

Order Reserved On : 04.09.2025  
Order Pronounced On: 23.09.2025

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

**THE HON'BLE CHIEF JUSTICE MR. G. NARENDAR**

**AND**

**THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY**

**Bail Application (IA No.1/2023)**

**IN**

**Criminal Appeal No.413 of 2023**

Suman & Another

--Applicants/Appellants

**Versus**

State of Uttarakhand

--Respondent

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**Presence:-**

Mr. Vikas Pande, learned counsel for the applicants/appellants

Mr. J.S. Virk, learned Deputy Advocate General with Mr. Rakesh Kumar  
Joshi, learned Brief Holder for the State

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**Per: Sri Subhash Upadhyay, J.**

Learned counsel for the applicants/appellants submits that at present he is pressing the bail application of the first applicant/appellant Smt. Suman and prays leave to withdraw the bail application of second applicant/appellant Brij Kishore.

2. In view of the above, bail application is

dismissed as withdrawn *qua* the second applicant/appellant Brij Kishore.

3. Heard learned counsel for the applicants/appellants and the learned Deputy Advocate General for the State.

4. Applicant/appellant Smt. Suman @ Mansa Madhesiya has filed the present bail application seeking suspension of sentence of life imprisonment and fine of ₹ 5,000/- imposed upon her under Section 302 read with Section 34 of the IPC in Sessions Trial No. 236/2019.

5. The applicant/appellant, along with other accused persons, was convicted for the death of Harikesh, the husband of the complainant, Smt. Manju. The deceased was allegedly attacked by the accused persons with an iron rod, resulting in fatal injuries.

6. In a nutshell, the facts of the case are that a complaint dated 28.11.2018 was filed by Smt. Manju (complainant) before the Station In-charge Haldi, Pantnagar stating that on 27.11.2018 at 11:30 am when her husband Harikesh who was employed as security personnel at Pantnagar University was coming home for lunch then her neighbours Ram Singh S/o Surendra, Brij

Kisore and Suman W/o Brij Kishore caught hold of her husband from behind and hit him with an iron rod due to which he became unconscious; her brother-in-law Rakesh S/o Chaukar Jato tried to save him but the neighbors attacked him also; her mother-in-law rescued her husband from where he was referred to Haldwani; his condition is very serious and he is admitted in ICU and the neighbours are still threatening to kill him. On the basis of complaint, FIR No.0218/2018 was registered against the appellants and co-accused/convict Ram Singh u/s 308 and 352 of IPC.

7. On the same day i.e. on 28.11.2018 at 17:35 Hrs, PW1 Smt. Manju again submitted a written complaint at Police Station Pantnagar to the effect that earlier she had given an application regarding attack on her husband on 28.11.2018 and his admission at Pantnagar hospital from where he was referred to Haldwani, however subsequently, her husband died during treatment on 28/29.11.2018.

8. The matter was investigated and after completion of investigation charge-sheet no.10/2019 dated 24.02.2019 was filed against the appellants and co-accused Ram Singh u/s 352, 302 r/w 34 IPC. On

05.12.2019, learned Sessions Judge, Udham Singh Nagar framed charges against the accused persons u/s 302 r/w 34 of IPC. On conclusion of trial, learned II Additional Sessions Judge, Rudrapur, Udham Singh Nagar, vide judgment and order dated 16.06.2023, convicted the appellants and co-accused Ram Singh u/s 302 r/w 34 of IPC and sentenced them to undergo rigorous imprisonment for life along with fine of ₹ 5,000/-.

9. Learned counsel for the applicant/appellant no.1 submits that there are inherent contradictions in the statement of the prosecution witnesses, particularly with regard to the role played by the applicant/appellant no.1 in the incident. It is submitted that while co-accused Ram Singh is alleged to have assaulted the deceased with an iron rod, the applicant/appellant no.1 herein has only been assigned the role of catching hold of the deceased.

10. He further submits that the applicant/appellant Smt. Suman was four months pregnant at the time of incident and she gave birth to a child in jail, besides this, she was also having a child of more than one year at the time of alleged incident. He further submits that the applicant/appellant no.1 Smt. Suman is languishing in jail, along with her infant, since 29.11.2018, for a period of 6

years and 10 months, and she has no criminal history.

11. PW1 Smt. Manju Yadav, who is the wife of the deceased, in her statement, stated that the appellant/applicant Smt. Suman was abusing her and her mother-in-law and when her husband tried to intervene then Ram Singh, Brij Kishore and Suman all three hit her husband with an iron rod. She further stated that co-accused Ram Singh hit her husband with an iron rod and all three accused caught hold of her husband. This witness, in her cross-examination, admitted that the appellant Suman was pregnant at the time of incident and was also having a child of more than one year.

12. PW2 Smt. Meena, mother of the deceased, in her statement stated that the appellant Suman and two other accused persons caught hold of her son and the accused Ram Singh hit at the back side of the head of her son with an iron rod.

13. PW3 Rakesh Yadav, who is the brother of the deceased, stated that he got a phone call from PW1 Manju who told him that the appellant Suman and two other accused have hit his brother with an iron rod but this witness in subsequent paragraph states that Suman and Brij Kishore caught hold of his brother and Ram Singh hit

with iron rod. He further stated that when he reached at the spot then he saw his brother lying down on the ground with blood oozing out from his head and all the three accused were standing there and when he tried to put up his brother then he was also hit by these three persons.

14. PW6 Dr. Ila Singhal who treated the injured at the hospital situated at G.B. Pant University deposed in her statement that the injured was brought to the hospital on 27.11.2018 at 12.36 Hrs and he was having injury on his head and was bleeding. In cross-examination, this witness stated that the injury on the head was a deep cut wound and there is a high probability that wound has been caused by a sharp weapon and it is not possible that it would have been caused by a solid object. She further stated that wound on the head was crescent shaped and could have been caused by a weapon of the same curvature.

15. *Prima facie*, the statement of the prosecution witnesses, referred to above, depicts inherent contradictions in their statements. PW1 Smt. Manju, PW2 Smt. Meena and PW3 Rakesh Yadav on one hand have assigned the role of catching hold of the deceased to the applicant/appellant no.1 Suman while on the other hand

they have stated that all the three accused hit the deceased by iron rod.

16. That apart, PW1 in her cross-examination stated that the appellant Suman was pregnant at the time of incident and was also having a child of more than one year. PW2 in her cross-examination also admits that earlier to the said incident appellant/applicant no.1 Suman had given a complaint against her family at Haldi Police Chowki and she does not know what happened to the said complaint. Furthermore, the medical evidence also suggests that the injury was a sharp cut wound, which *prima facie* raises doubts about the alleged use of an iron rod causing the injury.

17. Besides above, one very crucial factor is that the appellant Suman who was pregnant at the time of incident and was having baby of one year, in our *prima facie* opinion, could not have caught hold of the deceased, who was 28 years of the age and was working as a security personnel on the relevant date. It is also not disputed that the appellant Suman had given birth to a baby in the jail premises and she along with her child are in jail since 29.11.2018.

18. Considering these special circumstances,

particularly the first appellant's status as a mother of an infant and a child, prolonged incarceration, and the *prima facie* doubts about her active involvement in the incident during the time of pregnancy, the Court deems it appropriate to grant bail to Smt. Suman on humanitarian grounds.

19. In that view, the bail application (IA No.1 of 2023) is allowed qua the applicant/appellant no.1. Accordingly, the sentence imposed under the judgment and order dated 16.06.2023 in Sessions Trial No.236 of 2019 hereby stands suspended. The appellant/applicant Smt. Suman is directed to be enlarged on bail forthwith, if not required in any other case, subject to appellant furnishing a bond for a sum of ₹10,000/- and furnishing one surety for the like sum to the satisfaction of the concerned Magistrate.

20. List for hearing in due course.

**(G. NARENDAR, C.J.)**

**(SUBHASH UPADHYAY, J.)**

Dated: 23.09.2025

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