



HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 19253 of 2026

Mohammad Rafiq @ Rafiqul Islam

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Azaz Ahmad
Counsel for Opposite Party(s)	:	G.A.

Court No. - 45

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard learned counsel for the applicant and the learned A.G.A. for the State of U.P.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 197 of 2026, under Sections 109(1), 352, 351(2), 115(2), 191(2), 3(5) BNS, Police Station Sahibabad, District Ghaizabad.
3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. It is further submitted that the applicant has been assigned role of causing knife injury to the injured Noshad. The injured Noshad sustained as many as ten injuries on his body. The injury no. 7 is incised wound of size 03 cm x 02 cm x muscle deep on back of left shoulder. No other knife injury was noticed on the body of the injured. The other co-accused Anshu was assigned role of causing injury to another injured Deepak who sustained incised wound of size 02 cm x 0.5 cm x muscle deep on left side outer aspect back of chest 16 cm below left scapular region. As per the injury report of the injured Noshad, his injuries are simple in nature except injury nos. 2 and 6. It is further submitted that as per supplementary report of injured Noshad, injury no. 6 is simple in nature. Therefore, there is no grievous or dangerous to life injury on the person of injured Noshad.

4. It is further submitted by the learned counsel for the applicant that the identically situated co-accused Anshu, having caused knife injury to the other injured Deepak, has been enlarged on bail by the court concerned vide order dated 9.6.2026. The case of the applicant is identical to that of co-accused Anshu. There is no criminal history of the applicant. Learned counsel for applicant further submits that applicant has been languishing in jail since 27.4.2026 and in case, he is released on bail, he will not misuse the liberty of bail and will cooperate in trial.

5. Per contra, learned A.G.A. has opposed the prayer for grant of bail to the applicant and submitted that there is ample evidence against the applicant regarding his involvement in the offence, therefore, he is not entitled to be released on bail.

6. Having considered the rival submissions advanced by learned counsel for the parties, the nature of accusations, the evidence brought on record, the period of incarceration undergone by the applicant, the absence of any criminal antecedents, the injury sustained by the injured Noshad which is simple in nature and the applicant is stated to have caused a single blow on the back of the shoulder of the injured, the other co-accused Anshu, having identical role of causing injury to another injured Deepak, has been granted bail by the learned court concerned, and without expressing any opinion on the merits of the case, this Court finds that the applicant has made out a case for grant of bail.

7. Accordingly, the bail application is **allowed**.

8. Let the applicant-**Mohammad Rafiq @ Rafiqul** Islam who is involved in the aforementioned case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the Trial Court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A IPC/ 269 B.N.S.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82

Cr.P.C./ 84 B.N.S.S., may be issued and if applicant fails to appear before the Court on the date fixed in such proclamation, then, the Trial Court shall initiate proceedings against him, in accordance with law, under Section 174-A IPC/ 209 B.N.S.

(iv) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C./ 351 of B.N.S.S. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

9. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

10. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

11. While granting bail to the abovementioned accused-applicant, it is observed by this Court that his bail was rejected by the learned Additional Sessions judge, Court No. 7, Ghaziabad, vide order dated 14.05.2026 with the following observations:-

“केस डायरी के अवलोकन से विदित होता है कि प्रस्तुत मामले में चुट्टैलों को निम्नलिखित चोटें आयी हैं।

नौशाद को आयी चोटें:-

1. LW OF SIZE 03CMX0.5CM X SKIN DEEP ON UPPER EYELID
- 2- MULTIPLETS OF SIZE 09CMX06CM ON AROUND RIGHT EYE REDNESS OF EYE PRESENT KUO REFER TO EYES URGEON
- 3-TS OF SIZE 10CMX04CM ON RIGHT SIDE HEAD 02CM ABOVE RIGHT EAR
- 4- TS OF SIZE 04CMX03CM ON LEFT SIDE HEAD 06CM ABOVE LEFT EAR
- 5- TS OF SIZE 03CMX02CM ON LEFT SIDE BACK OF SKULL 03CM BEHIND LEFT EAR
- 6- MULTIPLETS IN AREA OF 10CMX06CM ON BACK OF HEAD 08CM MEDIALY TO LEFT EAR
- 7- IW OF SIZE 03CMX02CM X MUSCLE DEEP ON BACK LEFT SHOUDER
- 8- ABRASION OF SIZE 01CMX01CM ON OUTER ASPECT OF LEFT SIDE CHEST LOWER PART
- 9- RED CONTUSION OF SIZE ON LEFT SIDE ABDOMEN

10- RED CONTUSION OF SIZE 10CMX02CM ON FRONT OF LEFT SIDE UPPER CHEST

दीपक को आई चोटें-

1- IW OF SIZE 01CMX0.5CM X MUSCLE DEEP ON LEFT SIDE OUTER ASPECT BACK OF CHEST 16CM BELOW LEFT SCAPULAR REGION

इरशाद को आई चोटें-

1- IW OF SIZE 01CMX0.5CM X MUSCLE DEEP ON OUTER ASPECT OF LEFT SIDE CHEST UPPER PART

2- ABRASION OF SIZE 03CMX0.5CM ON RIGHT SIDE ABDOMEN UPPER PART

प्रथम सूचना रिपोर्ट में अभियुक्त द्वारा वादी मुकदमा/चुटैल को जान से मारने की नियत से चाकू मारने का कथन किया गया है। वादी मुकदमा द्वारा धारा 180 बी0 एन0 एस0 एस0 में कथन किया गया है कि रफीक चाकू लेकर आया, कुलदीप ने वादी मुकदमा के सिर में रॉड मारी और रफीक ने कंधे पर चाकू मारा। चिकित्सक के बयान के अनुसार सप्लीमेंटरी रिपोर्ट में नौशाद को दो चोटें पाई गईं। मेडिकल ओ0 पी0 डी0 नंबर 14493 पत्रांक नंबर-47/1509/26 समय 10-30 बजे रात्री में किया गया था। मजरूब दीपक को गम्भीर प्रकृति की चोट थी। दीपक की हालत को गम्भीर प्रवृत्ति की पाते हुए हायर मेडिकल सेंटर रेफर किया गया था। मजरूब नौशाद की एक्सरे रिपोर्ट मेडिकल रिपोर्ट के आधार पर नौशाद की सप्लीमेंटी रिपोर्ट नं0 27 मेरे द्वारा दिनांक 9-5-26 को तैयार की गयी है। अभियुक्त द्वारा वादी मुकदमा पर चाकू से वार कर गम्भीर चोटें पहुंचायी गयी है। प्रकरण में अभियोजन द्वारा अभियुक्त की मुख्य भूमिका बतायी गयी है।

मामले के समस्त तथ्य व परिस्थितियों एवं अपराध की गम्भीरता को दृष्टिगत रखते हुए अभियुक्त को जमानत पर रिहा किये जाने हेतु पर्याप्त आधार नहीं है। तदनुसार प्राथी/अभियुक्त की ओर से प्रस्तुत जमानत प्रार्थना पत्र निरस्त किये जाने योग्य है।

आदेश

प्रार्थी/अभियुक्त मोहम्मद रफीक उर्फ रफीकुल इस्लाम की ओर से प्रस्तुत प्रथम जमानत प्रार्थना पत्र निरस्त किया जाता है।”

12. Subsequently, co-accused Anshu, who was assigned the role of causing knife injury to the injured Deepak on left side back of chest, has been granted bail vide order dated 09.06.2026 with the following observations:-

“प्रथम सूचना रिपोर्ट में अभियुक्त द्वारा चुटैल दीपक को जान से मारने की नियत से चाकू मारने का कथन किया गया है। वादी मुकदमा द्वारा धारा 180 बी0 एन0 एस0 एस0 में कथन किया गया है कि रफीक चाकू लेकर आया, कुलदीप ने वादी मुकदमा के सिर में रॉड मारी और रफीक ने कंधे पर चाकू मारा। चुटैल दीपक के बयान में आया है कि अंशु व रफीक के हाथ में चाकू, कुलदीप के हाथ में लोहे का राड तथा अरुण व सोनी आदि लाठी डण्डे लेकर आये थे। सभी ने गाली देते हुए जान से मारने की नियत से एकदम हमला कर दिया। कोई सप्लीमेंटरी रिपोर्ट पत्रावली पर उपलब्ध नहीं है। चुटैल दीपक की चिकित्सीय आख्या के अनुसार उसे छाती के पीछे की तरफ चाकू की एक चोट है। अभियुक्त उपरोक्त मामले में दिनांक

12-5-2026 से जिला कारागार में निरूद्ध है। सह-अभियुक्ता सोनी की जमानत इस न्यायालय द्वारा दिनांक 6-5-2026 को, सह-अभियुक्त अरुण कुमार की जमानत दिनांक 14-5-2026 को एवं सह-अभियुक्त कुलदीप की जमानत दिनांक 22-5-2026 को स्वीकार की जा चुकी है।

मामले के समस्त तथ्य व परिस्थितियों एवं मामालो के गुण-दोष पर कोई टिप्पणी किए बिना अभियुक्त को जमानत पर रिहा किया जाने हेतु पर्याप्त आधार है। तदनुसार प्रार्थी/अभियुक्त की ओर से प्रस्तुत जमानत प्रार्थना पत्र स्वीकार किये जाने योग्य है।

आदेश

प्रार्थी/अभियुक्त अंशु की ओर से प्रस्तुत जमानत प्रार्थना पत्र स्वीकार किया जाता है। अभियुक्त द्वारा अंकन 50,000/-रुपये (पचास हजार) का व्यक्तिगत बंधपत्र एवं समान धनराशि के दो विश्वसनीय प्रतिभू सम्बन्धित मजिस्ट्रेट की सन्तुष्टि में दाखिल करने पर उक्त अपराध में जमानत पर रिहा किय जाए।”

13. It has come to the notice of this Court, upon perusal of the records/orders passed in Bail Applications of aforementioned accused, that bail was refused to the applicant Mohd. Rafiq on 14.05.2026, but subsequently bail was granted to co-accused Anshu on 09.06.2026, alleged to have been assigned substantially similar roles.

14. Since judicial consistency and uniform application of legal principles are matters of institutional importance, it is considered appropriate to seek explanation from the concerned court/Additional Sessions Judge, Court No. 7, Ghaziabad, in respect of disparity committed by him while disposing bail application of aforesaid accused.

15. Therefore, Additional Sessions Judge, Court No. 7, Ghaziabad, is directed to furnish a detailed explanation, through Registrar General of this Court, within seven days from the receipt of this communication, indicating the distinguishing facts, circumstances, or legal consideration which weighed with the court in denying bail to the applicant-accused herein while granting bail to the similarly placed co-accused Anshu.

16. The explanation may specifically indicate the material factors which, in the considered opinion of the learned court, justified differential treatment in the orders passed.

17. It is clarified that this communication/order is being issued for administrative purposes and, right now, shall not be construed as expressing any opinion on the merits of the judicial orders concerned.

18. Registrar (Compliance) is directed to communicate this order to the officer concerned through District Judge, Ghaizabad by fastest mode within three days .

19. Put up this case on 13.07.2026 before this Court alongwith the explanation of the learned Court concerned.

(Vivek Kumar Singh,J.)

June 17, 2026

Lalit Shukla