



2025:0001:102177

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 7787 of 2026

Kusum

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Ajay Kumar Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 65

(Sr. No.54 out of 205)

HON'BLE KRISHAN PAHAL, J.

1. List has been revised. Supplementary affidavit filed today is taken on record.

2. Heard Sri Raj Kumar Khanna, learned Senior Counsel assisted by Sri Ajay Kumar Singh, learned counsel for applicant, Ms. Ifrah Islam, learned State Law Officer for the State and perused the material placed on record.

3. The present bail application has been filed by the applicant in Case Crime No.402 of 2025, under Sections 124(1), 80(2), 85 BNS and 3/4 D.P. Act, Police Station Khalilabad, District Sant Kabir Nagar with the prayer to enlarge her on bail.

4. This is the second bail application on behalf of the applicant. The first one was rejected by this Court vide order dated 07.08.2025 passed in Criminal Misc. Bail Application No.27198 of 2025 and the following order was passed:-

"1. List has been revised.

2. Heard Sri Akhilesh Kumar Mishra, learned counsel for the applicant and Sri Sunil Kumar, learned A.G.A. for the State and perused the record.

3. Applicant seeks bail in Case Crime No. 402 of 2025, under Sections 124(1), 80(2), 85 BNS and Section 3/4 of D.P. Act, Police Station Khalilabad, District Sant Kabir Nagar, during the pendency of trial.

4. *Learned counsel for the applicant has stated that the applicant is innocent and she has been falsely implicated in the present case. The allegations are per se false. The applicant is the sister-in-law (jethani) of the deceased person.*

5. *Learned counsel has next stated that the applicant lives separately to the husband-wife duo and she has nothing to do with the said offence. The applicant has three minor children to take care. It is next stated that husband of the deceased person had taken the deceased to hospital and admitted her there.*

6. *Learned counsel has next stated that the applicant has been falsely implicated in the case after tutoring. The said dying declaration cannot be taken into consideration.*

7. *Per contra, learned A.G.A. has vehemently opposed the bail on the ground that the applicant has been assigned the role of catching hold of the deceased person in the dying declaration, as such she is not entitled for bail.*

8. *After hearing learned counsel for the parties and taking into consideration the fact that there are particular allegations against the applicant and father-in-law of the deceased person in the dying declaration, I do not find it a fit case for grant of bail to the applicant.*

9. *The bail application is found devoid of merits and is, accordingly, **rejected**.*

10. *However, it is directed that the aforesaid case pending before the trial court be decided expeditiously, in view of the principle laid down in the recent judgements of the Supreme Court in the cases of **Vinod Kumar vs. State of Punjab 2015 (3) SCC 220** and **Hussain and Another vs. Union of India (2017) 5 SCC 702**, if there is no legal impediment.*

11. *It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial."*

5. Learned Senior Counsel for the applicant has stated that, as a new ground, the dying declaration has been filed as Annexure No.SA-1 to the supplementary affidavit filed today, and that the doctor had given a certificate prior to the recording of the dying declaration of the deceased, which is as follows:

"Pt. is conscious, oriented, fit for statement, 12:40 p.m. on 14.05.2025."

6. Learned Senior Counsel for the applicant has further stated that the said statement does not mention that she was mentally fit for statement. The word 'mentally' is missing, which indicates that her mental status was not ascertained by the doctor concerned; as such, the said dying declaration has no evidentiary value. The deceased sustained burn injuries and she might have been sedated by the doctor concerned, and under the influence of the said drug, it was not possible to record her dying declaration. The said dying declaration has been tutored.

7. Learned Senior Counsel for the applicant has also stated that the victim lives in a separate house, 200 meters away from the house of the applicant, and she had an altercation with the applicant and, as such, has falsely implicated the applicant. The applicant is a lady and has three children to take care of and has been in jail since 22.06.2025; as such, the period of incarceration is more than 10 months. She is ready to cooperate with the trial, and in case she is released on bail, she will not misuse the liberty of bail.

8. Per contra, learned State Law Officer has vehemently opposed the bail application on the ground that the statement of the doctor categorically indicates that the victim was in a fit state of mind and that the complicity of the applicant is mentioned in her dying declaration, as such, the applicant is not entitled to bail.

9. This Court had called for the status of the trial from the concerned Trial Court. As per the said status report dated 08.04.2026, nine witnesses have been examined and the date fixed for defence evidence was 09.04.2026.

10. After hearing learned counsel for the parties and taking into consideration the status of the trial and the applicant being named in the dying declaration with active participation in the said offence of setting the deceased afire, I do not find it a fit case for the grant of bail to the applicant. The bail application is found devoid of merits and is, accordingly, ***rejected***.

11. However, it is directed that the aforesaid case pending before the trial court be decided expeditiously, as early as possible, in accordance with law, if there is no legal impediment.

12. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

(Krishan Pahal,J.)

May 5, 2026
(Ravi Kant)