

**(2009) 04 AHC CK 0129**

**Allahabad High Court (Lucknow Bench)**

**Case No:** None

Usha and others

APPELLANT

Vs

State of U.P.

RESPONDENT

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**Date of Decision:** April 1, 2009

**Hon'ble Judges:** Abdul Mateen, J and Suresh Chandra Chaurasia, J

**Final Decision:** Dismissed

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### **Judgement**

S. C. Chaurasia, J.

Heard Sri P. K. Trivedi learned counsel for the appellant in Criminal Appeal No. 2402 of 2007 as well as Sri Prem Singh learned counsel for the appellant in Criminal Appeal No. 2550 of 2007 and learned Additional Government Advocate on the prayer for bail in both the appeals.

The appellants have been convicted in Sessions Trial No. 1021 of 2006 under Sections 302/34 IPC and sentenced for maximum term of life imprisonment.

Prosecution story as erupts is to the effect that in the midnight of 14.06.2006 when Ram Chandra Yadav, husband of complainant Smt. Manju Devi, went outside the house to urinate, he was assaulted by Premchandra Yadav assisted by his wife Smt. Usha and cricket bat was wielded upon his vital part of the body. Ram Chandra Yadav (deceased) received five injuries i.e. two stitch wounds, two contusions and fractures of right temporal bone, right parietal and frontal bone as it comes out from his post mortem report. As per opinion of the doctor, who conducted the post mortem, the deceased died due to coma as a result of ante mortem head injuries.

Argument of Sri Trivedi is that appellant Smt. Usha had not been shown to have used iron rod while inflicting injuries on the person of the deceased as it comes out from the FIR, but in the statements recorded before the Court the case of the prosecution has been developed to the extent that Smt. Usha had used iron rod for inflicting injuries on the person of the deceased and, as such, the case of the prosecution, so far as Smt. Usha is concerned, is doubtful. It has been further

argued that Smt. Usha was on bail during trial and did not misuse the liberty of bail granted to her.

We have gone through the judgment of the court below and the FIR lodged by Smt. Manju Devi (PW1) and find that it has not been specifically indicated in the FIR that Smt. Usha had wielded iron rod on the person of the deceased.

Taking into consideration overall aspects of the matter, we direct that appellant Smt. Usha, convict of aforesaid sessions trial number, be released on bail on her furnishing a personal bond and two sureties each in the like amount to the satisfaction of Chief Judicial Magistrate, Lucknow.

Realisation of half of the fine is stayed and remaining half of the fine shall be deposited by Smt. Usha within one month from the date of her release on bail.

The court below is directed to transmit to this Court forthwith photocopies of bond and sureties filed by appellant Smt. Usha to be preserved in the record maintained here.

So far as prayer for bail of appellant Premchandra Yadav is concerned, since he is main accused and had wielded cricket bat blows on the person of the deceased due to which he after receiving the injuries had succumbed to the same, his prayer for bail is rejected.