

# Kailash Babu vs State Of U.P. on 3 July, 2024

**Author: Saurabh Shyam Shamshery**

**Bench: Saurabh Shyam Shamshery**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2024:AHC:107808

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 19655 of 2024

Applicant :- Kailash Babu

Opposite Party :- State of U.P.

Counsel for Applicant :- Kumar Beenu Singh, Sanjeev Kumar Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Shyam Shamshery, J.

1. Heard Sri Sanjeev Kumar Sharma, learned counsel for applicant and Sri Roshan Kumar Singh, learned AGA for State.
2. This is second bail application filed by applicant-Kailash Babu in Case Crime No. 057 of 2022, under Sections 302, 394, 411 IPC, Police Station Delhi Gate, District Aligarh.
3. First bail application of applicant was rejected by reasoned order dated 04.04.2023 and relevant part thereof is reproduced hereinafter:

?8. In the present case, deceased died due to multiple stab wounds on all over her body and it appears to be a merciless and brutal murder.

9. There is no dispute that name of the applicant was disclosed in confessional statement of co-accused which itself may be a weak evidence. However, evidence against applicant which is in the nature of recovery of a scissor used in the crime from a bag belonged to the applicant as well as recovery of stolen money also connects the applicant with offence.

10. The other submission of counsel for applicant about dispute of applicant's arrest appears to be a proposed defence, which may be considered by Trial Court on basis of evidence still to be led.

11. In these circumstances, applicant who is in jail since 13.3.2022 has not made out a case for bail since he was prima-facie involved in the offence of robbery and committing murder of a lady by multiple stab injuries along with co-accused.

12. Bail application is accordingly rejected.?

4. In pursuance of an order passed by this Court, Trial Court concerned has submitted a report dated 31.05.2024 that out of total 27 proposed witnesses, six have been examined and presently statement of PW-7 is being recorded.

5. Learned counsel for applicant submits that subsequently after rejection of first bail of applicant, a Coordinate Bench of this Court vide order dated 21.02.2024 has granted bail to co-accused, Manoj Kumar, who have been alleged to cause death of deceased, whereas allegation against applicant is much lesser.

6. Learned AGA has opposed the prayer for bail and submits that Coordinate Bench has not taken note that this Court has already rejected bail application of co-accused, Kailash Babu as well as trial is proceeding and offences alleged are serious in nature.

7. In order to appreciate rival submissions, I have considered the above referred subsequent events and find that a subsequent event whereby the Coordinate Bench has granted bail to co-accused, Manoj Kumar, who has been assigned major role, mainly on ground that trial is proceeding in snail's speed, can be considered to be a ground to allow this bail application.

8. Let the applicant-Kailash Babu be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the Court concerned with the following conditions which are being imposed in the interest of justice:-

(i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment or exemption from appearance on the date fixed in trial. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of

liberty of bail and pass orders in accordance with law.

(iii) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C., may be issued and if applicant fails to appear before the Court on the date fixed in such proclamation, then, the Trial Court shall initiate proceedings against him, in accordance with law, under section 174-A I.P.C.

(iv) The Trial Court may make all possible efforts/endeavour and try to conclude the trial expeditiously, preferably within a period of six months after release of applicant, if there is no other legal impediment.

9. The identity, status and residential proof of sureties will be verified by Court concerned and in case of breach of any of the conditions mentioned above, Court concerned will be at liberty to cancel the bail and send the applicant to prison.

10. The bail application is allowed.

11. It is made clear that the observations made hereinabove are only for the purpose of adjudicating the present bail application.

Order Date :- 3.7.2024 AK