
(2025) 12 J&K CK 0065
Jammu And Kashmir HC
Case No: Bail App No. 6 Of 2025

Sudesh Singh th.Parkasho Dev

APPELLANT

Vs

U.T of J&K

RESPONDENT

Date of Decision: Dec. 5, 2025

Acts Referred:

- Indian Penal Code, 1860- Section 302
- Code Of Criminal Procedure, 1973- Section 174, 497

Hon'ble Judges: Rajnesh Oswal, J

Bench: Single Bench

Advocate: Mehtab Gulzar, Sumeet Bhatia

Final Decision: Dismissed

Judgement

Rajnesh Oswal, J

1. The applicant, who is named as an accused in the charge sheet titled 'UT of J&K vs. Sudesh Singh' (arising out of FIR No. 67/2020 dated 08.08.2020 for an offence under Section 302 IPC) and pending before the Court of Principal Sessions Judge, Reasi (the trial court), has approached this court for the grant of bail, following the trial court's earlier refusal.

2. It is stated that there is no direct evidence connecting the applicant with the alleged offence. Out of the three eye-witnesses cited by the prosecution to establish the applicant's guilt, two have completely turned hostile, and the third eye-witness has also failed to support the prosecution case due to numerous contradictions in her statement.

Furthermore, out of a total of 25 witnesses, 17 have already been examined by the learned trial court. There is no material evidence except certain circumstantial evidence, which, according to

the applicant, is insufficient to establish his involvement or warrant his conviction. The applicant contends that he has been incarcerated for the last more than four years, and this delay alone is sufficient itself for the grant of bail.

3. The respondent has filed the response, stating that on 09.06.2020 at approximately 21:45 hours, information was received through a reliable source that the dead body of a female, Sapna Devi W/o Sudesh Singh R/o Thub, Tehsil Thakrakote, was found hanging from a tree near her house. Due to the suspicious nature of her death, proceedings under Section 174 Cr.P.C. were initiated at Police Post Thanole. Following the conclusion of the inquiry and receipt of the postmortem report, FIR No. 67/2020 was registered. During the investigation, the involvement of the applicant, who is the deceased's husband, surfaced, and the charge sheet was subsequently filed before the Chief Judicial Magistrate, Reasi, on 31.10.2020. It is further contended that the applicant is not entitled to the concession of bail, as he is an accused in the serious offence of murdering his wife.

4. Mr. Mehtab Gulzar, learned counsel for the applicant has submitted that two eye witnesses, namely, Leelo Devi and Krishan Singh, have not at all supported the case of the prosecution and only third witness, namely Ram Pyari has made statement thereby implicating not only the applicant but also his sister, though falsely. He has further stated that statement of Ram Pyari does not connect the applicant with the commission of offence and that she has made exaggerations in her statement before the learned trial court.

5. Per contra, Mr. Sumeet Bhatia, learned GA has submitted that PW Ram Pyari has categorically supported the prosecution case and the neighbours of the applicant have also corroborated the prosecution story. He has submitted that in view of embargo contained in section 497 Cr.P.C, the applicant is not entitled to bail and that the evidence cannot be appreciated at the stage of consideration of a bail application.

6. Heard learned counsel for the parties and perused the record.

7. The record depicts that 18 of the 27 cited witnesses have been examined. Out of three eye-witnesses presented by the prosecution, two, namely Leelo Devi (the applicant's sister) and Krishan Singh (the applicant's step-brother), have not supported the prosecution case. Conversely, PW Ram Pyari, a neighbor of the applicant, has implicated both the applicant and Leelo Devi (the applicant's sister) in the occurrence. Besides, there are other witnesses as well, namely, Bimla Devi, Gajay Singh, Dewan Singh, Hari Ram and Sharna Devi, who have been examined before the learned trial court and they have stated that the applicant used to quarrel with the deceased. The statement of Dr. Neeraj Koul has also been recorded and as per his

opinion, deceased Sapna Devi died due to asphyxia because of strangulation.

8. It is settled law that while considering an application for the grant of bail, the court cannot appreciate the evidence; however, it can look into the evidence to ascertain whether there exists prima facie material against the accused. In *Mahipal v. Rajesh Kumar*, (2020) 2 SCC 118, the Hon'ble Apex Court has held that "the determination of whether a case is fit for the grant of bail involves the balancing of numerous factors, among which the nature of the offence, the severity of the punishment and a prima facie view of the involvement of the accused are important. No straight jacket formula exists for courts to assess an application for the grant or rejection of bail. At the stage of assessing whether a case is fit for the grant of bail, the court is not required to enter into a detailed analysis of the evidence on record to establish beyond reasonable doubt the commission of the crime by the accused. That is a matter for trial".

9. After having examined the record, this Court is of the considered view that, at this stage, it is not possible to arrive at a conclusion that there is no evidence against the applicant warranting his release on bail. Whether there are exaggerations or not and if they are, then their effect can be considered only while appreciating the evidence after conclusion of trial and not while considering bail application.

10. So far as the issue of delay in trial is concerned, the charge was framed against the applicant only in April 2021. As of 29.11.2024, 18 witnesses have been examined. The offence under Section 302 IPC is punishable with death or life imprisonment, and therefore, the applicant has not suffered prolonged incarceration necessitating his release on bail.

11. Viewed thus, this court does not find any merit in the present bail application, and the same is accordingly dismissed. Needless to say, any observation made by this Court is solely for the purpose of deciding this bail application and shall not be construed as an expression of opinion on the merits of the case.