

# **Smt Sushma Alias Samantara vs State Of U.P. on 2 January, 2025**

**Author: Krishan Pahal**

**Bench: Krishan Pahal**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:526

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 33985 of 2024

Applicant :- Smt Sushma Alias Samantara

Opposite Party :- State of U.P.

Counsel for Applicant :- Deepak Kumar,Peeyush Kumar Pathak,Prateeyush Kumar Pathak

Counsel for Opposite Party :- G.A.

Connected with

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35598 of 2024

Applicant :- Suresh

Opposite Party :- State of U.P.

Counsel for Applicant :- Deepak Kumar,Peeyush Kumar Pathak,Prateeyush Kumar Pathak

Counsel for Opposite Party :- G.A.

Connected with

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35650 of 2024

Applicant :- Sunil

Opposite Party :- State of U.P.

Counsel for Applicant :- Deepak Kumar,Peeyush Kumar Pathak,Prateeyush Kumar Pathak

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. The case of all the accused persons arising out of same FIR number are being heard and decided by a common order.
3. Heard Sri Prateeyush Kumar Pathak, learned counsel for the applicants as well as Ms. Ifra Islam, learned State Law Officer and also perused the material available on record.
4. Applicants seek bail in Case Crime No. 317 of 2024, under Sections 498A, 304B & 323 of I.P.C. and Sections 3/4 of Dowry Prohibition Act, Police Station - Chandpur, District - Bijnor, during the pendency of trial.

#### PROSECUTION STORY:

5. The marriage of one Sunil was solemnized with the deceased person as per Hindu rites on 04.03.22, out of the wedlock, the deceased person had given birth to a baby girl 8 months before her death.
6. The named accused persons are stated to have committed the murder of the deceased person within the precincts of their house on 25.06.2024.

#### ARGUMENTS ON BEHALF OF APPLICANTS:

7. The applicants have been falsely implicated in the present case due to ulterior motive. They have nothing to do with the said offence as alleged in the FIR.
8. The FIR is delayed by about seven hours and there is no explanation of the said delay caused.
9. The cause of death is asphyxia as a result of ante mortem hanging, as such, prosecution story of committing murder stands falsified.

10. The deceased committed suicide as she wanted to live separately with her husband from her in-laws.

11. Several other submissions have been made on behalf of the applicants to demonstrate the falsity of the allegations made against them. The circumstances which, as per counsel, led to the false implication of the applicants have also been touched upon at length.

12. The applicants are languishing in jail since 21.07.2024 and 11.07.2024 respectively, having no criminal history to their credit, deserve to be released on bail. In case, the applicants are released on bail, they will not misuse the liberty of bail and shall cooperate with trial.

#### ARGUMENTS ON BEHALF OF STATE BY STATE LAW OFFICER:

13. The bail application has been opposed but the submissions raised by the learned counsel for the applicants could not be disputed and also the fact that the applicants have no criminal history.

#### CONCLUSION:

14. The well-known principle of "Presumption of Innocence Unless Proven Guilty," gives rise to the concept of bail as a rule and imprisonment as an exception.

15. A person's right to life and liberty, guaranteed by Article 21 of the Indian Constitution, cannot be taken away simply because the person is accused of committing an offence until the guilt is established beyond a reasonable doubt. Article 21 of the Indian Constitution states that no one's life or personal liberty may be taken away unless the procedure established by law is followed, and the procedure must be just and reasonable. The said principle has been reiterated by the Supreme Court in *Satender Kumar Antil Vs. Central Bureau of Investigation and Ors.*, 2022 INSC 690.

16. Reiterating the aforesaid view, the Supreme Court in the case of *Manish Sisodia Vs. Directorate of Enforcement*, 2024 INSC 595, has again emphasized that the very well-settled principle of law that bail is not to be withheld as a punishment is not to be forgotten. It is high time that the Courts should recognize the principle that "bail is a rule and jail is an exception".

17. Learned State Law Officer could not bring forth any exceptional circumstances which would warrant denial of bail to the applicants.

18. It is settled principle of law that the object of bail is to secure the attendance of the accused at the trial. No material particulars or circumstances suggestive of the applicants fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like have been shown by learned State Law Officer.

19. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, pending trial and considering the complicity of accused, severity of punishment, at this stage, without expressing any opinion on the merits of the case, the Court is

of the view that the applicants have made out a case for bail. The bail application is allowed.

20. Let the applicants- Smt. Sushma @ Samantara, Suresh and Sunil, who are involved in aforementioned case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicants shall not tamper with evidence.

(ii) The applicants shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicants is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against them in accordance with law.

21. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

22. It is made clear that observations made in granting bail to the applicants shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

Order Date :- 2.1.2025 Priya (Justice Krishan Pahal)