

**Sunil Kumar Sharma Vs. State of U.P.**

**Sunil Kumar Sharma Vs. State of U.P.**

**SooperKanoon Citation :** [sooperkanoon.com/487784](http://sooperkanoon.com/487784)

**Court :** Allahabad

**Decided On :** Jul-11-2001

**Reported in :** 2001CriLJ3904

**Judge :** S.K. Agarwal, J.

**Appeal No. :** Cri. Misc. Bail Application No. 12799 of 2000

**Appellant :** Sunil Kumar Sharma

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

**Advocate for Def. :** A.G.A. and ;G.S. Hajela, Advs.

**Advocate for Pet/Ap. :** Ashwani Kumar Awasthi, ;Manish Tewari, and ;V.C. Tewari, Advs.

**Disposition :** Application rejected

**Judgement :**

ORDER

**S.K. Agarwal, J.**

1. Heard learned Counsels for the applicant, learned Counsel for the complainant Sri G.S. Hajela and learned A.G.A.

2. This application is moved by the Sub-Inspector, Sunil Kumar Sharma seeking bail from this Court in a case of custodial death of one Vijay Kumar Ikka. The story as contained in the F.I.R. is that Vijay Ikka, cook of the school, was detained by police of P.S. Narholi, district Mathura in connection with the murder of Brother George. During his custody he was subjected to severe third degree treatment which ultimately resulted into his death. On 17-6-2000 at about 9.30 p.m. when the informant, Brother Emanuel, had gone to provide meals to Vijay Ikka at the police station, he learnt that he will be taken by Sub-Inspector (the applicant) and a constable Dinesh Upadhyay to police lines. According to Brother Emanuel, Vijay Ikka was about to be taken away by them. When he tried to make some enquiry, the applicant told him that he is being taken out under the instructions of Senior Superintendent of Police, Mathura, to his house. The informant suspected some foul play and requested that the deceased be taken by his own jeep. The informant took the applicant and the constable along with Vijay Ikka to the house of S.S.P. who was not present there. He had a talk with the reader of S.S.P. Sri Zamil Mohd. who was present at his residence. Zamil Mohd. accompanied Sunil Kumar Sharma who asked the informant to drop them at the police line. They also assured him that Vijay Ikka will be released after necessary interrogation. The informant dropped them at the police lines. The informant also contacted the S.H.O., P.S Narhauili but he took no action in the matter. At about 11.00 p.m. in the night of 17-6-2000, an information about the death of Vijay was communicated by Circle Officer at the school premises. The deceased had expressed his apprehension a day before to the informant that he will be killed. According to the informant Vijay Ikka was murdered. On the first information report, a case was registered. The dead body was sent for post-mortem. The post-mortem examination revealed serious assault upon the victim at the police lines. He had as many as 9 injuries on his person. The post-mortem is indicative of asphyxia as the cause of his death. Out of 9 injuries, five were on the right side of the body. Both the eyes had haemorrhage. This clearly shows that this deceased has been beaten mercilessly and was strangulated to death. Both the lips were found blue and mouth was found half open.

3. The police has also lodged a report detailing its own version of the incident. In his own F.I.R. this Sub-Inspector (applicant) has accepted the presence of brother

Emanuel and one of his friend and presence of constable Dinesh Upadhyay. He has also accepted that he has taken the deceased from police station Narholi for interrogation to the police lines treating the police line as a safe place for this purpose. He sat down there in the recreation club and started interrogating Vijay Ikka in the presence of brother Emanuel. He received some important informations from him within an hour. Brother Emanuel sought leave from the applicant at this juncture. After his departure, further interrogation continued in that connection. He had named, according to the Sub-Inspector (the applicant), 3 persons in connection with murder of Brother George. It is further stated by this applicant that at about 3.00 p.m. he had left the deceased in the custody of constable Kanti Prasad Sharma to take his meal and further interrogation with Vijay Ikka was to proceed thereafter. At about 6.15 pm. when he came back to the police lines he learnt that at about 6.00 p.m. the deceased had gone to evacuate and had locked himself inside the lavatory. When he did not come out for 10-15 minutes, constable Kanti Prasad Sharma called him Vijay Ikka did not respond. He pushed the door of the lavatory but it did not open. Then the other officials were contacted including the applicant. They rushed to the lavatory and tried to open the door by applying force. The door did not open. The door leaves were ultimately got opened. They found Vijay Ikka lying in an unconscious state inside the lavatory. An Angochha (a local garment used for drying body) was found wrapped around his neck. He was found hanging from the window. The information about his death was communicated to P.S. Kotwali. So according to this applicant and his F.I.R. Vijay Ikka committed suicide.

4. It is contended by learned Counsel for the applicant that the applicant was already suspended and the investigation was withdrawn from him. He had nothing to do with the investigation and, therefore, the question for him to take the deceased to the police lines does not arise. He had himself admittedly taken him to the S.S.P. and thereafter along with Jameel Mohd., Reader of the S.S.P. brought the victim to the police lines leaving him in the recreation hall in the charge of Jamil Mohd. and other police personnel he went away for taking his meal. According to him the deceased was hale and hearty up to 3.00 p.m. when he left him.

5. Analysis of these contentions show that if he would have been guilty of torture the victim, he would not have lodged this first information report it is further contended. When I examined the two first information reports, one lodged by the brother Emanuel, and other lodged by this applicant himself the basic feature of the case as emerge out is as under.

6. That the deceased was taken by this applicant to the police lines for the purposes of interrogation finding the police station not safe. His F.I.R. clearly confirms this situation. He has interrogated him up to 3.00 p.m. is further borne out from his F.I.R. The interrogation has revealed some names is also established as a fact. This F.I.R. is admissible in evidence against him. The F.I.R. lodged by this applicant further shows a wild story that he had gone to take his meal at about 3.00 p.m. leaving the victim in the custody of a constable K.P. Sharma and the victim at about 6.00 p.m. had gone to the lavatory for evacuation and was brought out in an unconscious state and thereafter was pronounced dead immediately on his arrival in the hospital. A large number of injuries including heamatoma in both the eyes, rupture of muscles is indicative of use of brute force against the victim at the police lines. Since the applicant is the person responsible for taking the deceased to police lines from police station Narhaulti, it will not be safe to accept that he has nothing to do with the investigation till then. It is, as available to the Court from his own F.I.R., that he had interrogated him and the victim had revealed some information in connection with the murder of Brother George to him. The police of Mathura district had over reacted in the incidents against the Christian community as few incidents had already taken place in a short, span of a month and a half. None of them in all probability was worked out till then. In these circumstances the pressure upon the police hierarchy as well as the subordinate police officials was severe and in those circumstances once the victim, a cook of the school, was suspected, the police used all shorts of measures including assault to procure a break through in the case of murder of Brother George. In their over zeal and anger they had forgotten that the cloth tied around the neck of Vijay Ikka to extract more information is so tight that he is likely to breathe his last. Whether it was tied by the applicant himself or by his subordinate is not of any consequence. His own admission that he had taken him to the police lines for interrogation treating that place as safe further indicates that he was still involved with this

investigation. If he was already suspended and kept away from the investigation of this case then certainly as the probability suggest he must have brought him to lines to remove the blot by breaking the silence of the deceased. What ever the deceased had in his chest was already revealed and he must not have anything further under his belt to unfold. Enraged by his unyielding approach probably he was given a severe beating at the police lines. Such use of third degree may not have been found safe at police station which is situated at a public place. Police lines are at isloated places in a huge area where public audibility to the happenings therein or approach is impossible. Finding it safe the victim was brought here and wholly unmindful of the consequence crudest third degree treatment was meted out to the poor suspect. He cannot be absolved from the liability for this custodial death of Vijay Ikka.

In these circumstances, I do not find any merit in this bail application. This bail application is accordingly rejected. Observations made in the order are tentative and shall not be taken into consideration by trial Court in deciding the case.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**