

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S  2026:UHC:3959
			<u>BA1 No. 342 of 2026</u> Sandeep Sardar Applicant Vs. State of Uttarakhand Respondent <u>Hon'ble Ashish Naithani, J.</u> Mr. Vikas Anand and Ms. Gyanmati Kushwaha, learned counsel for the Applicant. 2. Mr. N.S. Kaniyal, learned A.G.A. for the State of Uttarakhand. 3. Heard learned counsel for the Applicant and learned A.G.A. for the State and perused the records. 4. The present First Bail Application has been preferred by the Applicant seeking enlargement on bail in connection with FIR No. 32 of 2022, registered under Sections 302, 304-B, 498-A, 201 and 34 IPC at Police Station Sitarganj, District Udham Singh Nagar, during the pendency of Sessions Trial No. 101 of 2022, "State v. Sandeep Sardar and others". 5. As per the prosecution case, the marriage of the deceased Monika Vishwas with the present Applicant was solemnized on 26.11.2021 and within a short span thereafter, allegations of cruelty and demand of dowry in the form of cash, motorcycle and LED television were levelled against the Applicant and his family members. It has further been alleged in the FIR that the Applicant was having illicit relations with his sister-in-law namely Shipra Sardar and whenever the deceased objected to the same, she was subjected to harassment and cruelty. On 25.01.2022, information regarding the death of the deceased was received by the complainant and upon reaching the matrimonial house, the deceased was found dead. 6. Learned counsel for the Applicant submits that the Applicant has falsely been implicated in the present matter and the entire prosecution story suffers from material contradictions and inconsistencies right from

		the stage of FIR, inquest proceedings, recovery proceedings and medical evidence. It is submitted that although in the FIR, allegations were levelled that the deceased was being subjected to dowry related cruelty and was ultimately killed by the accused persons, however, the medical evidence does not support the said version in a clear and cogent manner. 7. Learned counsel for the Applicant further submits that the post mortem report opines the cause of death to be “asphyxia as a result of ante mortem drowning”, whereas the allegations levelled by the family members in the FIR and the statements recorded during investigation indicate allegations of strangulation and homicidal assault. It is contended that the inquest proceedings and the witness statements are themselves inconsistent regarding the actual nature and cause of death. 8. It is further argued that several prosecution witnesses examined during trial have materially deviated from the prosecution case. Learned counsel submits that P.W.-1 Smt. Nirmala Vishwas, the complainant herself, admitted in her deposition that the marriage between the deceased and the Applicant was a love marriage and further stated that there was no demand of dowry at the time of marriage. It has also been argued that she admitted that neither she nor her family members had frequently visited the matrimonial house of the deceased after marriage. 9. Learned counsel for the Applicant further submits that P.W.-2 Smt. Sujata and P.W.-3 Smt. Minti Mandal also stated in their depositions that the deceased had hanging marks over her neck and they did not support the allegations regarding dowry demand in the manner alleged in the FIR. 10. It is also contended that P.W.-4 Kamal Vishwas stated that the deceased died due to hanging, whereas the medical evidence speaks of ante mortem drowning. Learned counsel submits that such inconsistencies strike at the root of the prosecution story and create substantial doubt regarding the manner in which the death actually occurred. 11. Learned counsel further submits that the alleged recovery of
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		bucket and gamcha from the possession of the Applicant is also surrounded by suspicious circumstances. Reliance has been placed upon the testimony of P.W.-7 Nirmal Kumar Mistri, who in his cross examination stated that the alleged articles were not initially recovered during the inquest proceedings and remained unrecovered for several hours. It has further been argued that even the Investigating Officer witnesses indicate that the alleged recovery was not made contemporaneously at the initial stage of investigation. 12. Learned counsel for the Applicant has also drawn attention of this Court to the testimony of P.W.-8 Dr. K.C. Pant, wherein it was stated that there were no signs of resistance over the body of the deceased and that the death could also be caused due to drowning. 13. It is further submitted that material prosecution witnesses including P.W.-13 Vipul Kumar Mistri, P.W.-15 Smt. Kalpana Mistri and P.W.-17 Uttam Jardar have been declared hostile during trial. 14. Learned counsel for the Applicant further submits that out of 30 prosecution witnesses, about 18 witnesses have already been examined and despite the same, the trial is not likely to conclude in the near future, particularly when proceedings of the Sessions Trial have also been stayed in connected proceedings pertaining to a co-accused. 15. Per contra, learned A.G.A. for the State has opposed the bail application and submits that the deceased died within a very short duration of marriage and serious allegations regarding dowry demand and cruelty have been levelled against the Applicant and his family members. It is submitted that the offences alleged are grave in nature and the Applicant, being the husband of the deceased, cannot be enlarged on bail merely on the basis of certain contradictions in the statements of witnesses. 16. Having heard learned counsel for the parties and upon perusal of the material brought on record, this Court finds that at the present stage, certain material inconsistencies emerge from the prosecution case which cannot be ignored while considering the prayer for bail.
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		17. From the perusal of the FIR, it appears that the allegations primarily indicate dowry related harassment coupled with allegations of homicidal death. However, the post mortem report opines the cause of death to be “asphyxia as a result of ante mortem drowning”. Simultaneously, various witnesses have spoken about hanging marks over the neck of the deceased and allegations of strangulation have also surfaced during investigation and trial. Thus, at this stage, there appears to be no consistent and unambiguous prosecution version regarding the exact manner in which the death of the deceased occurred. 18. This Court further finds that the testimonies of certain prosecution witnesses examined during trial do not fully support the prosecution version regarding dowry demand and cruelty in the manner alleged in the FIR. The complainant herself has admitted that the marriage between the deceased and the Applicant was a love marriage and certain witnesses have not specifically supported the allegations of dowry demand. 19. The alleged recovery proceedings also appear to be a matter requiring deeper appreciation during trial, particularly in view of the statements of prosecution witnesses regarding delay and manner of recovery of the alleged articles. This Court is conscious of the seriousness of the allegations levelled against the Applicant and the fact that the death of a married woman occurred within a short span of marriage. However, at the stage of consideration of bail, this Court is not expected to conduct a mini trial. Simultaneously, where material inconsistencies emerge from the prosecution record itself and substantial prosecution evidence already stands recorded, the same constitutes a relevant consideration while adjudicating the prayer for bail. 20. Considering the nature of accusations, the discrepancies emerging from the FIR, inquest proceedings, medical evidence and witness depositions, the period of incarceration undergone by the Applicant, the stage of trial, and without expressing any opinion on the merits of the case, this Court is of the view that the Applicant has made out a fit case for grant of bail. The bail application is allowed.
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