

**(1991) 08 AHC CK 0086**

**Allahabad High Court**

**Case No:** Criminal Misc. Bail Application No. 8740 of 1991

Kalyan

APPELLANT

Vs

State of U.P.

RESPONDENT

**Date of Decision:** Aug. 29, 1991

**Acts Referred:**

- Arms Act, 1959 - Section 27
- Penal Code, 1860 (IPC) - Section 147, 148, 149, 302

**Citation:** (1991) 15 ACR 552

**Hon'ble Judges:** B.P. Singh, J

**Bench:** Single Bench

**Advocate:** P.N. Lal and Chitralekha Satsangi, for the Appellant;

**Final Decision:** Disposed Of

### **Judgement**

B.P. Singh, J.

Heard Shri P.N. Lal, learned Counsel for the applicant and the learned A.G.A.

2. The applicant Kalyan is being prosecuted for committing the offences under Sections 147, 148, 149, 302 IPC and Section 27 of the Indian Arms Act PS Sehramau South, District Shahjahanpur.

3. According to the FIR version, which was lodged by Chhotey Singh on 21-6-1990 at 8.30 a.m. at Police Station, Sehramau, Kalyan and five others armed with fire arms and Kantas raided the house of Bhajannu and had caused injuries to Bhajannu and his family members The result was that Bhajannu, his wife Smt. Guddi and his niece Sundari died while Bijendra, Munni and Meera sustained injuries from fire arms and Kanta.

4. It appears that the first informant Chhotey Singh and one eyewitness Suresh have filed affidavits before the learned Magistrate in which they have categorically stated

that the applicant Kalyan was not among the assailants and he was named in the FIR by Chhotey Singh under mistaken belief that he was among the miscreants. It was also contended that there was no Kanta injury upon the person of the deceased or the injured. No specific weapon was assigned to any one of the named persons in the FIR. It was also contended that only Suresh and Chhotey Singh were said to be carrying torches with them and there was no other source of light according to the recital of the FIR.

5. Where the first informant, who is the real brother of the deceased, goes back from the stand which was taken in the FIR; where the witnesses who were carrying torches have filed affidavits disowning the involvement of the applicant in the crime in question and where the deceased and the injured did not sustain any Kanta injuries although some of the miscreants were armed with Kanta, a case for bail is made out. However, it is made clear that these observations shall have no bearing upon the learned Judge, who will decide the case finally.

6. Let the applicant Kalyan son of Hira involved in case crime No. 119 of 1990 under Sections 147/148/149/302 IPC and Section 27 of the Indian Arms Act PS Sehramau South, District Shahjahanpur, be released on bail provided he furnishes a personal bond and two sureties to the satisfaction of CJM Shahjahanpur.