



2026:AHC:204507

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 16999 of 2025

Devesh Alias Arvesh

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Hitesh Pachori

Counsel for Opposite Party(s) : Amit Kumar Yadav, G.A., Vimal
Kumar Pandey

Court No. - 66

HON'BLE ARUN KUMAR SINGH DESHWAL, J.

1. No one appeared behalf of the first informant despite service of notice by the counsel for the applicant through Whatsapp. Screenshot is available on record.
2. Heard Sri Hitesh Pachori, counsel for the applicant, Sri Bhupendra Pal Singh, learned A.G.A. for the State and perused the record.
3. The instant bail application has been filed with a prayer to release the applicant on bail during trial in Case Crime No. 0073 of 2024, under Section 498-A, 302, 201, 34 I.P.C., Police Station- Bah, District Agra.
4. This matter was heard on 10.09.2026. On that date, this Court directed the trial court to submit explanation regarding the delay between 19.02.2026 to 18.04.2026 in conclusion of the trial.
5. In compliance of the order dated 10.09.2026, the Additional District and Sessions Judge, Court No.10, Agra has submitted reply that P.W.-1 Dharmveer has been examined and N.B.W. has been issued against P.W.-2 Kishan and the next date fixed is 12.10.2026. Though, this explanation has been submitted by the trial judge who received file on 18.04.2026, but till date the trial judge who was presiding over the court from 19.02.2026 to 18.04.2026 has not submitted any explanation. The court is satisfied with the progress of trial.
6. In compliance of the order dated 10.09.2026, the I.O. of this case Sri

Yogendra Singh, who filed the charged-sheet, is present before this Court and he apprised the Court that during investigation Dahla could not be traced out and for that reason statement of Dahla could not be recorded. He also could not submit any reply regarding non-examination of any other independent witness of the concerned villager as well as the explanation why he has prepared the site plan of the agricultural field, though the body of the deceased was found in the house of the applicant; and no one has seen the body of the deceased in the agriculture field. It is also apprised by him that the statement of sister, nephew and brother of the applicant has been recorded as a witness, though they were accused, which was subsequently rectified.

7. The aforesaid facts show prima facie negligence on part of the Investigation Officer, therefore, the Commissioner of Police, Agra is directed to look into the matter and take appropriate action.

8. Counsel for the applicant submitted that there is no eye-witness of the incident in question and the applicant immediately found the dead-body of the deceased in his house, which was transported by Dahla from agriculture field to his house, therefore, the applicant has been falsely implicated. The applicant is not concerned with the murder of the deceased and some other person might have committed her murder, therefore, the applicant is entitled to be released on bail. It is further submitted that charge sheet has been filed in the present case, therefore, there is no requirement of custodial interrogation. The applicant is a law abiding citizen and he is languishing in jail since 26.05.2024. In case, he is granted bail, he will not misuse the liberty of bail and would cooperate in the trial proceedings.

9. Per contra, learned A.G.A. has vehemently opposed the prayer for bail and submitted that Dahla could not be traced out during the pendency of investigation against the applicant, but investigation was pending against the co-accused persons. During investigation of co-accused persons, statement of Dahla and other villagers were recorded by the subsequent I.O.; and Dahla admitted in his statement that on the request of the applicant he came to his house to admit the deceased to the hospital. However, the deceased had already died. It is further submitted that the deceased was recovered from the house of the applicant and no one has seen the incident in the

agriculture field. It is further submitted that the first informant in his statement stated, on the basis of information received from some unknown villagers, that the applicant being the husband of the deceased could not explain the circumstances under which deceased died in the house. It is further submitted that the post-mortem report of the deceased shows that she was having multiple injuries on her person and the cause of death is ante-mortem injury due to throttling; the statement of the witnesses show that the applicant was habitual drunker and he used to quarrel with his wife. It is also submitted that the applicant could not explain the cause of death of the deceased, therefore, in view of Section 109 BSA, the applicant is not entitled to be released on bail.

10. Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties; taking into account the fact that the body of the deceased was found in the house of the applicant; it is admitted by the applicant that it is the Dahla who transported the body of the deceased from agriculture field to his house, but Dahla never came forward to explain the aforesaid version of the applicant; also taking into account that the deceased was having multiple injuries on her person and the cause of death is throttling; the applicant, being the husband of the deceased and he was in possession of the house, from where the dead-body of the deceased was found, is the person who has to explain the reason for death of the deceased in view of Section 109 BSA, therefore, this Court is not inclined to release the applicant on bail.

11. This Court is also of the view that the Hon'ble Supreme Court in **State of Karnataka v. K. Yarappa Reddy**, reported in **AIR 2000 SC 185** has held that merely because of some fault in the investigation, it cannot be a ground for acquittal of an accused, if other evidence is sufficient.

12. Accordingly, the bail application is **rejected**.

13. **Registrar (Compliance)** is directed to communicate this order to the Commissioner of Police, Agra for compliance of paragraph no.7.

(Arun Kumar Singh Deshwal,J.)

September 29, 2026
CS/-