2026:AHC:210913

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 5123 of 2026

Smt. Somvati

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Ram Krishna Yadav
Counsel for Respondent(s)	:	G.A.

Court No. - 74

HON'BLE SAMIT GOPAL, J.

1. List revised.

2. Heard Sri Ram Krishna Yadav, learned counsel for the appellant and Sri Bade Lal Bind, learned counsel for the State and perused the record.

3. An affidavit of compliance dated 07.10.2026 has been filed today in Court by learned counsel for the State. The same is taken on record.

4. On 07.08.2026 the following order was passed by this Court:

"1. List revised.

2. Heard Sri Pranay Kumar, Advocate, holding brief of Sri Ram Krishna Yadav, learned counsel for the appellant, Sri Ajay Singh, learned A.G.A.-I for the State and perused the record.

3. Notice was issued to the opposite party no. 2 vide order dated 03.07.2026. Office vide its report dated 06.08.2026 has reported that notice has been served personally on the opposite party no. 2 as per the report of C.J.M., Jhansi dated 23.07.2026 which is placed on record as Flag-K. The said report of C.J.M. concerned encloses with it the report of concerned police station which states that notice has been served upon the opposite party no.2 personally and proof of receipt of notice has also been annexed with it. Service of notice is thus sufficient. Despite service no one appears on behalf of opposite party no. 2 even in the revised list. The Court thus proceeds to hear the matter.

4. Learned counsel for the appellant submits that charge sheet with regards to some other accused have been filed but investigation with regards to the appellant is pending. He prays for one week time to file supplementary affidavit annexing the said charge sheet and the relevant orders of the court concerned.

5. List on 21.08.2026 as fresh."

5. Despite service of notice on the opposite party no.2, neither the opposite party no.2 is present before the Court nor there is any representation on his behalf even in the revised list. The Court proceeds to hear the matter.

6. This criminal appeal under Section 14A(2) of SC/ST (Prevention of Atrocities) Act, 1989 has been filed by the appellant **Smt. Somvati** with the prayer to set-aside the impugned order dated 22.04.2026 passed by learned Special Judge (SC/ST) Act, Jhansi in Anticipatory Bail Application No. 640 of 2026 arising out of Case Crime No. 112 of 2026, under Sections 191(2), 351(2), 108, 3(5) BNS, Police Station Sipri Bazar, District Jhansi and with a further prayer to release the appellant on anticipatory bail in the aforesaid case, during the pendency of the present appeal.

7. The FIR of the matter was lodged on 20.03.2026 by Chhote Lal Ahirwar against the appellant and 12 others alleging therein that his land which is in his possession is situated in village Smiardha which is being used by him and he wanted to get his house constructed on it but the accused stopped him for getting constructions. His wife told them that the land belongs to her and she wanted to construct a house on it on which the accused were adamant to fight with them. They stated that they will see as to how the construction on it is done. They stated that they would murder her and her family on which his wife Raj Kumari sprinkled diesel on herself and set her on fire. People of nearby came and saved her and she has been taken to medical college in an injured condition where she is being treated. The FIR was lodged under Sections 191(2), 351(2), 3(5) BNS and 3(2)(va) of SC/ST Act.

8. Subsequently Smt. Raj Kumari died on 28.03.2026 at about 01:05 am at GM & AH, Lucknow. She was found to have received the following injury:

"Injury No.1, SUPERFICIAL TO DEEP SEPTIC BURN WOUND PRESENT ON FACE, NECK, FRONT OF CHEST AND ABDOMEN, BOTH UPER LIMB, AND UPPER BACK. PUS SLOUGH PRESENT IN WOUNDS. ABOUT 1.5 LITRE SERUS FLUID PRESENT IN ABDOMINAL CAVITY. ON SECTION CUTTING OF BOTH LUNGS, LIVER, SPLEEN AND BOTH KIDNEY MULTIPLE PUS FOCI SEEN."

The cause of death is septicemia due to antemortem burn injury as noted.

9. Learned counsel for the appellant submits that the appellant has been falsely implicated in the present case. It is submitted that a dying declaration of the deceased was recorded in which she names the appellant and seven other persons and states that they are abusing her on which she stated that since they have come to murder she would herself commit suicide after which she sprinkled kerosene on herself and set her on fire. It is submitted that thus general and omnibus allegations have been levelled against the appellant and other persons. There is no overt act has been assigned to the appellant. It is submitted that subsequently during investigation the case was converted into a case under Sections 191(2), 351(2), 108, 3(5) BNS. It is submitted that there is no abetment

and instigation of any kind by the applicant which has any nexus with the death of the deceased. The applicant has no mens-rea at all. There is no overt act whatsoever of the applicant which resulted in the death of the deceased. It is submitted that the appellant has no criminal history as stated in para 30 of the anticipatory bail application in appeal.

10. Per contra, learned counsel for the State opposed the prayer for anticipatory bail in appeal and submitted while placing his affidavit of compliance filed today that the investigation in so far as it related to three accused namely Raj Kuamr Yadav @ Raju Yadav, Dinesh Kumar Ahirwar and Bhagwati has concluded and a charge sheet dated 19.05.2026 has been filed against them but the investigation with regards to the appellant and eight other accused is going on. It is submitted that the copy of the charge sheet is annexure 1 to the supplementary affidavit of compliance. It is submitted that the appellant is named in the FIR and also in the dying declaration of the deceased.

11. After having heard learned counsels for the parties and perusing the records, it is evident that the present case is a case in which Smt. Raj Kumari committed suicide. The appellant and 12 other persons are named with general and omnibus allegations. The investigation with regards to some other accused persons are pending. It is submitted that there is no abetment and instigation of any kind by the applicant which has any nexus with the death of the deceased. The applicant has no mens-rea at all. There is no overt act whatsoever of the applicant which resulted in the death of the deceased.

12. Without expressing any opinion on the merits of the case, considering the nature of accusation, the appellant is entitled to be released on anticipatory bail in this case.

13. In the event of arrest of the appellant **Smt. Somvati** involved in the aforesaid case, he shall be released on anticipatory bail till the submission of police report, if any, under section 193(3) BNSS / 173 (2) Cr.P.C. before the competent Court on her furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the Station House Officer of the police station concerned with the following conditions:-

(i) the appellant shall appear before the Station House Officer of the police station concerned within a period of two weeks from today and file certified copy of this order for its compliance.

(ii) the appellant shall make herself available for interrogation by a police officer as and when required;

(iii) 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;

(iv) the appellant shall not leave India without the previous permission of the Court and if she has passport the same shall be deposited by her before the S.S.P./S.P. concerned.

14. In default of any of the conditions, the Investigating Officer is at liberty to file appropriate application for cancellation of anticipatory bail granted to the appellant.

15. The Investigating Officer is directed to conclude the investigation of the present case in accordance with law expeditiously preferably within a period of three months from the date of production of a copy of this order independently without being prejudice by any observation made by this Court while considering and deciding the present anticipatory bail application of the appellant.

16. The appellant is directed to produce a copy of this order before the Commissioner of Police / S.S.P. /S.P. concerned within ten days from today, who shall ensure the compliance of present order.

17. Accordingly, the appeal succeeds and the same stands **allowed**.

18. The impugned order dated 22.04.2026 passed by learned Special Judge (SC/ST) Act, Jhansi is hereby set aside.

19. Pending application(s), if any, stand disposed of.

(Samit Gopal,J.)

October 8, 2026
M. ARIF

Digitally signed by :-
MOHAMMAD ARIF
High Court of Judicature at Allahabad