



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 3482 of 2026

Smt Kusma Devi

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Abhishek Kumar, Rahul Pandey
Counsel for Respondent(s)	:	G.A.

Along with :

- Criminal Appeal No. 11740 of 2025:**
Dharmveer
Versus
State of U.P.
 - Criminal Appeal No. 12029 of 2025:**
Sunil
Versus
State of U.P.
-

Court No. - 42

**HON'BLE SIDDHARTHA VARMA, J.
HON'BLE JAI KRISHNA UPADHYAY, J.**

**Criminal Misc. Bail Application (Suspension of Sentence) No. 2 of 2026
in (Criminal Appeal No. 3482 of 2026)**

**Criminal Misc. Bail Application (Suspension of Sentence) No. 1 of 2025
in (Criminal Appeal No. 11740 of 2025)**

**Criminal Misc. Bail Application (Suspension of Sentence) No. 2 of 2025
in (Criminal Appeal No. 12029 of 2025)**

1. Heard Sri Rahul Pandey, Abhishek Kumar and Vivekanand Rai, learned counsel for the applicants, Sri Amit Sinha, learned A.G.A. for the State and perused the record.

2. The instant applications have been filed under Section 430(1) of B.N.S.S. to suspend the sentence of conviction and to release the applicants on bail in Session Trial No. 280 of 2019 (State versus Smt. Kusma Devi and others) arising out of Case Crime No. 37 of 2019, under Section 302/34, 201 of

I.P.C., Police Station - Dauki, District - Agra.

3. Contention of the learned counsel for the applicants is that the applicants are innocent and have been falsely implicated. Prosecution case as per the F.I.R. was that the first informant had visited the house of his nephew (*bhanja*) Ramveer Singh on 13.02.2019 in the evening. He had met him and thereafter he had gone back to his own house. Thereafter, on 14.02.2019 again at 06:00 AM he had gone to meet him. However, he was not available and his wife, Kusma, was a little nervous and was saying that he had gone out for some work. The first informant had waited there for quite some time and he was also then worried when the deceased did not come back. The wait thereafter was followed by a search, however, the deceased was not traceable. It has also been stated, in the F.I.R., that the nephew had told the first informant around two week back that his wife was having illicit affairs with many a person of their village. The deceased had previously tried to explain it to his wife that she should not indulge in such illicit affairs. However, after much search, the dead-body of the nephew was found in a well. The body when was shown to the first informant, he identified it as that of the deceased. Learned counsel for the applicants states that it is a case of pure circumstantial evidence. The case was tried on the basis of suspicion and it has further been stated that all the applicants were on bail during trial and they never misused the liberty of bail. The applicants have no criminal history to their credit.

4. In rebuttal, learned A.G.A. has opposed the bail application but could not deny the fact that the case was of circumstantial evidence and during trial the applicants had never misused the liberty of bail and that the applicants had no other criminal history to their credit.

5. We have perused the judgment of the court below with the assistance of the learned counsel for the parties. We find that the case was of circumstantial evidence and whether the chain was completed would be a matter of final hearing. We also find that the applicants had no criminal history to their credit and that they had never misused the liberty of bail during trial, we are thus of the opinion that the sentence awarded by the trial court be kept in abeyance in respect of the applicants and they be enlarged on bail.

6. Consequently, the prayer for bail is accepted. The bail applications are **allowed**.

7. Without expressing any opinion on the merit of the case, let the applicants-**Smt. Kusma Devi, Sunil and Dharmveer** convicted and sentenced in the aforesaid case, be released on bail on their furnishing personal bonds with two sureties each in the like amount to the satisfaction of the court concerned.

8. It is made clear that 50% of realization of fine imposed by the trial court in the impugned judgment and order shall remain stayed till the decision of the appeal.

9. 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.

10. Office to inform the concerned Jail Superintendent through Chief Judicial Magistrate concerned to ensure compliance of the order.

Order on Appeal

11. Summon the Trial Court Record.

12. Office to prepare paper book. Learned counsel for the parties may obtain their copies of the paper book from the office.

13. List this appeal on 16.11.2026 for final hearing.

(Jai Krishna Upadhyay,J.) (Siddhartha Varma,J.)

May 7, 2026

M.S. Ansari