

**Neutral Citation No. - 2025:AHC:74166-DB**

**Reserved on 5<sup>th</sup> May, 2025**

**Delivered on 7<sup>th</sup> May, 2025.**

**Court No. - 44**

**Case :-** CRIMINAL APPEAL No. - 6555 of 2022

**Appellant :-** Shiv Pratap @ Bade Lalla

**Respondent :-** State of U.P.

**Counsel for Appellant :-** Swati Agrawal Srivastava, Vimal Chandra Mishra

**Counsel for Respondent :-** G.A.

**Hon'ble Siddhartha Varma, J.**

**Hon'ble Madan Pal Singh, J.**

**(Per-Se-Hon. Madan Pal Singh, J.)**

**Ref.:-Criminal Misc. Second Bail Application**

1. This is the second bail application filed by the applicant-appellant. The first bail application of the applicant-appellant has been rejected by another Division Bench of this Court vide order dated 8<sup>th</sup> August, 2023.

2. Heard Mrs. Swati Agarwal Srivastava, learned counsel for the accused applicant-appellant and Mr. C.B. Dhar Dubey, learned A.G.A. for the State.

3. This bail application under Section 389 Cr.P.C. has been filed by the appellant-Shiv Pratap @ Bade Lalla with the prayer to suspend the sentence of conviction and to release the applicant/appellant on bail in Session Trial No. 105 of 2018 (State of U.P. Vs. Shiv Pratap @ Bade Lalla), arising out of Crime No. 365 of 2017, under Sections 302/149 I.P.C., Police Station-Mohammadabad, District-Farukkhabad.

4. Prosecution case in brief is that the first informant/complainant, namely, Bhanu Pratap made a written complaint to the Police Station-Mohammadabad alleging therein that he solemnized the marriage of her sister, namely, Kirshna Chauhan (deceased herein) with Shiv Pratap @

Bade Lalla (accused-appellant herein) around 10 years before the incident. From the aforesaid wedlock, two children were born, namely, Suraj and Simmi. It is further alleged that the sister of the first informant/complainant i.e. deceased often used to inform him on the phone about illicit relationship of her husband with someone else. The first informant/complainant visited in-laws' place on many occasions and calmed the matter between his sister and her husband (accused-appellant herein) but her husband i.e. accused-appellants did not change his bad habits and for this reason, often there was hot talk between them. On 12<sup>th</sup> June, 2017 at about 1 o'clock, the first informant/complainant got information from his relative, namely, Ashok Singh that his sister (deceased) had died. On receiving the said information, when he reached the house of his sister's in-laws at Nagla Bhawani Singh, his sister's body was lying outside the house on a cot, and he saw that she had severe head injury, bruises on the body and marks on her neck. On enquiry, he came to know that on that day i.e. 12<sup>th</sup> June, 2017, a phone call of a girl was received by the accused-appellant and when the sister of the first informant/appellant protested for the same, then the husband of the sister of the first informant/complainant i.e. accused-appellant, her brother-in-law Bhraman Pratap @ Chhote Lalla, mother-in-law, namely, Rama Devi, father-in-law Sarvesh and sister-in-law Sonika beat his sister badly due to which she died. The body of the sister of the first informant/complainant was kept at the spot. On the basis of the above complaint, first information report came to be lodged at Police Station Mohammadabad on 12.06.2017 at 15.15 hrs., which was registered as Case Crime No. 365 of 2017, under Sections 147 and 302 I.P.C.

5. Learned counsel for the accused-appellant submits that as per the custody certificate of the accused-appellant issued by the Jail Superintendent, District Jail, Fatehgarh, U.P., a copy of which has been enclosed as Annexure-2 to the supplementary affidavit filed on 29<sup>th</sup> February, 2024, the total period of incarceration of the accused-appellant is 7 years as on 14<sup>th</sup> February, 2024 and more than 8 years as on today i.e. 5<sup>th</sup> May, 2025 with remission. It is also submitted that during

this period of incarceration, the behaviour and conduct of the accused-appellant was very good and no complaint had been reported by the Jail Authorities against him. On the above premise, learned counsel for the accused-appellants submits that the accused-appellant may be released on bail.

6. Apart from above, learned counsel for the accused-appellant submits that the death of the deceased was suicidal and not homicidal. Since the deceased was a hot temper lady and on the date of occurrence there was quarrel between her and her husband for a petty matter, the deceased committed suicide by hanging herself.

7. To buttress the above submission, learned counsel for the accused-appellant has drawn the attention of the Court to the testimony of Dr. Anuj Tripathi (P.W.-2), who conducted the post-mortem examination of the body of the deceased. P.W.-2 has stated in his cross-examination that injury no.2 found on the body of the deceased was a fatal injury and death of the deceased is likely due to the said injury but the same was not caused by strangulation, smothering or throttling. He has also stated that the neck bone of the deceased was not found fractured. He has also opined that the deceased committed suicide by hanging herself. It is further submitted that the accused-appellant has no prior criminal history nor any motive has been disclosed in the matter. Since the appeal is likely to take sufficiently long and there is huge pendency of the criminal appeals, the accused-appellant is entitled to be released on bail, pending disposal of the appeal.

8. Learned A.G.A. has opposed the prayer for bail but could not dispute that the appellant is in jail for more than 8 years as on date with remission and the cause of death of the deceased is due to hanging. He also could not demonstrate that the appellant is habitual offender or has previous criminal history.

9. Having considered the respective submissions advanced by the learned counsel for the accused-appellant and the learned A.G.A. for the State; perused the materials placed on record; keeping in mind the argument of the learned counsel for the accused-appellant that the

death of the deceased is suicidal and not homicidal, and without commenting any further upon merits of the case, we are of the view that appellant is entitled to be released on bail during pendency of this appeal.

10. In view of the above, let the accused appellant- Shiv Pratap @ Bade Lalla, who has been convicted and sentenced by the judgment and order dated 5<sup>th</sup> August, 2022 passed by the Additional Sessions Judge, Court No.1, Farrukhabad in Session Trial No. 105 of 2018 (State of U.P. Vs. Shiv Pratap @ Bade Lalla), arising out of Crime No. 365 of 2017, under Sections 302/149 I.P.C., Police Station-Mohammadabad, District-Farukkhabad be released on bail in the above case on furnishing personal bond and two sureties of the like amount to the satisfaction of the concerned Court subject to furnishing undertaking that he will co-operate in the hearing of the appeal.

11. It is also provided that total amount of fine imposed under the impugned judgment of conviction shall be suspended till final disposal of the instant appeal.

12. On acceptance of his bail bonds, the lower court shall transmit photostat copies thereof to this Court for being kept on the record of this appeal.

13. Office is directed to get the paper books prepared, if not already prepared, within two months.

14. List the appeal in the month of October, 2025 for final hearing.

15. The registry is directed to communicate this order to the concerned Court, who shall ensure that same be communicated to the prisoner in the jail concerned.

(Madan Pal Singh, J.)      (Siddhartha Varma, J.)

**Order Date :- 07.05.2025**

Sushil/-