NDPS Act, P.S.- Nai Mandi, District- Muzaffar Nagar during the pendency of trial.

3. It is the contention of learned counsel for accused applicant that the police has lodged the FIR dated 3.5.2026 against five named accused persons including the accused applicant with the allegation that five accused, who were arrested by the police in two vehicles, two persons in Tata Ace (Chhota Hathi) and three persons in Creta Car. The accused applicant was shown in Creta Car. There was police encounter where none of the police personnel suffered injury. On the contrary, two persons, who were in Tata Ace (Chhota Hathi) suffered gunshot injury on their legs. The police has also recovered a country made pistol from the accused applicant and 101 Kg. Ganja from Creta Car. The accused applicant is not the owner of Creta Car. There is no independent witness of the arrest and recovery. The mandatory provisions of NDPS Act has not been complied with. The charge sheet has been submitted. The

applicant has two cases criminal history, wherein, in one case, he is in jail and in one case, he is on bail. The applicant is languishing in jail since 3.5.2026. The trial is still at the nascent stage. He seeks enlargement of accused on bail.

4. Learned A.G.A. has opposed the bail application.

5. This Court has taken into consideration the rival submissions made by learned counsel for the parties and perused the record.

6. In the case of **Mohd. Muslim alias Hussain Vs. State (NCT of Delhi) [(2023) 18 SCC 166]** the Apex Court observed and held that the rigour under Section 37 of NDPS Act would not come in the way, when the Court deals with the liberty of a person, as more the rigour, quicker ought to be the adjudication.

7. Considering that the arrest and recovery has been made in absence of independent witnesses and mandatory compliance of NDPS Act is subject matter of trial, which is still at the nascent stage, the accused applicant is entitled to be enlarged on bail.

8. Therefore, considering the facts and circumstances of the case, the bail application is **allowed**.

9. The accused/applicant be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of court concerned in view of observation made by the Supreme Court in its dictums of **Girish Gandhi Vs. State of Uttar Pradesh [(2024) 10 SCC 674] and Policy Strategy for grant of bail in re [(2024)10SCC 685].**

10. The accused-applicant shall cooperate in judicial process for fair and speedy disposal.

(Avnish Saxena,J.)

October 8, 2026
Krishna*

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