

# Sunil Kumar 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:299

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50735 of 2023

Applicant :- Sunil Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Garun Pal Singh, Neetu Singh, Vishal Kushwaha

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised. Supplementary affidavit filed today by the learned counsel for the applicant is taken on record.
2. Heard Sri Yogesh Srivastava, learned counsel for the applicant and Sri Rajendra Prasad Singh, learned State Law Officer and perused the material available on record.
3. Applicant seeks bail in Case Crime No. 255 of 2023, under Section 306 of I.P.C., Police Station - Sadabad, District - Hathras, during the pendency of trial.

**PROSECUTION STORY:**

4. The FIR was instituted against the applicant of having committed the murder of the daughter of the informant, who happens to be his wife, on 23.05.2023 at about 07:00 AM.

**ARGUMENTS ON BEHALF OF APPLICANT:**

5. The applicant has been falsely implicated in the present case due to ulterior motive. He has nothing to do with the said offence as alleged in the FIR.

6. Initially, the FIR was instituted u/s 302 IPC but subsequently, the case was transformed to that of Section 306 IPC and during trial, the informant was examined as PW-1 but he has not turned up for his cross-examination.

7. The other prosecution witnesses have been examined as P.W. 2, 3 & 4 in court and they have not supported the prosecution story. They have completely resiled from their earlier statement given to the I.O. and the allegations of the FIR. The witnesses have been cross-examined by the public prosecutor after declaring them hostile. There is no possibility of conviction in the present case under the circumstances.

8. The ingredients of Section 306 IPC do not stand fulfilled as there is no overt act assigned to the applicant of having abetted the deceased to commit suicide. The applicant used to misbehave with the deceased person.

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

10. The applicant is languishing in jail since 01.08.2023, having no criminal history to his credit, deserves to be released on bail. In case, the applicant is released on bail, he will not misuse the liberty of bail and shall cooperate with trial.

**ARGUMENTS ON BEHALF OF STATE:**

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

**CONCLUSION:**

12. The Supreme Court in Ude Singh and Ors. vs. State of Haryana, (2019) 17 SCC 301 observed:-

"16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act/s of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behavior and responses/reactions. In the case of accusation for abetment of

suicide, the Court would be looking for cogent and convincing proof of the act/s of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

16.1. For the purpose of finding out if a person has abetted commission of suicide by another; the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions abovereferred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306 IPC. If the accused plays an active role in tarnishing the self esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased."

13. 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.

14. 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.

15. 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".

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

17. 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 applicant 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.

18. 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 applicant has made out a case for bail. The bail application is allowed.

19. Let the applicant- Sunil Kumar, who is 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 applicant shall not tamper with evidence.

(ii) The applicant 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./ 351BNSS If in the opinion of the Trial Court absence of the applicant 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 him in accordance with law.

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

21. It is made clear that observations made in granting bail to the applicant 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 Siddhant (Justice Krishan Pahal)