



2026:AHC:8412

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 43018 of 2024

Nitesh Kumar

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Anupam Laloriya, Sushil Chaturvedi
Counsel for Opposite Party(s) : G.A.

Court No. - 66

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Heard Sri Anupam Laloriya, learned counsel for the applicant and Sri Rajendra Prasad Singh, learned State Law Officer and also perused the material placed on record.
3. Applicant seeks bail in **Case Crime No. 61 of 2024, under Section 302 of IPC, Police Station - Reuna, District - Kanpur Nagar**, during the pendency of trial.
4. Learned counsel for the applicant has argued that the applicant is innocent and has been falsely implicated in the present case. He has nothing to do with the said offence as alleged in the FIR. Two witnesses of fact i.e. P.W. 1 and P.W. 2, have been examined in court and have not supported the prosecution story. They have completely resiled from their earlier statements given to the I.O. and the allegations of the FIR. The witnesses have been cross-examined by the public prosecutor after declaring them hostile. There is no possibility of conviction in the present case under the circumstances.
5. Learned counsel has further submitted that there are two alleged dying declarations of the deceased, which seems to be tutored and mutually contradictory. In the first dying declaration, the deceased has stated that her mother-in-law, Girja Devi, sprinkled kerosene oil over her back and, at the exhortation of the applicant, the husband of the deceased set her on

fire. Although, in the second dying declaration, it has been stated that the husband was not present at the place of occurrence and that it was the mother-in-law, Girja Devi, who sprinkled kerosene oil from behind and that the applicant set her on fire.

6. Learned counsel has argued that the glaring inconsistencies in the aforesaid dying declarations speak volumes about their unreliability and clearly indicate false implication of the applicant. The reason for such improvement and change in the version is that the husband of the deceased had a strong alibi as he had gone along with his children to attend a marriage ceremony and his presence there is duly corroborated by video recording.

7. Learned counsel has contended that the deceased has consistently stated in both dying declarations that kerosene oil was sprinkled over her while the FIR alleges that diesel was used. Although, during investigation, the Investigating Officer has recovered 220 ml of petrol. Kerosene, diesel, and petrol are distinct substances having different octane values, density, and smell. Such material inconsistencies regarding the very nature of the alleged inflammable substance completely demolish the prosecution story and clearly establish that the applicant has been falsely implicated.

8. Learned counsel has also stated that the applicant is languishing in jail since 22.04.2024, having no criminal history to his credit. In case, the applicant is released on bail, he will not misuse the liberty of bail and shall cooperate with trial.

9. Per contra, learned State Law Officer has vehemently opposed the bail application but unable to dispute the submissions raised by the learned counsel for the applicant and also the fact that the applicant has no criminal history.

10. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, nature of offence, severity of punishment and also considering the contradictory statements contained in the dying declarations of the deceased coupled by the fact that the witnesses have turned hostile, *prima facie* I find it a fit case to release the

applicant on bail. The bail application is **allowed**.

11. Let the applicant- **Nitesh Kumar**, who is involved in 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 will not tamper with the evidence during trial.
- ii) The applicant will not pressurise/intimidate with the prosecution witnesses.
- iii) The applicant will appear before the trial court on the date fixed.

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

13. 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.

(Krishan Pahal,J.)

January 13, 2026
Siddhant