



2025:UHC:2505

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Bail Application 1st No.1892 of 2024

Mamta @ Anita

.....Applicant

Vs.

State of Uttarakhand

.....Respondent

Presence:

Mr. Navnish Negi, learned counsel, for the applicant.

Mr. Vipin Painuli, learned Brief Holder, for the State of Uttarakhand.

Hon'ble Ashish Naithani, J (Oral)

This is a bail application moved under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicant, Mamta @ Anita, aged about 36 years, W/o Mahendra Yadav, R/o Village Baraypat, Thana Tisri, District Giridih, Jharkhand, who stands accused in Crime No. 32 of 2024, under Sections 302, 201, and 34 IPC, registered at Police Station Laxman Jhula, District Pauri Garhwal.

2. Mr. Navnish Negi, learned counsel for the applicant, and Mr. Vipul Painuli, learned Brief Holder for the State of Uttarakhand, appeared and addressed the Court.

3. The Court has heard the learned counsel for the applicant and the learned State Counsel, and perused the material available on record.

4. The prosecution case is that on 25.05.2024, one SI Laxman Singh Kunwar lodged an FIR upon receiving information about the discovery of an unidentified female body in the bushes near Dhandla Pani on the Pundras footpath. Prima facie, it appeared

to be a case of murder, and accordingly, FIR was registered under Sections 302 and 201 IPC against unknown persons.

5. Based on CCTV footage from Neelkanth Temple, it was found that the deceased, later identified as Anita, had visited the temple along with the present applicant and two co-accused. The applicant was arrested on 28.05.2024.

6. As per the post-mortem report, the cause of death was asphyxia due to ligature strangulation, with injuries found to be ante-mortem in nature.

7. The applicant's alleged confessional statement under Section 161 CrPC (now Section 180 BNSS) suggests that she strangled the deceased using a dupatta due to personal reasons linked to her brother's strained matrimonial relationship.

8. Learned counsel for the applicant submitted that: (i) The applicant is innocent and has been falsely implicated; (ii) The statement under Section 161 CrPC is not admissible in evidence, being hit by Section 162 CrPC; (iii) There is no direct evidence or eyewitness linking the applicant to the commission of the offence; (iv) She has two minor children solely dependent on her; (v) One co-accused has already been granted bail on 07.09.2024.

9. The State has opposed the application on the ground that the applicant's presence at the place of occurrence is evident from CCTV footage, and that she may abscond, being a resident of another state.

10. The Hon'ble Supreme Court in *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273, and *Satender Kumar Antil v. CBI*,

(2022) 10 SCC 51, has held that bail should be the norm and prolonged incarceration without trial violates personal liberty under Article 21 of the Constitution.

11. In *Sanjay Chandra v. CBI*, (2012) 1 SCC 40, the Court observed that the object of bail is to secure the appearance of the accused at trial and not to punish by pre-trial detention.

12. In the present case, although the applicant is charged under Section 302 IPC, the following aspects merit consideration: (i) Firstly, the principal evidence against her is a confessional statement under Section 161 CrPC, which is inadmissible as per Section 162 CrPC unless used for limited purposes and duly proved; (ii) Secondly, while the CCTV footage places her at Neelkanth Temple with the deceased, it does not establish her role in the commission of the offence; (iii) Thirdly, there is no direct evidence in the form of eyewitness testimony to implicate her.

13. It is relevant to note that one of the co-accused has already been granted bail. While bail decisions must be based on individual facts, parity is a recognized consideration when the allegations and available evidence are substantially similar.

14. The applicant has been in custody since 28.05.2024. She is a woman with two minor children, and her continued detention may result in undue hardship to her and her dependents.

15. Considering the totality of facts and circumstances, and without expressing any opinion on the merits of the case—which shall be adjudicated at trial—I am inclined to enlarge the applicant on bail, subject to appropriate conditions.

16. Accordingly, the bail application is allowed. Let the applicant, Mamta @ Anita, be enlarged on bail on furnishing a personal bond of ₹25,000/- (Rupees Twenty-Five Thousand only) with two sureties of the like amount to the satisfaction of the court concerned.

17. It is made clear that any attempt to tamper with evidence or influence witnesses shall be a valid ground for cancellation of bail.

(Ashish Naithani, J.)

27.03.2025

NR/