2026:AHC:208532

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 35518 of 2026

Arun Kumar Tiwari @ Shanu

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Ghan Shyam
Counsel for Opposite Party(s)	:	G.A.

Court No. - 64

HON'BLE VIVEK VARMA, J.

1. Heard learned counsel for the applicant, and Sri Manoj Gautam, learned AGA for the State-opposite party. Perused the material available on record.

2. The present bail application has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 128 of 2026, under Section 108 B.N.S., Police Station- Gujaini, District- Kanpur Nagar, during the pendency of the trial.

3. Counsel for the applicant contends that the applicant is the husband of the deceased and has been falsely implicated in the present case. The incident is alleged to have occurred on 04.07.2026, whereas the first information report was lodged on 08.07.2026, under Section 103(1) B.N.S. The delay in lodging the first information report is fatal to the prosecution case. During the course of investigation, the case was converted under Section 108 B.N.S. According to the postmortem report, the cause of death is *'combined effects of asphyxia, venous congestion, consequent upon antemortem hanging and its related complications'*. Further, as per the allegations in the first information report, the statement of the daughter of the deceased namely, Ruhi Tiwari and the material collected during the course of investigation, the essential ingredients to constitute the offence under Section 108 B.N.S. are not made out. Mere allegation of matrimonial discord, assault or harassment, in the absence of any positive act of instigation, intentional aid on the part of the applicant, do not constitute the offence of abetment to suicide. In support of his submission, counsel for the applicant has placed reliance on the judgement of the Hon'ble Supreme Court in the cases of **Nipun Aneja and others vs. State of Uttar Pradesh (Criminal Appeal No.654 of 2017)** decided on 03.10.2024 and **Abhinav Mohan Delkar vs. The State of Maharashtra and others (Criminal Appeal Nos.2177-2185 of 2024)** decided on 18.08.2025. The applicant is in jail since 09.07.2026 having no criminal antecedents and in case, he is

enlarged on bail, he will not misuse the liberty of bail.

4. Learned AGA for the State has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

5. Having heard counsel for the parties and having perused the record this Court prima facie finds that as per the allegations in the first information report, the statement of the daughter of the deceased namely, Ruhi Tiwari and the material collected during the course of investigation, the essential ingredients to constitute the offence under Section 108 B.N.S. are not made out. There is no direct act attributable to the applicant that could be construed as instigation, conspiracy or intentional aid to the commission of suicide. Moreover, the applicant has no criminal antecedents and has remained confined for almost three months and there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant- **Arun Kumar Tiwari @ Shanu**, involved in the aforesaid case crime be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence;

(iii) shall not pressurize the prosecution witnesses.

7. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

October 6, 2026
Abhishek

(Vivek Varma, J.)

Digitally signed by :-
ABHISHEK SINGH
High Court of Judicature at Allahabad