

**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
MCRC No.30308 of 2024
(SHABAB KHAN VS. STATE OF MADHYA PRADESH)**

Dated: 31-07-2024

Shri Atul Gupta – Advocate for the applicant.

Shri Kuldeep Singh – Public Prosecutor for the State.

This **third repeat** application has been filed by applicant under Section 439 of Code of Criminal Procedure, 1973, for grant of bail in connection with Crime No.325 of 2022 registered at Police Station Kotwali Bhind, District Bhind (M.P.) for offence punishable under Sections 302, 307, 323, 294, 34 IPC and added Sections 25, 27 Arms Act. Applicant is in judicial custody since 17.08.2022. His first bail application (by co-ordinate Bench) & second bail application (by this Court) were dismissed as withdrawn vide order dated 26.04.2023 (M.Cr.C. No.14478/2023) and 02.04.2024 (M.Cr.C. No.51535/2023).

As per the case of prosecution, Shakeel Khan reported to Station House Officer, Police Station Kotwali Bhind, District Bhind (M.P.) that on 10.08.2022 around 02:45 in the afternoon, he was working in the lane with brother Raju, uncle Noor Baksh and Rahees. His neighbour Shabab S/o Ruaab @ Chapati, Shadab S/o Kallu Khan, Iqbal S/o Siraj Khan and Aarif S/o Ruaab @ Chapati had altercation with his uncle Pange @ Noor Baksh. Raju intervened. Shabab, Shadab and Iqbal brought country made gun (*Katta*) from their home. Shabab fired on Noor Baksh. Bullet hit on head of Pange @ Noor Baksh. He died on the spot. Then Shadab fired on Raju. Bullet hit on his left temporal region. Iqbal fired on Rahees. Right hand of Rahees got injured. Aarif assaulted Rahul with knife. Rahul sustained injury on his left arm.

Injured were taken to District Hospital, Bhind. On such allegations, Police Station Kotwali Bhind, District Bhind (M.P.) registered FIR at Crime No.325 of 2022 for offence punishable under Sections 302, 307, 323, 294, 34 IPC. Dead body of Pange @ Noor Baksh was forwarded for post-mortem examination. Medical Officer opined that Pange @ Noor Baksh died due to shock caused by excessive haemorrhage as a result of firearm injury to vital organ (brain). Applicant Shabab Khan was arrested on 17.08.2022. He is in custody ever since. One country made gun (*Katta*) of 315 bore with live cartridge was recovered at the instance of Shabab. Bullet recovered from dead body and other firearms and cartridges were forwarded for examination by ballistic expert. Ballistic expert opined that the bullet recovered from the dead body of Pange @ Noor Baksh matches with test bullet fired by firearm recovered at the instance of Shabab Khan. On completion of investigation, final report was submitted. Offence punishable under Sections 25, 27 of Arms Act was added. Trial is underway.

Learned counsel for the applicant in addition to the grounds mentioned in the application submits that applicant has falsely been implicated in the matter. Learned counsel further submits that that applicant is aged about 30 years. He is a carpenter. There is no likelihood of absconsion leaving his family, home and profession. There is no likelihood of tampering with the evidence by the applicant. Applicant has already undergone custody for almost two years. Trial would take time to conclude. Therefore, learned counsel submits that applicant may be extended the benefit of bail.

Per contra, learned counsel for the State opposes the application and prays for its rejection. Learned counsel submits that there is direct evidence against the applicant. The ballistic expert also fortifies the prosecution. Trial is progressing at an appropriate pace and would conclude soon. Therefore,

applicant may not be extended the benefit of bail.

Heard learned counsel for the parties and perused the case-diary.

Considering rival contentions and material on record but without commenting on merits, in the considered opinion of this Court, the applicant does not deserve to be extended the benefit of bail.

Consequently, present application stands *dismissed*.

(SANJEEV S KALGAONKAR)
JUDGE

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