2026:AHC:207905

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 28278 of 2026

Ubaidul Haque

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s) : Abhishek Mayank, Anupam Mishra

Counsel for Opposite Party(s) : G.A.

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Heard Sri Abhishek Mayank, learned counsel for the applicant and Sri Ashutosh 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.139 of 2026, under Sections 103(1), 115(2) BNS, Police Station Dhoomanganj, District Prayagraj, during pendency of the trial.

3. Learned counsel for the applicant submits, however a pplicant is named in the FIR which was lodged on 03.05.2026 and according to the FIR, applicant developed illicit relationship with co-accused Seema, the mother of the deceased and therefore they committed the murder of the deceased who was hardly 8 years old but entire allegations levelled against the applicant are completely false.

4. He next submits, before lodging the FIR, co-accused Seema i.e. mother of the deceased herself gave an application on 02.05.2026 that her son i.e. deceased died after making jump from the roof and on her information inquest was conducted and after that FIR was lodged by maternal grandfather of the deceased i.e. father of co-accused Seema.

5. He further submits, at the time of alleged incident applicant was not present at the spot and after the incident on the call of co-accused Seema he arrived at her home and thereafter he was taken into custody on 02.05.2026 but police shown his arrest on 04.05.2026 and since 02.05.2026 to 04.05.2026 applicant was in illegal custody of police.

6. He further argued, however during investigation I.O. recorded the statements of two another sons of co-accused Seema and they stated that applicant used to come in the house of co-accused Seema and on the date of incident he again came and beaten the deceased but the statements of these witnesses prima facie appear to be incorrect and they prima facie appear to be tutored witnesses as they were hardly aged about 6 years and 4 years.

7. He next submits, there is no cogent evidence which can suggest, on the date of incident applicant was present in the house alongwith co-accused Seema. He further submits, co-accused Seema prima facie appears to be the prime accused.

8. He further argued, applicant is not having any criminal history and in the present matter he is in jail since 04.05.2026.

9. Per contra, learned AGA opposed the prayer for bail and submits, from the statements of two sons of co-accused Seema i.e. brothers of the deceased it reflect, applicant used to come in the house of co-accused Seema and was having relationship with her and even on the date of incident he came and beaten the deceased and postmortem report suggests, deceased died due to smothering and he sustained number of injuries including one burn injury. He next submits, considering above facts application dated 02.05.2026 moved by co-accused Seema prima facie appears to be false. He next submits, as co-accused Seema and applicant were having illicit relationship therefore they committed murder of the deceased as he was elder aged about 8 years and created disturbance in their

relationship. He further submits, from the material available on record prima facie it cannot be said that applicant is innocent. He next submits, even applicant is in jail only since 04.05.2026.

10. He further argued, therefore considering the facts of the case, instant bail application may be dismissed.

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

12. It is a case of circumstantial evidence but from the statements of brothers of the deceased aged about 6 years and 4 years recorded by the I.O. it reflects, applicant used to come in their house and having relationship with co-accused Seema i.e. mother of the deceased and on the date of incident he came and badly beaten the deceased therefore prima facie it cannot be said that on the date of incident applicant was not present in the house of co-accused Seema before the death of deceased.

13. Further, however FIR of the present case was lodged on 03.05.2026 and a day before i.e. 02.05.2026 even co-accused Seema i.e. mother of the deceased moved an application that by falling from the roof her son aged about 8 years had died but postmortem report suggests, deceased sustained as many as 14 injuries including one burn injury and he died due to smothering therefore application dated 02.05.2026 moved by co-accused Seema prima facie appears to be false.

14. Further, as per prosecution co-accused Seema had extra marital affair with the applicant therefore she alongwith the applicant committed murder of the deceased. The case of prosecution finds support from the statements of sons of co-accused Seema.

15. Further, however learned counsel for the applicant placed number of arguments before this Court to demonstrate his innocence but considering the overall facts and circumstances

of the case including false application given by co-accused Seema and statements of siblings of deceased prima facie at this stage it cannot be said that applicant is innocent.

16. Further, even in the present matter applicant is in jail only since 04.05.2026.

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

18. Accordingly, instant bail application stands **dismissed**.

19. 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.

October 5, 2026
Shahroz

(Sameer Jain,J.)

Digitally signed by :-
SHAHROJ ALAM
High Court of Judicature at Allahabad