

HIGH COURT OF UTTARAKHAND AT NAINITAL

Bail Application (IA No.1 of 2023)

In

Criminal Appeal No.255 of 2023

Surjan Singh

.....Appellant

Versus

State of Uttarakhand

.....Respondent

Present:-

Mr. R. P. Nautiyal, learned Senior Advocate assisted by Mr. Prashant Khanna, learned counsel holding brief of Mr. Pavan Kumar Nath, learned counsel for the appellant.

Mr. Siddhartha Bisht, A.G.A for the State.

Coram:Hon'ble Ravindra Maithani, J.
Hon'ble Siddhartha Sah, J.

Hon'ble Ravindra Maithani, J. (Oral)

Instant appeal is preferred against the judgment dated 06.04.2023 and order dated 10.04.2023, passed in Session Trial No.110 of 2015, State of Uttarakhand Vs. Surajan Singh, by the court of learned 1st Additional District & Session Judge, Haridwar. By it, the appellant has been convicted and sentenced under Section 302 of IPC. The appellant seeks bail in this appeal.

2. Heard learned counsel for the parties and perused the record.

3. The appellant and the deceased both were married on 22.02.2004. According to the FIR, the appellant harassed and assaulted the deceased. On 26.12.2014 at 7:15 in the morning, the father of the deceased lodged a report stating that it is the appellant who killed the deceased and set her ablaze.

4. According to the learned Senior Counsel for the appellant, the appellant was on bail during trial. It is not a case of killing. The marriage had already lasted for 10 years. The deceased committed suicide by pouring kerosene on herself and putting herself on fire. The appellant tried to save her and in that effort, his hands, face and stomach were also burnt. It is the appellant, who himself lodged the report; reference has been made to the General Diary entry of the Police Station, which records that in fact, the appellant was injured by burns on his hands, face and stomach.

5. In addition to it, it is also argued that PW-10, who was the son of the parties, had stated that the deceased killed herself and the appellant tried to save her.

6. Learned State counsel submits that the deceased died in the house of the appellant, therefore, the burden of proof under Section 106 of Indian Evidence Act, 1872 lies upon the appellant.

7. The appellant was on bail during trial; it is he who informed the police that his wife (deceased) had died by burns. When he lodged the report, he was also injured by the burn injuries. In fact, the inquest report that there was water on and around the dead body. Does it mean that in fact, the appellant tried to save his wife? This & many more questions would find answer during hearing of the appeal.

8. Having considered, this Court is of the view that it is a case in which the execution of sentence should be suspended and the appellant be enlarged on bail.

9. The bail application is allowed.

10. The execution of sentence appealed against is suspended during the pendency of the appeal.

11. The appellant be released on bail, during the pendency of the appeal, on his executing a personal bond and furnishing two reliable sureties, each of the like amount to the satisfaction of the court concerned.

12. List in due course for final hearing.

(Siddhartha Sah, J.)
19.05.2026

(Ravindra Maithani, J.)
19.05.2026

Akash