



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 3308 of 2023

Devi Singh

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s) : Ashish Mishra, Lalit Kumar Shukla,
Mahesh Kumar Kuntal, Satya Dheer
Singh Jadaun
Counsel for Respondent(s) : G.A., Pankaj Kumar Tripathi

Court No. - 42

**HON'BLE SIDDHARTHA VARMA, J.
HON'BLE PRASHANT MISHRA-I, J.**

Criminal Misc. Suspension of Sentence (Bail) Application No.01 of 2023:

1. Heard learned counsel for the applicant; learned A.G.A. appearing for the State and Sri Pankaj Kumar Tripathi, learned counsel for the informant.
2. The instant application has been filed under Section 389 Cr.P.C. to suspend the sentence of conviction and to release the applicant on bail in Sessions Trial No.486 of 2011 arising out of Case Crime No.225 of 2010, under Section 302/34 of Indian Penal Code, P.S. Farah, District Mathura.
3. It is the contention of learned counsel for the appellant that the appellant-applicant is innocent and has been falsely implicated in the case. Learned counsel submits that the role of the appellant has been that of catching hold of the deceased. Learned counsel for the appellant states that the incident was of the night and was seen in the dark without there being any source of light. It has further been submitted that it seems unnatural that the son of the deceased who happens to be an eye-witness had not tried to save his father. It is also submitted that the appellant was on bail during trial but had never misused the liberty of bail. It is also submitted that the appellant has no criminal history. Still further, learned counsel for the appellant submits that since the appeal is not likely to be heard and decided expeditiously in the near future, the applicant is, therefore, entitled to be released on bail.
4. In rebuttal, learned AGA and learned counsel appearing for the informant

have opposed the bail application but they could not deny the facts that the applicant was on bail during trial but had never misused the liberty of bail and that he has no criminal history.

5. We have perused the judgement of the trial court with the assistance of the learned counsel for the parties.

6. Having heard learned counsel for the parties, we find that the appellant has no criminal history; he had remained on bail during trial but had never misused the liberty of bail; the appellant was assigned the role of catching hold of the deceased and that the incident occurred in a dark night and was seen without there being a source of light. We are, therefore, of the opinion that the sentence awarded by the trial court be kept in abeyance in respect of applicant and the applicant be enlarged on bail.

7. Consequently, the prayer for bail is granted. The bail application is allowed.

8. Without expressing any opinion on the merit of the case, let the applicant- **Devi Singh**, convicted and sentenced in the aforesaid case, be released on bail on his furnishing personal bonds with two sureties each in the like amount to the satisfaction of the court concerned.

9. The realization of fine shall remain stayed till the decision of the appeal.

10. On acceptance of bail bond and personal bond, the lower court shall transmit photostat copies thereof to this Court for being kept on the record.

Order on Appeal :

11. Order sheet indicates that trial court record has been received. Office to prepare paper book. Learned counsel for the parties may thereafter obtain their copies of the paper book from the office.

12. List this appeal on 12.8.2026 for final hearing.

(Prashant Mishra-I,J.) (Siddhartha Varma,J.)

March 16, 2026

GS