

Bombay at Goa in the case of *Mr. Asif Khan Pathan (Supra)* is concerned, the same is not applicable on the facts and circumstances of the present case because in the said case, some additional information was supplied by the informant subsequently, on the basis of which, the N.C.R. was converted into FIR, therefore, the same is distinguishable in the facts and circumstances of the present case.

14. This Court in the case of *Shavez and Ors. vs. State of U.P. and Ors., MANU/UP/4929/2019* has held that conversion of NCR into FIR during investigation after finding the fact that accused person has caused serious injuries to victim and had thereby committed cognizable offence, is neither illegal nor impermissible. It has also been held that merely the fact that new crime number was assigned and a Chick FIR was also executed, does not necessarily adversely affect the proceedings in any vital manner nor the applicants can claim that they have prejudiced by the FIR. It has also been held that this Court does not deem it proper and cannot be persuaded to have a pre-trial before the actual trial begins. On a perusal of FIR and the material collected by the Investigating Officer on the basis of which charge sheet has been submitted makes out a prima facie offence against the accused at this stage and there appear to be sufficient ground for proceedings against the applicants.

15. In view of above and considering overall facts and circumstances of this case, this Court does not find any illegality or error in the impugned proceedings against the applicants which may call for interference by this Court. The application has been filed on misconceived ground and lacks merits.

16. Accordingly, the application is dismissed.

(2025) 6 ILRA 62

APPELLATE JURISDICTION

CRIMINAL SIDE

DATED: ALLAHABAD 20.06.2025

BEFORE

THE HON'BLE SAMEER JAIN, J.

Criminal Appeal No. 2045 of 2025

Kamal Bharbhujia ...Appellant
Versus
State of U.P. & Anr. ...Opposite Parties

Counsel for the Appellant:

Sri Brajesh Nath Rai, Sri Rahul Mishra

Counsel for the Opposite Parties:

Sri Avdhesh Narayan Tiwari, G.A.

Bail -Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act-Criminal appeal u/s 14-A(2)-initially FIR lodged u/s 103 BNS and other sections against the appellant and another -with regard to murder of the wife of the o.p. no.2- but subsequently the case was converted u/s 108 BNS-abatement to suicide-if appellant was having illicit relationship with the deceased -then it cannot be said that due to his abetment she committed suicide-Bail granted.

Appeal allowed. (E-9)

(Delivered by Hon'ble Sameer Jain, J.)

1. Heard Sri Rahul Mishra, learned counsel of the appellant, Sri Deepak Dubey, Advocate holding brief of Avdhesh Narayan Tiwari, learned counsel for the opposite party no.2 and Sri Ashutosh Srivastava, learned A.G.A. for the State.

2. This criminal appeal under Section 14-A(2) Scheduled Castes & Scheduled Tribes (Prevention of Atrocities)

Act, has been filed by the appellant with a prayer to quash the order dated 24.01.2025, passed by the learned Additional District and Session Judge/Special Judge (S.C./S.T. Act), Mahoba in Criminal Misc. Bail Application No. 25 of 2025, (Kamal Bharbhujia Vs. State of U.P.) arising out of Case Crime No. 685 of 2024, under Sections 108, 352, 351(3) of B.N.S. and 3(1)(da), 3(1)(dha), 3(2)(5ka), 3(2)(5) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (as Amended under Act No. 1 of 2015), Kotwali Nagar, District-Mahoba.

3. Learned counsel for the appellant submits, however, initially FIR of the present case was lodged under Section 103 BNS and other sections against the appellant and another with regard to murder of the wife of the o.p. no.2 but subsequently when it was found that actually deceased committed suicide due to the abetment of the appellant then case was converted under Section 108 BNS.

4. He next submits, as per prosecution appellant was having illicit relationship with the deceased and he was continuously pressurizing her to perform marriage with him, therefore, she committed suicide.

5. He next submits, however, entire allegation of abetment made against the appellant is totally false but even if the same is accepted then also it cannot be said that due to the abetment of the appellant deceased committed suicide.

6. He next submits, appellant is not having any previous criminal history and in the present matter he is in jail since 01.01.2025.

7. He further submitted, therefore, the impugned order dated 24.01.2025 passed by the court concerned by which bail application of the appellant has been dismissed is illegal and is liable to be set aside and appellant is entitled to be enlarged on bail in the present matter.

8. Per contra, learned AGA and learned counsel for the opposite party no.2 vehemently opposed the prayer for bail and submitted that appellant is responsible for the death of the deceased and he was not having only illicit relationship with her but he also pressurized her to perform marriage with him and therefore, he does not deserve bail and there is no illegality in the impugned order dated 24.01.2025 passed by the court concerned and therefore instant appeal filed by the appellant is devoid of merit and is liable to be dismissed.

9. I have heard both the parties and perused the record of the case.

10. From the record it reflects FIR of the present case was initially lodged under Section 103 BNS along with other sections against the appellant with the allegation that he committed the murder of the wife of the o.p. no.2 but subsequently during investigation when it was revealed that appellant was having illicit relationship with the deceased and he was continuously pressurizing her to perform marriage with him and therefore she committed suicide then case was converted under Section 108 BNS.

11. This court finds merit in the arguments advanced by learned counsel for the appellant that even if appellant was having illicit relationship with the deceased

then also it cannot be said that due to his abetment she committed suicide.

12. Further, appellant is not having any previous criminal history and in the present matter he is in jail since 01.01.2025.

13. Therefore, considering the facts and circumstances of the case, discussed above, in my view, impugned order dated 24.01.2025 by which bail application of the appellant has been dismissed by the court concerned is illegal and is liable to be set aside and appellant is entitled to be released on bail in the instant matter.

14. Accordingly, the instant appeal stands allowed and the impugned order dated 24.01.2025 passed by the court concerned is hereby set aside and without expressing any opinion on the merit of the case, appellant is directed to be enlarged on bail in the instant matter.

15. Let appellant **Kamal Bharbhuj**a be released on bail in the aforesaid case on his furnishing a personal bond and two reliable sureties in the like amount to the satisfaction of the court concerned with the following conditions:

(i) The appellant will not tamper with the evidence during the trial.

(ii) The appellant will not pressurize/ intimidate the prosecution witness.

(iii) The appellant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The appellant shall not commit an offence similar to the offence of

which he is accused, or suspected, of the commission of which he is suspected.

(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.

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

(2025) 6 ILRA 64

**APPELLATE JURISDICTION
CRIMINAL SIDE
DATED: ALLAHABAD 19.06.2025**

BEFORE

THE HON'BLE SAMEER JAIN, J.

Criminal Appeal No. 2275 of 2025

Anshu Kushwaha ...Appellant
Versus
State of U.P. & Anr. ...Opposite Parties

Counsel for the Appellant:
Sri Abhishek Kumar Saroj, Nagendra
Bahadur Singh

Counsel for the Opposite Parties:
G.A., Sitaram Patel

Criminal Law – Bharatiya Nagarik Suraksha Sanhita, 2023 - Sections 180 & 183 – Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Sections – 3(2)(V) & 14-A(2) – Bhartiya Nyay Sanhita, 2023 – Sections 69, 89, 115(2), 333, 352, 351(2) & 351(3) - Criminal Appeal - filed u/s 14-A(2) of SC/ST Act, – for quashing the impugned order – whereby court below rejected Bail Application – FIR – offence of rape and prepared obscene video -