

**The Hon'ble Sri Justice J.Sreenivas Rao**

**Criminal Petition No.5490 of 2025**

**Order:**

This Criminal Petition is filed by the petitioner/accused No.9, seeking anticipatory bail under Section 482 of Bharatiya Nagrik Suraksha Sanhita (BNSS), in connection with Crime No.58 of 2025 of Trimulgherry Police Station, Hyderabad District, registered for the offences punishable under Section 194 of BNSS and subsequently the same was altered to 85, 108 of BNS.

2. Heard Mr. V.Ravi Kiran Rao, learned Senior Counsel representing Mr. Akkam Eshwar, learned counsel for the petitioners/accused Nos.1 and 2, and Mr. Syed Yasar Mamoon, learned Additional Public Prosecutor appearing for the respondent/State.

3. The case of the prosecution is that on 14-03-2025, at 17:15 hours, a written complaint was received from Sri. Syed Arif Basha, S/s Late Syed Ahmed, age: 50 years, Occ: Manager

in private company, R/Plot No: 133, Durga Vihar colony, Trimulgherry, Secunderabad, Cell No. 9848446706. In which he stated that he got married to his cousin Gas Rubina Firdous, age: 43 years, in the year of 2006, and they were blessed with one son named Syed Fouzan Ahmed, age: 14 years. His wife has been suffering from health issues and psychiatric problems for the last 5 to 6 years and still undergoing treatment. Today, i.e., 14-03-2025, at around 3:30 PM, he saw his wife was praying, so he went to sleep, his mother and son also sleeping in another room. At around 04:25 PM, he noticed his wife was not at home, while he was searching for her, he saw few persons surrounded the Well, which is opposite to his home, then he went to check what exactly happened, and then he found his wife's body floating in the water. By that time, police and fire people came and then took out the body from the well. Immediately, 108 ambulance came and checked his wife and declared as found dead. Due to depression, she might have committed suicide by jumping into the well. He has no

suspicion in this matter. Therefore, he requested to take necessary action.

4. Learned senior counsel for the petitioners/accused Nos.1 and 2 submits that the petitioners have not committed any offence and they were falsely implicated in the aforesaid crime. He further submitted that the marriage of petitioner No.2 was performed with the deceased on 30.07.2006 and they were blessed with one child who is aged about 14 years. During their marital relation, the petitioners have not harassed the deceased any point of time for additional dowry. The deceased was suffering with ill health and the petitioners never instigated the deceased to commit suicide. The alleged incident was taken place on 14.03.2025, on the very same day, petitioner No.2 lodged a complaint before Trimulgherry Police Station, Hyderabad. Basing on the complaint of petitioner No.2, Crime No.58 of 2025 was registered for the offences under Section 194 of BNSS. After laps of more than 12 days, the mother of the deceased lodged a complaint on 03.04.2025 and basing on

the said complaint, the investigating officers altered the offence from 194 BNSS to 85 and 108 of BNS, though the ingredients of the 85 and 108 of BNS are not attracted against the petitioners. He further submitted that the deceased has not written any suicide note and there are no marital disputes between the deceased and the petitioners since last 15 years and the deceased is suffering with ill health and taking treatment from psychiatrist since, 2022.

4.1 He also submitted petitioner No.1 is the senior citizen aged about 74 years and she is suffering with old age ailments and petitioner No.2 is a private employee and eking out his livelihood. The petitioners are not having any criminal antecedents and they are ready and willing to cooperate with the investigating officer and also abide by the conditions that may be imposed by the Court. He further submits that mere using of the words 'go and die' will not come within the purview of Section 306 of IPC and 108 of BNS. He further

submitted the subsequently the mother of the deceased received the ornaments which belongs to the deceased.

4.2 In support of his contention, the learned Senior Counsel relied upon the following judgments:-

1. ***Ayyub and Others v. State of Uttar Pradesh***<sup>1</sup>;

2. ***Prakash and Others v. The State of Maharashtra and Another***<sup>2</sup>; and

3. ***Mahendra Awase v. The State of Madhya Pradesh***<sup>3</sup>.

5. *Per contra*, learned Additional Public Prosecutor submits that the petitioners have committed offence. Basing on the complaint lodged by the mother of deceased, the investigation officers altered the offence from 194 of BNSS to 85 and 108 of BNS. There are specific allegations against the petitioners to attract the ingredients under Section 108 of BNS. He further submitted that the investigation is under progress and if the

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<sup>1</sup> (2025) 3 SCC 334

<sup>2</sup> Criminal Appeal No.2024 (SLP (CrI.) No.1073 of 2023)

<sup>3</sup> Criminal Appeal No.221 of 2021 (SLP (CrI.) No.11868 of 2023)

petitioners/accused Nos.1 and 2 are granted anticipatory bail at this stage, there is every chance of them influencing the witnesses and interfering with the investigation.

6. Having considered the rival submissions made by the learned counsel for the parties and on perusal of the record, it reveals that the marriage of petitioner No.2 was performed with the deceased on 30.07.2006. The deceased committed suicide on 14.03.2025, on the very same day, petitioner No.2 lodged a complaint, basing on the said complaint, Crime No.58 of 2025 was registered for the offence under Section 194 of BNSS and subsequently basing upon complaint of the de facto complainant, who is none other than the mother of the deceased lodged a complaint on 03.04.2025 wherein, it is specifically stated that on the instigation of the petitioners only the deceased committed suicide and basing on the same, Section 194 of BNSS was altered into Sections 85 and 108 of BNSS. Even according to the learned Additional Public Prosecutor, the investigation is under threshold.

7. In **Ayyub** (*supra*), the Hon'ble Supreme Court held that the issue of abetment of suicide under Section 306 of the IPC, emphasizing that to establish such an offence, there must be clear evidence of specific abetment by the accused with the intention to instigate the victim to commit suicide. The case arose from the tragic deaths of Ziaul Rahman and Tanu, who were linked by a suspected relationship. Subsequent, Ziaul's death, Ayyub lodged an FIR against several individuals for assault, while respondent No.2, accused and others of abetting Tanu's suicide by humiliating her. The Court quashed the proceedings against the appellants and ordered a reinvestigation into Tanu's death by a Special Investigation Team to uncover the true circumstances surrounding the case.

8. In **Prakash** and other (*supra*), the Hon'ble Apex Court held that in para Nos.16 and 17 reads as follows:

"16. This Court in the case of **S.S. Chheena v. Vijay Kumar Mahajan and Another**, had an occasion to consider the scope of

Section 306 of the IPC and the ingredients which are essential for abetment, as set out in Section 107 of the IPC. It observed as follows:

“16. The word “suicide” in itself is nowhere defined in the Penal Code, however its meaning and import is well known and requires no explanation. “Sui” means “self” and “cide” means “killing”, thus implying an act of self-killing. In short, a person committing suicide must commit it by himself, irrespective of the means employed by him in achieving his object of killing himself.

18. In our country, while suicide in itself is not an offence, considering that the successful offender is (2010) 12 SCC 190 : 2010 INSC 506 beyond the reach of law, attempt to suicide is an offence under Section 309 IPC.

21. The learned counsel for the appellant has placed reliance on a judgment of this Court in Mahendra Singh v. State of M.P. [1995 Supp (3) SCC 731 : 1995 SCC (Cri) 1157] In Mahendra Singh [1995 Supp (3) SCC 731 : 1995 SCC (Cri) 1157] the allegations levelled were as under: (SCC p. 731, para 1) “1. ... My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They beat me and abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-in-law. Because of these reasons and being harassed I want to die by burning.” The Court on the aforementioned allegations came to a definite conclusion that by no stretch the ingredients of abetment are attracted on the statement of the deceased. According to the

appellant, the conviction of the appellant under Section 306 IPC merely on the basis of the aforementioned allegation of harassment of the deceased is unsustainable in law.

23. In *State of W.B. v. Orilal Jaiswal* [(1994) 1 SCC 73 : 1994 SCC (Cri) 107] this Court has cautioned that: (SCC p. 90, para 17) “17. ... The court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it [appears] to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.”

24. This Court in *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)* [(2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the words “instigation” and “goading”. The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the other. Each person has

his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

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 this Court is clear that in order to convict a person under Section 306 IPC 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.”

17. This Court held that abetment involves the mental process of instigating a person or intentionally aiding a person in doing of a thing. Therefore, without a positive act on the part of the accused to instigate or aid a person in committing suicide, conviction cannot be sustained. This Court further observed that the intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 of IPC, there has to be a clear mens rea to commit the offence. Abetment also requires an active act or direct act which led the deceased to commit suicide

seeing no other option and that act must have been intended to push the deceased into such a position that he committed suicide. However, this Court has cautioned that since each person reacts differently to the same provocation depending on a variety of factors, it is impossible to lay down a straightjacket formula to deal with such cases. Therefore, every such case has to be decided on the basis of its own facts and circumstances”.

9. In **Mahendra Awase (supra)**, hon’ble Apex court held that in Para No.20 reads as follows:-

“20. This Court has, over the last several decades, repeatedly reiterated the higher threshold, mandated by law for Section 306 IPC [Now Section 108 read with Section 45 of the Bharatiya Nyaya Sanhita, 2023] to be attracted. They however seem to have followed more in the breach. Section 306 IPC appears to be casually and too readily resorted to by the police. While the persons involved in genuine cases where the threshold is met should not be spared, the provision should not be deployed against individuals, only to assuage the immediate feelings of the distraught family of the deceased. The conduct of the proposed accused and the deceased, their interactions and conversations preceding the unfortunate death of the deceased should be approached from a practical point of view and not divorced from day-to-day realities of life. Hyperboles employed in exchanges should not, without anything more, be glorified as an

instigation to commit suicide. It is time the investigating agencies are sensitized to the law laid down by this Court under Section 306 so that persons are not subjected to the abuse of process of a totally untenable prosecution. The trial courts also should exercise great caution and circumspection and should not adopt a play it safe syndrome by mechanically framing charges, even if the investigating agencies in a given case have shown utter disregard for the ingredients of Section 306”.

10. The above said judgments are not applicable to the facts and circumstances on the sole ground that there are specific allegations levelled against the petitioners about harassment and instigation against deceased.

11. Taking into consideration of the facts and circumstances of the case and gravity of the offence, this Court is not inclined to grant anticipatory bail to the petitioner/accused No.2, at this stage, especially the investigation is under threshold. The record further reveals that petitioner No.1 is women and she is aged about 74 years and a senior citizen, taking into consideration of facts and circumstances of the case including her age and on health ground, this Court is inclined to grant

anticipatory bail in favour of petitioner No.1 subject to the following conditions:

- (i) Petitioner/accused No.1 is directed to surrender before the Station House Officer, Trimulgherry Police Station, on or before 05.05.2025;
- (ii) On such surrender, the Station House Officer of Trimulgherry Police Station, shall release the petitioner on bail on his executing a personal bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties for a likesum each to the satisfaction of the said Officer;
- (iii) On such release, petitioner/accused No.1 shall appear before the Station House Officer, Gummadidala Trimulgherry Police Station, on every Monday at 11:00 a.m., for a period of eight weeks for the purpose of investigation and thereafter, as and when required for investigation.
- (iv) Petitioner/accused No.1 shall abide by the conditions stipulated under Section 438(2) of the Criminal Procedure Code, 1973/

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Section 482 of BNSS and shall cooperate with the investigation officer for conclusion of investigation.

12. Subject to the above directions, the Criminal Petition is allowed in part. No costs.

As a sequel, miscellaneous petitions, pending if any, stand closed.

**Date: 28.04.2025**

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**J.SREENIVAS RAO, J**

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**The Hon'ble Sri Justice J.Sreenivas Rao**

**Criminal Petition No.5490 of 2025**

**Date: 02.04.2025**  
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