



2026:AHC:54791

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 46052 of 2025

Reserved on 13.02.2026

Delivered on 18.03.2026

Sameer Usmani

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Swayamanand Sisodiya, Swetashwa Agarwal
Counsel for Opposite Party(s)	:	Aushim Luthra, G.A., Irshad Husain

Court No. - 67

HON'BLE SAMEER JAIN, J.

1. Heard Sri Swetashwa Agarwal, learned Senior Advocate assisted by Sri Swayamanand Sisodiya, learned counsel for the applicant, Sri Manish Tiwary, learned Senior Advocate assisted by Sri Aushim Luthra, learned counsel for informant and Sri R.N. Srivastava, learned AGA for the State.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 12 of 2025, under Sections 85, 80(2) BNS and Section 3/4 D.P. Act, Police Station Biharigarh, District Saharanpur during pendency of the trial.

Brief facts of the case:-

3. FIR of the present case was lodged on 18.02.2025 against applicant, his parents and younger brother. According to the FIR marriage of the applicant was solemnized with the daughter of informant on 23.10.2021 and though in marriage informant according to his capacity gave sufficient dowry but applicant and his family members were not satisfied with the dowry given by him and after marriage they made demand of a Mercedes four wheeler and due to above demand they tortured his daughter.

4. FIR further states, on 17.02.2025 applicant had taken the daughter of the informant from her paternal house under the pretext to provide medicine to her and after returning from Dehradun he due to non fulfillment of demand of Mercedes car committed her murder and tried to show the murder as accident.

Arguments advanced on behalf of applicant:-

5. Learned Senior Advocate appearing on behalf of applicant submits, applicant is though husband of the deceased but on the basis of false allegations he has been made accused in the present matter along with his parents and younger brother.

6. He further submits, admittedly the dead body of the wife of the applicant was found in Creta four wheeler which was driven by the applicant and from perusal of entire material available on record including statements of witnesses recorded during investigation and photographs of Creta Car prima facie present case appears to be a case of accidental death.

7. He further submits, actually when applicant was returning along with his wife from Creta car then on the way his car met with an accident and unfortunately in the accident his wife sustained injuries and died and after her death on the basis of false allegations informant next day lodged FIR of the present case.

8. He further submits, immediately after the above accident dated 17.02.2025 applicant informed the informant and on his information he himself on 17.02.2025 moved an application to District Magistrate Saharanpur which has been annexed at page-52 of the paper-book and from its perusal it reflects, in this application he himself stated that on 17.02.2025 at about 01.00 PM in the road accident his daughter died but next day i.e. 18.02.2025 he lodged FIR of the present case. He next submits, even from the inquest report which has been annexed at page-60 of the paper-book it reflects, deceased died in accident. He further submits, therefore, these facts clearly suggest that actually FIR of the present case has been lodged as an afterthought.

9. He further submits, however, post mortem report suggests that deceased sustained as many as five injuries including two lacerated wounds on right side of head and one ligature mark on the neck and doctor also opined that

deceased died as a result of ante mortem throttling but even in case of accidental death a person can be died due to throttling. He next submits, a research document in this regard has been filed as Annexure-5 to the affidavit.

10. He further submits, however, post mortem report also suggests according to autopsy surgeon it may also be a case of suspected poisoning but till date viscera report of the deceased is not on record, therefore, at this stage it cannot be said that deceased also consumed some poisonous substance.

11. He next submits, even vehicle examination of Creta car was conducted and its detailed report has also been annexed along with instant bail application and from the report which also includes the photographs of the damage vehicle it is apparent that it is a case of accidental death.

12. He further submits, at the time of accident applicant was also along with deceased in the car but luckily he did not receive any injury but he was in shock due to the accident and was remained in hospital for two days and this fact is evident from his discharge summary which has also been annexed along with instant bail application.

13. He further submits, even from the statements of two alleged eye witnesses Faisal Ansari and his wife Smt. Nazia Ansari recorded during investigation which have been annexed along with instant bail application it reflects, it is a case of accidental death.

14. He further submits, apart from the merit of the case, from the arrest memo of the applicant which has been annexed along with instant bail application it reflects, at the time of his arrest ground of arrest has not been communicated to him, therefore, there is also gross violation of Article 22 of the Constitution of India and this violation clearly indicates that detention of the applicant in the present matter is illegal and on this ground also applicant is entitled to be released on bail. He placed reliance on the judgment of the Apex Court passed in the case of Vihaan Kumar Vs. State of Haryana and another (2025) 5 SCC 799.

15. He further submits, applicant is not having any criminal history and in the present matter he is in jail since 22.02.2025 i.e. for last more than a year.

16. He further submits, therefore, considering the facts and circumstances of the case, applicant should be enlarged on bail.

Arguments advanced on behalf of the State and informant:-

17. Per contra, learned AGA as well as learned Senior Advocate appearing on behalf of informant opposed the prayer for bail and submit, applicant is husband of the deceased and his wife died within three and half years of her marriage under abnormal circumstances and there is also specific allegation of torture in connection to demand of Mercedies car. They further submit, applicant is very shrewd person and firstly he committed the murder of his wife and thereafter tried to give colour the murder as accident.

18. They further submitted that it is quite surprising that although applicant was driving the vehicle and his wife i.e. deceased was sitting just adjacent to him in front seat but only she sustained injuries and died and applicant did not sustain even a single scratch and this fact clearly suggests that actually it is not a case of accidental death.

19. They further submit, from the statements of witnesses recorded during investigation including two eye witnesses Faisal Ansari and his wife it reflect, they did not witness the real incident and when they arrived at spot then at that time crowd had already gathered there and they found that a lady was lying in injured condition. They further submit, even from their statements it reflect, according to them at that time wife of the applicant was alive but applicant did even not try to provide any medical treatment to her and he after taking lift from another car went away from the spot and this fact clearly suggests that applicant is not an innocent person.

20. They further submit, even from the post mortem report it reflects, deceased died due to throttling with suspected case of poisoning, therefore, prima facie it appears to be a case of homicidal death and not the case of accidental death.

21. They further submit, from the literature annexed by learned counsel for applicant in the instant bail application though it reflects, throttling may be result of an accident but only in rare cases and considering the overall facts and circumstances of the case including seats of injuries sustained by the deceased and statements of witnesses and conduct of the applicant at this stage it cannot be said that it is a rare case of accidental death rather circumstances indicate that prima facie it appears to be a case of homicidal death.

22. They further submit, therefore considering the facts and circumstances of the case, applicant should not be released on bail.

Analysis:-

23. I have heard learned counsel for the parties and perused the record of the case.

24. Applicant is husband of the deceased and his wife died within three and half years of her marriage under abnormal circumstances and there is also allegation of torture in connection to demand of Mercidies four wheeler.

25. Further, from the post mortem report it reflects, deceased died due to throttling and as per autopsy surgeon it may be a case of suspected poisoning. Post mortem report also suggests that deceased sustained two lacerated wounds on right side of head and one ligature mark on her neck. However, from the literature which has been annexed along with instant bail application it reflects, death due to throttling may be caused even due to accident but from the literature it further reflects, such death can be only in rare cases.

26. Further, post mortem report also suggests that trachea of the deceased was found fractured and even as per above literature if some cloths or seat belt of the vehicle tighten then death may be caused due to throttling in an accident but there is no such evidence on record which can suggests that any cloths or seat belt was found or seen around the neck of the deceased therefore considering the fact that only in rare cases death due to throttling may be an accidental death at this stage it cannot be said that it is a case of accidental death.

27. Further, even from the statements of doctors namely Dr. Shivendra Singh and Dr. Gurmeet Kaur recorded during investigation it reflect, according to them it is case of homicidal death and even there is possibility that before death some poisonous substance was administered to the deceased.

28. Further, even from the statements of two alleged eye witnesses it reflect, applicant did not even try to save the life of his wife who was alive and after leaving alone his wife in the car he after taking lift from another car went away from the spot and this shows the conduct of the applicant.

29. Further, even from the post mortem and statements of autopsy surgeon

possibility of suspected poisoning at this stage cannot be ruled out and however viscera report has not been produced either by applicant or prosecution but merely on this ground in view of this Court it is not proper to observe that it appears to be a case of accidental death.

30. Further, even as per defence at the time of alleged incident applicant was driving the vehicle but surprisingly he did not sustain any visible injury and even his entire scan was found normal.

31. Further, however, from the discharge summary of the applicant it reflects, he was admitted in the hospital on 17.02.2025 and was discharged on 18.02.2025 i.e. next day but considering the fact that he did not sustain any injury merely on this ground it cannot be held at this stage that due to accidental shock he had to admit in the hospital.

32. Further, along with instant bail application applicant filed discharge summary of two hospitals. First discharge summary is of Hospital Power Life Care Hospital and according to it he was admitted in the hospital on 17.02.2025 and was discharged on 18.02.2025 at 02.30 PM and from the discharge summary of Max Health Care it reflects, he was admitted on 18.02.2025 at 16.24 hours and was discharge on 20.02.2025 at 13.01 hours and therefore it appears, after discharge from Power Life Care Hospital he admitted in Max Health Care and remained admitted in this hospital for almost two days but surprisingly from the reports it could not be reflected his condition was such critical for which he had to admit twice in the hospital and this fact again prima facie cast doubt on the story of accident narrated by the applicant.

33. Further, even from the record it reflects, when applicant was arrested then he confessed his guilt and on his pointing out one heavy iron piece was recovered which according to prosecution used by him in causing injuries to the deceased on head.

34. Further, however, it reflects, FIR of the present case was lodged on 18.02.2025 and a day before i.e. 17.02.2025 informant i.e. father of the deceased moved an application to the District Magistrate concerned that his daughter has died in road accident but it appears, this application was moved by him for the purpose to conduct her post mortem in the night and at that time it appears, he was not aware that it is not a case of accidental death, therefore, on the basis of application dated 17.02.2025 moved by the

informant no benefit can be extended to the applicant.

35. Further, however, from the arrest memo of the applicant it reflects, at the time of arrest ground of arrest has not been communicated to him but even in case of Vihaan Kumar (supra) on which reliance was placed by learned counsel for applicant it has been held that Article 22(1) is satisfied if the accused is made aware of the arrest grounds in substance, even if not conveyed in writing and similarly in **Kasireddy Upender Reddy Vs. State of Andhra Pradesh and others** 2025 INSC 768 it has been observed that when arrest is made pursuant to a warrant reading out of warrant amounts to sufficient compliance.

36. The Apex Court in the case of State of Karnataka Vs. Sri Darshan Etc. 2025 SCC OnLine SC 1702 in para 20.1.7 also observed as:-

"In the present case, the arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the accusations. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a prima facie case. Its reliance on Pankaj Bansal and Prabir Purkayastha is misplaced, as those decisions turned on materially different facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not ipso facto render custody illegal or entitle the accused to bail."

37. In the present matter applicant has been detained in jail for last more than a year and he is in jail pursuant to the judicial order/warrant, therefore, in view of the observation made by the Apex Court in the cases of K.U.Reddy (supra) and Sri Darshan Etc. (supra) Article 22(1) has been satisfied and it cannot be said that applicant has been illegally detained in the instant matter.

38. Further, the Apex Court in the case of Sri Darshan (supra) even after discussing the case of Vihaan Kumar and K.U. Reddy (supra) criticized the High Court because High Court heavily relied upon the alleged procedural lapses released the accused on bail considering the non communication of ground of his arrest overlooking the gravity of offence under Section 302

IPC and existence of prima facie case.

39. Therefore, from the case of Sri Darshan Etc (supra) it reflects, in view of the Apex Court while considering the bail on violation of Article 22(1) of Constitution of India it is also the duty of the Court to consider the gravity of the alleged offence and existence of prima facie case.

40. In case at hand, considering the totality of the facts and circumstances of the case, allegations made against the applicant appear to be quite serious and even prima facie case against him is made out, therefore, even in view of the observation made by Apex Court in case of Sri Darshan Etc. (supra) applicant should not be released on bail merely on the ground that ground of arrest in writing has not been communicated to him at the time of his arrest specially considering the fact that subsequent to his arrest he has been detained by judicial orders through warrants and it cannot be said that till date he could not become aware about ground of his arrest.

41. Further, even applicant could not demonstrate that due to non communication of grounds of his arrest at the time of arrest caused any prejudice to him, therefore, in view of the Apex Court in case of Sri Darshan Etc. (supra) he should not be released on bail considering the fact that at the time of his arrest grounds of arrest have not been communicated to him.

42. Further, however, applicant is in jail for last more than one year but considering the nature of allegation leveled against him and conduct of the applicant this Court is of the view that merely on this ground he should not be released on bail.

43. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is not entitled to be released on bail.

44. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **rejected**.

45. 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.

March 18, 2026
AK Pandey

(Sameer Jain,J.)