



2025:JHC-1 K03:2970H

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL No. - 2863 of 2025

Prabhat Kumar

.....Appellant(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. Home
Lko. And Another

.....Respondent(s)

Counsel for Appellant(s)	:	Atul Kumar Dwivedi
Counsel for Respondent(s)	:	G.A., Ajeet Kumar

Court No. - 28

HON'BLE PRAMOD KUMAR SRIVASTAVA, J.

Rejoinder affidavit filed today by learned counsel for the appellant and supplementary counter affidavit filed by learned AGA for the State are taken on record.

Heard learned counsel for the appellant, Sri Ajeet Kumar, learned counsel appearing for opposite party no. 2 and the learned AGA for the State as well as perused the record.

The present criminal appeal under Section 14-A (2) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred against the impugned order dated 10.07.2025 passed by learned Special Judge (SC/ST) Act, Barabanki in Bail Application No. 2286 of 2025 (CNR No. UPBB010049992025), in Case Crime No. 296 of 2025, under Sections 69, 108, 351(3), 352 BNS, 2023 and Section 3(2)(v) of SC/ST Act, Police Station Ram Nagar, District Barabanki, whereby the bail application of the appellant has been rejected.

Learned counsel for the appellant submits that the appellant has falsely been implicated in the present case. He further submits that there is no eye witness of the alleged incident. He next submits that after two days of the alleged incident, the FIR is lodged. He further submits that the appellant-accused has been implicated in the case mere on suspicion and no mark of injury was found on the body of the deceased in the postmortem report. He further submits that the

deceased was an woman, aged about 35 years. He next submits that initially the case was registered under Section 103 of BNS and during the course of investigation, it was converted into a case of abetment of suicide. He next submits that there is no direct evidence to the effect that the appellant has instigated to deceased to commit suicide. He also submits that refusing to solemnize marriage with the deceased, will not count as a remote cause for abetment of suicide. He also submits that in fact, the family members of the deceased did not allow her to solemnize marriage with the appellant and they declared that they will teach the lesson to the appellant and consequently, they implicated the present appellant in this false case. He also submits that in this regard, the witnesses have also filed affidavit. He next submits that the appellant is languishing in jail since 26.06.2025 having no criminal history to his credit. He added that in case the appellant is enlarged on bail, he shall not misuse the liberty of bail and he shall fully cooperate with the trial. He has further submitted that there is no possibility of the appellant to intimidate or pressurize the witnesses or any other persons acquainted with the facts of the present case.

For the aforesaid reasons, learned counsel for the appellant submits that the instant criminal appeal deserves to be allowed and the impugned order may be set aside and consequently, the appellant deserves to be enlarged on bail.

Per contra, learned AGA for the State as well as learned counsel appearing for opposite party no. 2-complainant have vehemently opposed the prayer for bail by submitting that the appellant is the main culprit who had established physical relationship with the deceased on the pretext of marriage. They also submit that later on the accused-appellant denied to solemnize marriage with the deceased, while she had become pregnant. It is also next submitted that it was a major shock for the deceased and she did not have any other recourse and ultimately she committed suicide, thus, the act of the appellant directly comes within the purview of aid an instigation to commit suicide. They have also stated that the appellant assured the victim to solemnize marriage and on this pretext, he has established physical relationship with her but later on he denied. In this regard, it is also submitted that in respect of abovesaid fact, the Investigating

Officer collected evidence and witnesses narrated the whole story and they also submit that in case the appellant is enlarged on bail, he will affect the trial, therefore the the appellant is not entitled to grant bail.

Considering the submissions of learned counsel for the parties and after perusal of material available on record, including the allegations made in the FIR, it reveals that the occurrence took place on 24.06.2025, while FIR was lodged with delay of two days on 26.06.2025; there is no eye witness account of the incident; as per FIR, it is undisputed that the victim was a major woman of 30 years; the case was initially registered under Section 103 of BNS and during the course of investigation it was converted into Section 108 of BNS; for abetment to commit suicide, there must 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; the affidavit of the witnesses, filed by the complainant at the time of bail, having no significance and the appellant is languishing in jail since 26.06.2025 and he has undertaken that in case he is enlarged on bail, he shall not misuse the liberty of bail and will cooperate with the trial. Without expressing any opinion on merit, this Court is of the view that the learned court below has failed to appreciate the material available on record, thus, the order passed by the court below is liable to be set aside.

Accordingly, the appeal is allowed. Consequently, the impugned order dated 10.07.2025 passed by learned Special Judge (SC/ST) Act, Barabanki in Bail Application No. 2286 of 2025 (CNR No. UPBB010049992025), in Case Crime No. 296 of 2025, under Sections 69, 108, 351(3), 352 BNS, 2023 and Section 3(2)(v) of SC/ST Act, Police Station Ram Nagar, District Barabanki, is hereby set aside.

Let the appellant-**Prabhat Kumar** be released on bail in the aforesaid case crime number on his furnishing a personal bond and two reliable sureties of the like amount to the satisfaction of the court concerned, subject to following additional conditions-

- (i) The appellant shall cooperate with the prosecution during trial.
- (ii) The appellant shall not tamper with the evidence during trial

(iii) The appellant shall not pressurize/intimidate the prosecution witness(s).

(iv) The appellant shall not commit an offence.

(v) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer or tamper with the evidence.

(vi) The appellant shall remain present before the trial court on each date fixed, either personally or through counsel.

(vii) The appellant shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court.

(viii) The appellant shall remain present, in person, before the trial court on the dates fixed for recording of statement under Section 313 Cr.PC.

In case of default of above conditions, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law

As this order relates to enlargement of the appellant on bail, it is clarified that observation(s) made in this order shall have no bearing on the merits of the case and the trial court shall not be influenced by any observation(s) made in this order.

December 16, 2025

kkv/

(Pramod Kumar Srivastava,J.)