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**(2007) 01 AHC CK 0198**

**Allahabad High Court**

**Case No:** Criminal M.B.A. No. 18924 of 2006

Nitin Kasana

APPELLANT

Vs

State of U.P.

RESPONDENT

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**Date of Decision:** Jan. 4, 2007

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 161
- Penal Code, 1860 (IPC) - Section 302, 307

**Citation:** (2007) 1 ACR 1066

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

**Bench:** Single Bench

**Advocate:** V.P. Srivastava, Lav Srivastava and Rahul Kakran, for the Appellant; Manoj Vashisth, R.B. Singh and A.G.A., for the Respondent

**Final Decision:** Dismissed

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**Judgement**

Ravindra Singh, J.

This application has been filed by the applicant Nitin Kasana with a prayer that he may be released on bail in Case Crime No. 202 of 2006, under Sections 302 and 307, I.P.C., Police Station Medical College, district Meerut.

2. The prosecution story, in brief, is that the F.I.R. of this case has been lodged by Rajeev Kumar on 27.6.2006 at 12.50 p.m. at Police Station Medical College, Meerut against the applicant, co-accused Neeraj Malik and one unknown miscreant in respect of the incident which had occurred on 22.6.2006 at about 11.30 a.m. in the campus of Meerut University, the distance of the Police Station was about 2 kms. from the alleged place of the occurrence. It is alleged that on 27.6.2006 at about 11.30 a.m., the first informant and his brother deceased Sanjeev were coming out from Dr. R. K. Singh Hostel, when they reached at the main gate of the Hostel, saw that one unknown miscreant having Pulser Motorcycle No. U.P.-15 Y-9052 in a starting condition which was parked there, the applicant and co-accused Neeraj

Malik were also standing there under the Porch. The applicant and co-accused were having annoyance with the deceased on account of University politics, it was told by the deceased to the first informant prior to alleged incident. The applicant and co-accused Neeraj Malik made exhortation to commit the murder of the deceased and a shot discharged by the co-accused Neeraj Malik hit on the chest of the deceased. Consequently he fell down. The applicant discharged a shot by a country made pistol towards the first informant but he did not receive any injury. After committing the murder, the applicant and co-accused persons escaped from the place of the occurrence. They were chased by the first informant and other inmates of the hostel but all the three miscreants showing their country made pistols successfully ran away from the place of the occurrence. The deceased was taken to Lokpriya Hospital where he was declared dead. Thereafter the F.I.R. of this case has been lodged. According to the post-mortem examination report, the deceased had received one gun shot wound of entry on right side front of chest, blackening around the wound was found, its exit wound was injury No. 2.

3. Heard Sri V. P. Srivastava, senior advocate, assisted by S/Sri Lav Srivastava and Rahul Kakan, learned Counsel for the applicant, learned A.G.A. for the State of U.P. and S/Sri R. B. Singh and Manoj Vashistha, learned Counsel for the complainant.

4. It is contended by the learned Counsel for the applicant that even according to the prosecution version, the applicant was having no motive and intention to commit the alleged offence and the applicant had not caused any injury on the person of the deceased, even he has not discharged the shot towards the deceased. The allegation against the applicant is that he discharged the shot towards the first informant who had not received any injury. The naming of the applicant is afterthought, he has been named only due to dirty politics of the University. Even the applicant was not student of the Meerut University and he was not residing in that campus. He was a student of N.A.S. College, Meerut. The applicant has nothing to do with the politics of Meerut University. The identity of the applicant is also highly doubtful because even the father's name of the applicant and his address had not been disclosed in the F.I.R. It is alleged that the inquest report was prepared on 27.6.2005, in which the name of the applicant had not been disclosed. Even in the statement of the first informant recorded u/s 161, Cr. P.C. the father's name and the address of the applicant has not been disclosed. The alleged offence had been committed by some unknown miscreants, but due to murder of a student of University, a panic was created in the University campus and the students became unrest. In order to pacify them, the applicant has been falsely implicated in the present case and the applicant was having no criminal antecedents. Therefore he may be released on bail.

5. In reply of the above contentions, it is submitted by the learned A.G.A. and learned Counsel for the complainant that a student had been murdered in the University campus at the main gate of its hostel, the applicant was also actively

involved in the commission of the alleged offence because the applicant, co-accused Neeraj and one unknown miscreant were waiting at the gate of the hostel the arrival of the deceased and they were having motor-cycle in a starting condition and after committing the alleged offence, the applicant and two other accused persons fled away from the place of occurrence by showing their weapons. The applicant was very well known to the first informant and other witnesses, generally students do not know the father's name and the address of the other students, the identity of the applicant is not disputed. The applicant was not student of the Meerut University, he was student of N.A.S. College, Meerut, which was about 4 kms. away from the University campus, his arrival at the University campus having a country-made pistol and discharging a shot towards the first informant clearly shows that he was having a strong motive and intention to commit the murder of the deceased and the gravity of the offence is too much because due to this incident, a panic was created in the University campus, the atmosphere of fear and terror was created, the students were not daring to enter into the campus. Due to this incident, the students agitated and whole of the city was tensed. The problem of law and order was created in the whole of the city Meerut, the local police was trying to control the tense situation of the city and made an attempt to arrest the applicant and other co-accused persons. In order to arrest the co-accused Neeraj, the police went to his house where the police constable was shot dead by the applicant and father of the co-accused Neeraj Malik in that incident was also shot dead. In such situation, the applicant should not be released on bail.

6. From the perusal of the record, it reveals that the applicant has not caused any injury on the person of the deceased, he discharged a shot towards the first informant due to which nobody received any injury. The alleged occurrence had taken place at the main gate of hostel inside the University premises. The manner in which the alleged incident had taken place, which had affected the atmosphere of whole of Meerut city including the University and gave rise to a subsequent incident in which one police constable had been shot dead and the father of co-accused Neeraj, who was a practising lawyer of Meerut has been shot dead and some other minor incidents also occurred due to agitation of the students and other peoples of the city. The problem of public order was created there which shows that due to act done by the applicant and other co-accused persons, the smooth functioning of the University and normal working of the people of the city was badly affected. Whenever an offence is committed in the premises of educational institutions, public places, places of worship, Courts campus, Government offices, hospitals and other important public places markets always affects adversely, the normal functioning of the life of the people and leaves an impact which takes time to restore normalcy, such act is of grave in nature. In such a case, if the accused is released on bail, the confidence of the people on the judicial system is shaken.

7. In view of the above discussion and considering the facts, circumstances of the case, submissions made by the learned Counsel for the applicant, learned A.G.A. and

learned Counsel for the complainant, I am of the view that the present case is of "grave in nature" and without expressing any opinion on the merits of the case, the applicant is not entitled for bail, therefore, the prayer for bail is refused.

8. Accordingly, this application is rejected.