



2025:AHC:156452

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 27221 of 2025

Babloo Alias Brijesh

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Brijesh Kumar Srivastava
Counsel for Opposite Party(s)	:	G.A.

Court No. - 66

HON'BLE ASHUTOSH SRIVASTAVA, J.

Heard Shri Brijesh Kumar Srivastava, learned counsel for the applicant, Shri Purshuttom Maurya, learned AGA for the State and perused the record.

This bail application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 has been moved on behalf of accused-applicant, Babloo Alias Brijesh, seeking enlargement on bail in Case Crime No. 211 of 2024, under Sections 108 of the Bharatiya Nyaya Sanhita, 2023, Police Station Bah, District Agra.

Learned counsel for the applicant argued that the accused-applicant is innocent. He has been falsely implicated in this very case crime number and is languishing in jail since 22.1.2025. Learned counsel for the applicant submits that incident is of dated 1.12.2024 and FIR has been lodged on 4.12.2024. There is no explanation regarding delay in lodging the FIR. In the FIR, there is no allegation, regarding maltreating and beating the deceased, against the applicant. In the FIR, it is alleged that family members of the applicant have sustained injuries on the person of deceased, but in the post mortem report, no injuries were reported to be found on the person of deceased. The cause of death has been shown to be hanging.

It has also been argued that there is no evidence implicating the applicant for abetting suicide. In order to bring home, the charge of abetment to suicide, specific abetment of the accused with intention to bring about the suicide of the person concerned as a result of that abetment is required. The intention of the accused to aid or instigate or abet the deceased is necessary for attracting Section 108 B.N.S. Besides mere harassment would not constitute as sufficient instigation to commit suicide and it is required to be shown that the alleged harassment left the victim with no other alternative other than to commit suicide. In order to buttress his submission, he has relied upon a judgment of the Apex Court passed in the case of ***Jayedeeptsinh Pravinsinh Chavda v. State of Gujarat in Criminal Appeal No. 5175 of 2024 (arising out of SLP (Crl.) No. 7957 of 2024 dated 10.12.2024)***. Relevant paragraphs of the said judgment is quoted hereunder:

*"18. For a conviction under Section 306 of the IPC, it is a well-established legal principle that the presence of clear mens rea – the intention to abet the act – is essential. Mere harassment, by itself, is not sufficient to find an accused guilty of abetting suicide. The prosecution must demonstrate an active or direct action by the accused that led the deceased to take his/her own life. The element of mens rea cannot simply be presumed or inferred; it must be evident and explicitly discernible. Without this, the foundational requirement for establishing abetment under the law is not satisfied, underscoring the necessity of a deliberate and conspicuous intent to provoke or contribute to the act of suicide. The same position was laid down by this Court in ***S.S. Chheena v. Vijay Kumar Mahajan (2010) 12 SCC 190***, wherein it was observed that:*

"25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in

committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by the Supreme Court is clear that in order to convict a person under Section 306IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide."

19. To bring a conviction under section 306, IPC it is necessary to establish a clear mens rea to instigate or push the deceased to commit suicide. It requires certain such act, omission, creation of circumstances, or words which would incite or provoke another person to commit suicide. This Court in the case of **Ramesh Kumar v. State of Chhattisgarh (2001) 9 SCC 618**, defined the word "instigate" as under:

"20. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation (2001) 9 SCC 618 though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow

cannot be said to be instigation."

24. Therefore, for a conviction under Section 306 IPC, there must be clear evidence of direct or indirect acts of incitement to commit suicide. The cause of suicide, especially in the context of abetment, involves complex attributes of human behavior and reactions, (2011) 3 SCC 626 (2010) 1 SCC 707 (2007) SCC OnLine Kar 824 requiring the Court to rely on cogent and convincing proof of the accused's role in instigating the act. Mere allegations of harassment are not enough unless the accused's actions were so compelling that the victim perceived no alternative but to take their own life. Such actions must also be proximate to the time of the suicide. The Court examines whether the accused's conduct, including provoking, urging, or tarnishing the victim's self-esteem, created an unbearable situation. If the accused's actions were intended only to harass or express anger, they might not meet the threshold for abetment or investigation. Each case demands a careful evaluation of facts, considering the accused's intent and its impact on the victim."

He has no criminal antecedent and there is no likelihood of his fleeing from course of justice or tampering with evidence in case of release on bail. Hence, bail has been prayed for.

Learned AGA has vehemently opposed the prayer for bail, but could not dispute the points raised by learned counsel for the applicant.

Considering all above facts and circumstances, the nature of accusations, severity of the punishment in the case of conviction and nature of supporting evidence, reasonable apprehension of tampering with the witness and prima facie case, but without commenting on merit of case, a case for bail is made out.

Accordingly, the bail application is ***allowed***.

Let the accused-applicant, **Babloo Alias Brijesh**, involved in

above mentioned case crime number be released on bail, on his executing a personal bond and two reliable sureties each, in the like amount to the satisfaction of the court concerned, subject to the following conditions:

1. The applicant will not tamper with the evidence.
2. The applicant will not indulge in any criminal activity.
3. The applicant will not pressurize/intimidate the prosecution witnesses and co-operate in the trial.
4. The applicant will appear regularly on each and every date fixed by the trial court, unless his personal appearance is exempted through counsel by the court concerned.

In the event of breach of any of the aforesaid conditions, the court below will be at liberty to proceed to cancel his bail.

September 4, 2025

Ravi Prakash

(Ashutosh Srivastava,J.)