



2026:AHC:58690

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 11624 of 2024

Nirmala Rai

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Arvind Kumar Pandey, Mohammad Zafar Yab Khan, Shahroze Khan, Vivekanand Rai
Counsel for Respondent(s)	: G.A., Md Zakir Husain, Md. Nuruddin Khan, Syed Shahnawaz Shah

Court No. - 50

HON'BLE SHEKHAR KUMAR YADAV, J.

1. Heard learned counsel for the appellant, learned A.G.A. for the State and learned counsel for the informant. Perused the record.
2. The present criminal appeal has been filed under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act challenging the order dated 7.10.2024 passed by learned Special Judge (SC/ST Act)/Additional Sessions Judge, Ballia in Case Crime No. 370 of 2017, under Section 3(2)(Va) of the SC/ST Act, Police Station- Pakari, Distric- Ballia.
3. As per prosecution case, opposite party no.2 moved an application under Section 156(3) Cr.P.C. alleging commission of cognizable offence against seven persons including the present appellant, which was allowed and pursuant thereto FIR dated 25.08.2017 came to be registered regarding the incident dated 29.05.2017.
4. As per FIR allegations, the informant received information that her son Ajeet Kumar had sustained firearm injuries at the house of Nirmala Rai. Thereafter when the informant and other persons reached the spot, they allegedly found the dead bodies of Ajeet Kumar and Khushboo Rai having injuries caused by firearm and sharp edged weapon.
5. It is further alleged that earlier the deceased Ajeet Kumar was acquainted with the accused family and used to visit their house but

relations later became strained. About one month prior to the incident, accused persons allegedly abused the informant by using caste indicative words and threatened them. It is further alleged that the accused persons hatched conspiracy and called the deceased and thereafter committed his murder along with Khushboo Rai and tried to give colour of suicide.

6. During investigation, statements of witnesses were recorded, inquest reports were prepared and post-mortem examinations were conducted. As per post-mortem report, Khushboo Rai sustained multiple incised wounds and cause of death was shock and haemorrhage due to ante-mortem injuries, whereas deceased Ajeet Kumar sustained firearm injury and incised wounds and cause of death was haemorrhage and shock due to ante-mortem firearm injury.

7. However, after investigation, the Investigating Officer submitted final report dated 21.03.2018 in favour of the accused persons. Thereafter, protest petition was filed by the informant which was allowed and by order dated 26.07.2023 the final report was rejected and the appellant along with other accused persons were summoned to face trial.

8. Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in the present case and she has not committed any offence as alleged in the impugned FIR. It is submitted that the alleged incident took place on 29.05.2017 whereas the application under Section 156(3) Cr.P.C. was moved by opposite party no.2 on 07.07.2017 i.e. after a delay of about 38 days and pursuant thereto the impugned FIR came to be lodged on 25.08.2017 under Sections 302, 504, 506 IPC and Section 3(2) of SC/ST Act. He further submits that earlier, the applicant moved bail application before the court below in Bail Application No.370 of 2017 under Sections 302, 504, 506 IPC and Section 3(2) of SC/ST Act, which was dismissed on 23.7.2024 but the bail application under Section 3(2)(va) SC/ST Act was not filed, thereafter, the applicant approached before the court below and moved bail application under Section 3(2)(va) of SC/ST Act and the court below vide its order dated 7.10.2024, rejected the bail application, hence, the present application before this Court. It is further submitted that the son of opposite party no.2 himself committed the murder of Khushboo Rai by

inflicting multiple knife blows and thereafter he himself fired a gunshot upon his person and also caused knife injuries to himself. It is submitted that as per the opinion of the doctor, the death of the deceased Ajeet Kumar took place due to ante-mortem firearm injury.

9. It is next submitted that the mother of the appellant had also lodged an FIR on 29.05.2017 against the deceased and an unknown person under Sections 302 and 506 IPC, however, the police without properly investigating the said case submitted final report on 16.02.2018. It is further submitted that in the present case also the Investigating Officer, after thorough investigation, submitted final report but the same has been rejected on the basis of protest petition filed subsequently.

10. Learned counsel further submits that the appellant is merely the married sister of deceased Khushboo Rai and no specific role has been assigned to her in the alleged incident. It is also submitted that the appellant is widow, aged about 60 years old lady having no criminal history.

11. It is further argued that co-accused Umesh Kumar Gond has already been granted bail by a Coordinate Bench of this Court vide order dated 19.03.2025 passed in Criminal Appeal No.12621 of 2024 and the case of the present appellant stands on similar footing.

12. Learned counsel has also submitted that the appellant is entitled to the benefit of the proviso to Section 437 Cr.P.C. being a woman accused. It is lastly submitted that the appellant has already surrendered before the court below and is languishing in jail since 5.7.2024 and the impugned order rejecting bail suffers from illegality and infirmity and is liable to be set aside.

13. On the other hand, learned AGA and learned counsel for the informant opposed the prayer for bail and submitted that the appellant is named accused in the FIR; that the allegations disclose conspiracy and active participation; that two persons lost their lives in the incident; that the offence is grievous in nature; that the protest petition was allowed after considering material on record; that if released on bail, the appellant may influence witnesses.

14. I have considered the rival submissions and perused the record.

15. Considering the nature of accusations, the fact that after investigation the police submitted final report, the appellant has been summoned on the basis of protest petition, no specific role has been assigned to the appellant, the appellant is a lady having minor children, has no criminal history, is in jail since 20.12.2024, the parity of bail granted to co-accused and without expressing any opinion on the merits of the case, I find it to be a fit case for bail.

16. Accordingly, the appeal is **allowed** and the impugned order rejecting the bail application of the appellant is hereby **set-aside**.

17. Let the appellant- **Nirmla Rai**, involved in aforesaid case crime number be released on bail on 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 appellant will not tamper with the evidence during the trial.

(ii) The appellant will not pressurize/ intimidate the prosecution witness.

(iii) The appellant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The appellant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

(v) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the Court or to any police officer or tamper with the evidence.

18. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

(Shekhar Kumar Yadav,J.)

March 20, 2026

Krishna*