



**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**CRIMINAL APPEAL No. - 2156 of 2020**

Kasim

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

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Counsel for Appellant(s) : Ashok Kumar Tripathi, Nidhi Tripathi,  
Ravindra Pal Singh Kashyap  
Counsel for Respondent(s) : G.A.

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**Court No. - 44**

**HON'BLE J.J. MUNIR, J.**

**HON'BLE VINAI KUMAR DWIVEDI, J.**

**Order on Criminal Misc. Bail Application No. 2 of 2020**

This is a bail application on behalf of the appellant, Kasim, who has been convicted by the learned Additional Sessions Judge, Court No. 6, Budaun in S.T. No. 708 of 2011 for an offence punishable under Section 302 IPC and sentenced to life imprisonment vide judgment and order dated 09.08.2019.

The submission of the learned Counsel for the appellant is that the appellant was charge-sheeted under Section 306 IPC but the learned Sessions Judge framed an alternate charge under Section 302 IPC and much an error by the impugned judgment, the learned Judge convicted him on the alternate charge while acquitting him of the charge of abetment to suicide. He submits that this kind of a conviction is not consistent with the evidence that the prosecution have produced, which was never about murder. The further submission is that the medico legal evidence shows that it is a case of hanging where the ligature mark is 'V' shaped and there is a gap, which excludes strangulation. The autopsy report also shows that it is a case where death has been opined to be the result of ante mortem hanging.

Learned A.G.A. has opposed the bail plea vehemently.

We have heard learned Counsel for the parties, perused the record and

find that there is a child witness, PW-4, who is a son of the deceased as well as the appellant. He was 10-years-old at the time when the crime happened and 16 years, when he testified in the Court. *Prima facie*, his testimony is consistent with the guilt of the appellant. The parties lived in a small house and, therefore, it cannot be said that the child witness did not see the occurrence. There is no reason for PW-4, who is the appellant's son, to say falsehood against him though learned Counsel for the appellant has endeavoured to persuade us into believing that the child witness was tutored by his mother's family members into giving false testimony.

In the totality of circumstances, particularly the evidence of the child witness, we are not inclined to enlarge the appellant on bail pending appeal.

The bail application is, accordingly, **rejected**.

**Order on Memo of Appeal**

The paper books are ready.

List this appeal for **hearing** on **08.04.2026**.

**(Vinai Kumar Dwivedi,J.) (J.J. Munir,J.)**

**March 10, 2026**

Shubham