

## Narayan vs State Of U.P. on 2 January, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:314

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43026 of 2024

Applicant :- Narayan

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashvanee Kumar Srivastav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Ashvanee Kumar Srivastav, learned counsel for the applicant and Sri Kunwar Tejendra Bahadur, learned AGA, for the State.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 343 of 2024, under Section 103(1) BNS, Police Station Belipar, District Gorakhpur during pendency of the trial.
3. FIR of the present case was lodged on 2.10.2024 against the applicant and according to the FIR on 30.9.2024 daughter of the informant had gone from home at about 10.00 AM and subsequently she found in injured condition and thereafter she was admitted to the Hospital where she died. It is further mentioned in the FIR that younger brother of the informant informed that applicant and deceased were fighting with each other near the place of incident.
4. Learned counsel for the applicant submits that applicant is innocent and on the basis of false allegation merely on the basis of suspicion he has been made accused in the present matter.

5. He further submits that admittedly there is no eye witness account and only evidence against the applicant is that he and deceased were quarreling before the incident. He next submits that on the basis of such evidence of last seen, it cannot be said that applicant committed murder of the deceased.
6. He further submits that it is a case of circumstantial evidence and there is no cogent evidence against the applicant on record.
7. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 2.10.2024.
8. Per contra, learned AGA opposed the prayer for bail and submits that applicant was last seen along with the deceased while both were quarreling but could not dispute the fact that except the evidence of last seen there is no other cogent evidence against the applicant on record.
9. Learned AGA further could not dispute the fact that applicant is not having any previous criminal history.
10. I have heard learned counsel for the parties and perused the record of the case.
11. It is a case of circumstantial evidence and except the evidence of last seen it appears that there is no other evidence against the applicant on record.
12. Further, this Court finds merit in the argument advanced by the learned counsel for the applicant that merely due to the reason that applicant and deceased were quarreling, it cannot be said that applicant committed murder of the deceased.
13. Further, applicant is not having any previous criminal history and in the present matter he is in jail since 2.10.2024.
14. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.
15. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is allowed.
16. Let the applicant-Narayan be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-
  - (i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

17. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

18. 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.

Order Date :- 2.1.2025 SKM