



2026:AHC-LKO:2784

A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. BAIL APPLICATION No. - 6338 of 2025

Suresh Lodhi

.....Applicant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko.

.....Opposite
Party(s)

Counsel for Applicant(s) : Aditya Kumar, Aditya Prakash, Anita,
Anshul Verma, Surya Prakash

Counsel for Opposite Party(s) : G.A.

Court No. - 17

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri Aditya Prakash, the learned counsel for the applicant as well as Sri Mayank Sinha, the learned A.G.A. for the State and perused the record.

2. This is second application seeking release of the applicant on bail in Case Crime No. 336 of 2024, under Sections 103(1) B.N.S., Police Station Maurawan, District Unnao.

3. After advancing submissions in support of the first Bail Application No. 11960/2024, the learned Senior Advocate representing the applicant had stated that prosecution evidence was going on and the applicant would await the outcome of the trial and would not press the bail application and, therefore, the first bail application was rejected by means of an order dated 16.05.2025. This second bail application has been filed on 07.07.2025 without awaiting the outcome of trial.

4. The aforesaid case has been registered on the basis of F.I.R. lodged on 12.07.2024, stating that the informant's niece had got married to the applicant about 20 years ago. He got information that the applicant had killed his wife by strangulating her. Upon reaching the applicant's home, the informant found the dead body of his niece lying on the floor and the applicant had ran away from his home.

5. The inquest report mentions a ligature mark around the neck. Blood had oozed out from ears and nose. The inquest proceeding was witnessed by five persons, not including the applicant. The witnesses expressed opinion that the deceased had been killed by strangulating with a saree.

6. The post-mortem examination report mentions a ligature mark present in front of neck, going backwards, horizontally around the neck. There was a contused swelling over right Occipito-parital region of head and a contusion over right side of chest. The cause of death has been opined to be due to ante-mortem strangulation and all the injuries were ante mortem injuries.

7. The investigating officer recorded statement of the complainant, the deceased's sister and the deceased's daughter. The deceased's daughter aged about 14 years stated that her father (the applicant) had beaten up her mother and thereafter he killed her and left the home. This statement was videographed.

8. The complainant has been examined as PW-1 and he stated that the deceased used to suffer from abdomen pain and the family members of her husband had told that she had said that she would commit suicide. This witness was declared hostile. During cross-examination by the defense counsel, PW-1 stated that after the incident, he came to know from the villagers that his niece had committed suicide. He had inquired from the two daughters of the deceased, who stated that their mother was suffering from abdominal pain and, therefore, she committed suicide by hanging.

9. A daughter of the deceased has been examined as PW-2 and she stated that two persons had entered her house in the night of the incident. She did not recognize those persons. Her father was not present. Her younger brother went to her mother's room at about 02:00 a.m. and found her mother dead. Her brother woke her up and then she also went to the mother's room and found her lying dead on the floor. Thereafter she told about it to her grandmother. She did not know as to how did her mother die. When the two persons came there she was sleeping. An altercation took place between those persons and her mother and thereupon she woke up and went inside the room of her mother. Those two persons had

covered their faces with clothes and were strangulating her mother. One was carrying a knife and both of them had threatened her. At this stage this witness was declared hostile.

10. During cross examination by the defense counsel, PW-2 stated that her father was languishing in jail and she, her brother and sister want that he should be released from jail and all of them should live together. Whenever she visits her father in the jail, her father requests her to get him free from incarceration. She further stated that two thieves had entered the house, strangulated her mother and snatched away the jewelry worn by her.

11. At this stage the learned AGA has drawn attention of the Court to the inquest report, which mentions that a nose-pin of yellow metal was present in nose of the dead body, two bangles of yellow color were present in each of the hands and a ring of yellow metal was also present on her finger. Therefore, the statement that thieves had snatched away her jewelry is false on the face of the record. Although in the examination-in chief the PW2 had stated that the two persons who had killed her mother had covered their faces with clothes, during cross-examination she stated that both the thieves had not covered their faces but she did not recognize them.

12. The learned counsel for the applicant had submitted that as both the prosecution witnesses including the complainant and daughter of the deceased have turned hostile, the applicant is entitled to be enlarged on bail.

13. In **State v. Sanjeev Nanda**: (2012) 8 SCC 450, the Hon'ble Supreme Court observed that: -

“99. Witness turning hostile is a major disturbing factor faced by the criminal courts in India. Reasons are many for the witnesses turning hostile, but of late, we see, especially in high profile cases, there is a regularity in the witnesses turning hostile, either due to monetary consideration or by other tempting offers which undermine the entire criminal justice system and people carry the impression that the mighty and powerful can always get away from the clutches of law, thereby eroding people's faith in the system.

*100. This Court in State of U.P. v. Ramesh Prasad Misra [(1996) 10 SCC 360] held that it is equally settled law that **the evidence of a hostile witness could not be totally rejected**, if spoken in favour of the prosecution or the accused, but it can be subjected to closest scrutiny and that portion of the evidence which is consistent with the case of the prosecution or defence may be accepted. In K. Anbazhagan v. Supt. of Police [(2004) 3 SCC 767], this Court held that if a court finds that in the process the credit of the witness has not been completely shaken, it may after reading and considering the evidence of the witness as a whole, with due caution, accept, in the light of the evidence on the record that part of his testimony which it finds to be creditworthy and act upon it. This is exactly what was done in the instant case by both the trial court and the High Court and they found the accused guilty.*

*101. We cannot, however, close our eyes to the disturbing fact in the instant case where even the injured witness, who was present on the spot, turned hostile. This Court in Manu Sharma v. State (NCT of Delhi) [(2010) 6 SCC 1] and in Zahira Habibullah Sheikh (5) v. State of Gujarat [(2006) 3 SCC 374] had highlighted the glaring defects in the system like non-recording of the statements correctly by the police and the retraction of the statements by the prosecution witness due to intimidation, inducement and other methods of manipulation. Courts, however, cannot shut their eyes to the reality. **If a witness becomes hostile to subvert the judicial process, the court shall not stand as a mute spectator and every effort should be made to bring home the truth. Criminal justice system cannot be overturned by those gullible witnesses who act under pressure, inducement or intimidation.** Further, Section 193 IPC imposes punishment for giving false evidence but is seldom invoked.”*

(Emphasis added)

14. The story that the deceased had committed suicide is belied from the post-mortem examination report which mentions presence of a horizontal ligature mark around the neck of the deceased, which is not possible in case of a suicide and which is only possible in case of strangulation by some other person. Therefore, it appears that the deceased has been killed by strangulation inside her matrimonial home. Although the daughter of the deceased has resiled from her statement recorded under Section 161 Cr.P.C., the statement was videographed and, therefore, it is apparent that the deceased's daughter has turned hostile under influence of the applicant who is her father and as per the statement of PW-2 who keeps on asking his daughter (PW-2) to help him in coming out of the prison.

15. There are serious discrepancies in the statement of the PW-2 even while helping the applicant as at one place she said that she had not seen anyone killing the deceased while at the other place she said that two thieves had killed her. At one place she says that the two persons had covered their faces and at another place she says that their faces were not covered. The story of thieves having stolen away some jewelry is proved to be false from the inquest report which mentions presence of jewelry on the dead body.

16. In these circumstances, prima facie, it appears that even while remaining incarcerated, the applicant is influencing the prosecution witnesses. The applicant is accused of killing his wife by strangulation in side his house. The hypothesis of suicide being projected by the defense Counsel, is not supported by the horizontal ligature mark around neck of the dead body and this mark suggests strangulation by some other person. The applicant is the husband of the deceased, he is said to have absconded after the incident and he has not witnessed the inquest proceeding. Therefore, keeping in view the peculiar facts and circumstances of the case, I am of the considered view that the fact of cause do not warrant enlargement of the applicant on bail.

17. The second bail application of the applicant is ***rejected***.

18. It is clarified that the trial Court shall conclude the trial without being influenced by any observation made in this order.

(Subhash Vidyarthi,J.)

January 13, 2026

Pradeep/-