

SC 343/2025
STATE Vs. HITAYATULLA
FIR No. 277/2025
(Shastri Park)

09.01.2026

Present: Ld. Substitute Addl. PP for the State.
Accused Gautam in person.
Accused Hitayatulla is produced from JC.
Ld. counsel for the accused Gautam.
Ld. counsel for the accused Hitayatulla.

1. Arguments heard on the point of charge.
2. It is submitted by counsel for the accused Hitayatulla that injury is not so serious as to fall under attempt of murder, it can be charged for grievous offence.
3. There is MLC of Ganesh on record according to which, victim Ganesh received simple injury while victim Gulshan received grievous injury. It is submitted by counsel for the accused Gautam that he had only beaten with fist and blows and knife was used by Hitayatulla only. Hence, charge under section 109(1) of BNS is not made out against him.
4. I have heard both the sides and gone through the record.
5. As per FIR which is registered on the complaint of injured Ganesh who stated that at around 10.30 pm while he was in his room, one Vikas called him telephonically and called him at Shastri Park Chowk. When he reached at the spot, he met

Contd....

Vikash, Gulshan and Mannu there. Gulshan and Vikash were engaged in some *kaha suni* with two other accused. When complainant tried to intervene then one accused Hitayatulla took out knife from his pocket and started giving knife blows to Gulshan, and when complainant tried to stop him he was also attacked with knife. Co-accused Gautam caught hold of Vikash and Mannu and started beating them with legs and fists. The name of two accused is not mentioned in the FIR but they were arrested later on and on their identification, their names are mentioned in section 161 Cr.P.C statement of complainant, other victims and witnesses.

6. There is MLC of Ganesh on record according to which he received simple injury while victim Gulshan received grievous injury.

7. Further, perusal of section 161 Cr.P.C statement of Vikash would show that he had mentioned that accused Gautam had come on his shop in the morning and threatened him that he will see him in the Shastri Park. It was accused Gautam Yadav who had brought his friend co-accused Hitayatulla alongwith him who had given injuries with knife to the victims. Hence, it was accused Gautam Yadav who had initially altercation / arguments with Vikas and consequently brought co-accused with him when this incident had taken place.

8. Both the victims had received single knife blow. Victim Ganesh has received injury near his armpit while victim

Contd....

Gulshan has received injury over his abdomen. Only because a single stab wound was given, it cannot be presumed at this stage, that there was no intention to commit murder, same is to be assessed during trial. Further, Gulshan was injured on vital part of his body i.e. abdomen.

9. The overall circumstances of the case show that accused Gautam had motive and prior enmity with Vikas due to which accused Gautam had brought Hitayatulla with him for the commission of crime.

10. At this stage, there is sufficient material on record, prima facie to frame charge against both the accused u/s 109(1)/3(5) of BNS.

11. Hence, put up for framing of charge on **31.01.2026**.

12. Arguments heard on the bail application of accused Hitayatulla. It is submitted by counsel for applicant that co-accused is already on bail who had hatched conspiracy as per the case of prosecution. Further, charge sheet is already filed and hence bail is prayed.

13. I have heard both the sides and gone through the record.

14. It was the applicant who had given knife blows to the victims whereby causing injuries to them. Further, the incident happened on service lane which is accessible to public and visible to the persons going from main road yet applicant had

Contd....

no fear of law and order. Testimony of eye witnesses and complainant is yet to be recorded. All the witnesses had identified accused persons as is mentioned u/s 161 Cr.P.C statement. Hence, the bail application of accused Hitayatulla is hereby **dismissed**.

11. Application stands disposed off accordingly.
12. put up for framing of charge on 31.01.2026.

(Twinkle Wadhwa)
ASJ-02(NE)/ KKD/Delhi
09.01.2026/nk