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**(2006) 09 AHC CK 0098**  
**In the Allahabad High Court**  
**Case No : Criminal M.B.A. No. 17505 of 2006**

Narendra Singh Gangwar

APPELLANT

Vs

State of U.P.

RESPONDENT

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**Date of Decision :** 20-09-2006

**Acts Referred:**

Penal Code, 1860 (IPC) — Section 302, 328

**Citation :** (2007) 1 ACR 847

**Hon'ble Judges :** Ravindra Singh, J

**Bench :** Single Bench

**Advocate :** Dharam Pal Singh and Niranjana Singh, for the Appellant; A.G.A., for the Respondent

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## Judgement

Ravindra Singh, J.—This application has been filed by the applicant Narendra Singh Gangwar with the prayer that he may be released on bail in Case Crime No. 165 of 2006 under Sections 302 and 328, I.P.C. P.S. Bilsanda, district Pilibhit.

2. That the prosecution story in brief is that the F.I.R. of this case has been lodged by Nagendra Singh Gangwar at P.S. Bilsanda on 8.3.2006 at 6.10 p.m. in respect of the incident which had occurred in the night of 3/4.3.2006. The F.I.R. was lodged against the applicant and two unknown miscreants alleging therein that the marriage of the deceased Smt. Jai Lalita Gangwar, daughter of the first informant, was solemnized with the applicant about 9 years prior the alleged occurrence but the applicant has developed illicit relation with some other woman due to which he was hating the deceased and she was subjected to marpeet by him. In a planned manner the applicant forcibly administered poison to the deceased in the night of 3/4.3.2006 and the poison was administered to her and her children Km. Kamini aged about 8 years and Mayank aged about 4 years consequently, they died in Ravi Khanna Hospital, Bareilly on 4.3.2006. The deceased Smt. Jai Lalita Gangwar brought to the house of Sri Chheda Lal Gangwar situated at Ram Nagar Colony Bisalpur by the applicant and one unknown person on 4.3.2006 at 8.45 a.m. by a motorcycle and leaving the

deceased they fled away by the same motorcycle. Thereafter she was admitted in P.H.C. Bisalpur by Chheda Lal from where she was referred to Bareilly where she was admitted in Siddhi Vinayak Hospital on 4.3.2006. Her statement has been recorded by the City Magistrate, Bareilly, on 5.3.2006. Thereafter, she died in the hospital on 6.3.2006 at 2.45 p.m. Thereafter, the F.I.R. of this case has been lodged on 8.3.2006. According to the medical examination report of the deceased Jai Lalita Gangwar she was brought to the hospital by Rajeshwar Prasad. According to the medical examination report she was brought to P.H.C., Bisalpur by Rajeshwar Prasad, her brother on 4.3.2006 at 8.00 a.m. According to the opinion of the doctor she was conscious. Abraded contusion 4 cm. x 2 cm. and dorsal of left hand 1 cm. above left wrist joint was found and the patient was suspected to have consumed some poisonous material. Therefore, she was referred to District Hospital, Pilibhit. According to the post mortem examination reports the cause of death could not be ascertained, hence viscera was preserved.

3. According to the Dying Declaration of the deceased Smt. Jai Lalita Gangwar recorded by the City Magistrate, Bareilly, on 5.3.2006, the applicant used to beat her and extending the threat. At about 6.30 a.m. poison was administered to her in milk and before administering poison there had been some altercation between them. The deceased was a Shiksha Mitra. The poison was administered to her children also.

4. Heard Sri Dharam Pal Singh, and Sri Niranjana Singh, learned Counsel for the applicant and the learned A.G.A.

5. It is contended by the learned Counsel for the applicant:

1. That the F.I.R. of this case is too much delayed. It has been lodged after great thought and consultation whereas according to the medical examination report the deceased Jai Lalita Gangwar was admitted to the hospital by her husband on 4.3.2006 and the deceased had died on 6.3.2006. There is no specific explanation of delay in lodging the F.I.R.

2. That the alleged dying declaration of the deceased Jai Lalita Gangwar recorded by the City Magistrate on 5.3.2006 is tutored. The prosecution is absolutely silent regarding the admission/treatment of the two children (deceased) and during investigation it has come that both were taken to the hospital by the applicant and his family members to Dr. Bhardwaj at Bisalpur, who were examined by him. The condition of both the children were critical who were admitted at Ravi Khanna Hospital on 4.3.2006 at 8.00 a.m.

3. That the cremation of both the children was done by the applicant and there was no reason to commit their murder.

4. That there is no eye-witness account and there is nothing to show where poison was administered by Smt. Jai Lalita Gangwar or by the applicant but the circumstances indicate that the poison was taken by the deceased Jai Lalita herself and she administered poison to her children also because she was a lady

of short temperament.

5. That the applicant is a teacher. He is a peace loving person. He is having no criminal background. Therefore, he may be released on bail.

6. In reply to the above contention it is submitted by the learned A.G.A.

1. That it is a case of serious nature in which wife, minor daughter, and minor son of the applicant have lost their lives due to poison. The circumstances indicates that the poison has been administered by the applicant and there is dying declaration of the deceased Jai Lalita recorded by the City Magistrate in which it has been specifically alleged that the poison was administered by the applicant to his wife and children. Therefore, the applicant may not be released on bail.

7. Considering the facts that there is a dying declaration of the deceased Jai Lalita, wife of the applicant recorded by the City Magistrate, in which it has been stated that the poison was administered by the applicant to her and her children, therefore, three persons have lost their life due to poisoning, other facts and circumstances of the case and the submission made by the learned Counsel of both the sides and without expressing any opinion on the merits of the case, the applicant is not entitled for bail. Therefore, the prayer for bail is refused.

8. Accordingly the application is rejected.