

(2025) 2 ILRA 4
APPELLATE JURISDICTION
CRIMINAL SIDE
DATED: ALLAHABAD 20.02.2025

BEFORE

THE HON'BLE KRISHAN PAHAL, J.

Criminal Misc. Bail Application No. 39053 of
2024

Saurabh Meena **...Applicant**
Versus
State of U.P. **...Opposite Party**

Counsel for the Applicant:

Ankit Prakash, Parijat Mishra, Sushil Shukla,
Vimlendu Tripathi

Counsel for the Opposite Party:

G.A., Ganga Bhushan Mishra

Criminal Law — Indian Penal Code, 1860 - Sections 306, 376, 313 & 323- Bail — Abetment of Suicide — Allegations of coercing victim into repeated abortions — Suicide note silent on applicant's role — FIR initially under Section 302 IPC, later converted to Section 306 IPC — No direct incitement or overt act attributed to applicant — Victim found hanging in locked room — No evidence of forcible entry or strangulation — Allegation of illegal influence in investigation unfounded — Held, prima facie ingredients of Section 306 IPC not satisfied — Bail granted. (Paras 33 to 37)

HELD:

It is settled principle of law that the object of bail is to secure the attendance of the accused at the trial. No material particulars or circumstances suggestive of the applicant fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like have been shown by learned A.G.A. (Para 33)

The FIR mentions the fact that the applicant had committed the murder of the deceased

person, but the investigation St.s otherwise. It St.s that it is a case of abetment to suicide. The door of the deceased person is St.d to have been broke open by the guard and the security officer of the society. (Para 35)

No direct overt act has been assigned to the applicant of having abetted the deceased to commit suicide. It is true that the deceased being a woman might have been under stress. (Para 36)

It is admitted in the instant case that the applicant and the deceased person were having consensual corporeal relationship with each other. The element of abetting the deceased to commit suicide seems to be missing in the instant case. (Para 37)

Bail Application allowed. (E-14)

List of Cases cited:

1. Ude Singh Vs St. of Har., (2019) 17 SCC 301
2. Satender Kumar Antil Vs CBI, 2022 INSC 690
3. Manish Sisodia Vs Directorate of Enforcement, 2024 INSC 595
4. Niranjana Singh Vs Prabhakar Rajaram Kharote, AIR 1980 SC 785

(Delivered by Hon'ble Krishan Pahal, J.)

1. List has been revised.

2. Heard Sri Sushil Shukla, learned counsel for the applicant and Sri Raj Kumar Pandey, Advocate holding brief of Sri Ganga Bhushan Mishra, learned counsel for the informant as well as Sri Deepak Kumar Singh, learned A.G.A. for the State and perused the record.

3. Applicant seeks bail in Case Crime No.308 of 2024, under Sections 323, 313, 376 and 306 I.P.C., Police Station Sector-39, District Gautam Buddh Nagar, during the pendency of trial.

PROSECUTION STORY:

4. The applicant is stated to have called the informant and stated that his daughter is dead in his house, as such, the informant rushed all the way from Aligarh to Noida.

5. The FIR was instituted by the informant with the allegations that the deceased person was pregnant at that time and she had got her fetus aborted at the behest of the applicant.

6. There are other allegations against the applicant of having asked the deceased person to sell her house and they both shall buy a property in their joint names. The applicant used to even ask the deceased to sell her car. There are allegations that the applicant used to misbehave with the deceased person and even used to beat her up.

7. The applicant had committed the murder of the daughter of the informant, as such, the FIR was instituted by him on 26.05.2024.

ARGUMENTS ON BEHALF OF APPLICANT:

8. The applicant is absolutely innocent and has been falsely implicated in the present case.

9. Initially, the FIR was instituted under Sections 302, 323, 313 and 376 I.P.C., but subsequently after thorough investigation, the final report (charge-sheet) has been filed under Sections 376, 306, 323 and 313 I.P.C. only and Section 302 I.P.C. has been converted to Section 306 I.P.C.

10. Prior to the institution of the FIR, the inquest proceedings was already complete.

The inquest proceedings was taken up on 25.05.2024 only and was completed by 9:10 p.m. the same night.

11. The post-mortem examination of the deceased was done on the next day i.e. on 26.05.2024 at 4:30 p.m.

12. The suicide note of the deceased person does not indicate any ingredients of Section 306 I.P.C. as there is not an inkling of a word against the applicant having abetted the deceased to commit suicide. No overt act has been assigned to him.

13. Much reliance has been placed on the statement of a common friend, namely, Rudrika Sharma, who has categorically stated that the applicant had called her on the date of incident itself and had informed her that the deceased person had closed the door and is not opening it. After much persuasion, the door could be broke open with the help of guard and security officer of the society.

14. The statements of the said guard and security officer corroborate the said statement of the accused that the door of the room of deceased was broke open by them.

15. It is a clear-cut case of suicide as in the autopsy report, the doctor has opined that the cause of death is asphyxia as a result of ante-mortem hanging. The allegation of having committed the murder stands falsified.

16. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length.

17. There is no criminal history of the applicant. The applicant is languishing in jail since 26.05.2024 and is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

ARGUMENTS ON BEHALF OF STATE/INFORMANT:

18. The bail application has been opposed on the ground that it is a clear-cut case where the applicant has used his clout as he is an Indian Revenue Officer (I.R.S.). His family is a renowned family, whereby many persons are Administrative Officers, including I.A.S., I.P.S. and I.R.S.

19. The applicant has misused his clout and has got conducted the investigation to his dictates, as such, the final report (charge-sheet) has been submitted at the behest of the applicant.

20. The tainted investigation is but evident from the fact that the post-mortem report indicates that the rigor mortis was present only in lower extremities of the body. It implies that the time of death may be between 24-36 hours as per the Modi's Book of Medical Jurisprudence and Toxicology.

21. The time of death as narrated by the applicant in his statement as corroborated by a common friend Rudrika Sharma does not find corroboration from the said autopsy report.

22. Learned counsel for the informant has placed much reliance on his counter affidavit, whereby several WhatsApp chats between the two have been annexed. On 06.05.2024 at 5:55:22 AM, the deceased had sent the following message:

"Shilpa: Saurabh I still haven't had periods from that ipill. I can't handle this alone. I can't handle this madness alone. You didn't let the speak yesterday about it. I still have you inside me. I have killed many of our kids like this before. I kept thinking when you said go and find someone to have kids with and I thought all this while I was getting pregnant with you and I chose to kill them all with these ipills. My spot in hell is fixed. I can't live like this and I can't offer this body now to another. With nothing to offer another man. I can't go anywhere now. I was with you in all of with all of me."

23. The deceased had sent another message the same day at 5:56:13 AM, which reads as under:

"Shilpa: Think how much mentally I am affected with atleast 10 ipills with you and an abortion and you ask me to go to someone to have kids with."

24. The aforesaid statements indicate that the deceased was badly in love with the applicant, but it was the applicant who had misused his clout and did not marry her and did not let the deceased bear a child out of their corporeal relationship. She has categorically mentioned there that she had missed her menstruation cycle, as such, was pregnant and she does not want to further get her fetus aborted, as was done before.

25. It implies that it was the applicant who had forced the deceased person to commit suicide.

26. Learned counsel for the informant has further placed much reliance on several photographs of the deceased, whereby the said photographs indicates that the colour

of the upper of the deceased is different as in one coloured photograph, her upper was found to be of blue in colour, while the another photograph filed by the police during investigation is indicative of it being of white in colour, as such, it is a clear-cut case of illegal investigation.

27. The deceased herself was serving in BHEL, Noida and she had an excellent career and a lady of bright future has been put to death at the behest of the applicant, as such, the applicant is not entitled for bail.

CONCLUSION:

28. The Supreme Court in the case of **Niranjan Singh and another vs. Prabhakar Rajaram Kharote and Others, AIR 1980 SC 785** has avoided detailed examination of the evidence and elaborate documentation of the merits of the case as no party should have the impression that his case has been prejudiced. *A prima facie* satisfaction of case is needed but it is not the same as an exhaustive exploration of the merits in the order itself.

29. The well-known principle of "*Presumption of Innocence Unless Proven Guilty*," gives rise to the concept of bail as a rule and imprisonment as an exception.

30. A person's right to life and liberty, guaranteed by Article 21 of the Indian Constitution, cannot be taken away simply because the person is accused of committing an offence until the guilt is established beyond a reasonable doubt. Article 21 of the Indian Constitution states that no one's life or personal liberty may be taken away unless the procedure established by law is followed, and the

procedure must be just and reasonable. The said principle has been recapitulated by the Supreme Court in **Satender Kumar Antil vs. Central Bureau of Investigation and Ors., 2022 INSC 690**.

31. Reiterating the aforesaid view the Supreme Court in the case of **Manish Sisodia vs. Directorate of Enforcement, 2024 INSC 595** has again emphasised that the very well-settled principle of law that bail is not to be withheld as a punishment is not to be forgotten. It is high time that the Courts should recognize the principle that "*bail is a rule and jail is an exception*".

32. Learned A.G.A. could not bring forth any exceptional circumstances which would warrant denial of bail to the applicant.

33. It is settled principle of law that the object of bail is to secure the attendance of the accused at the trial. No material particulars or circumstances suggestive of the applicant fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like have been shown by learned A.G.A.

34. The Supreme Court in **Ude Singh and Ors. vs. State of Haryana, (2019) 17 SCC 301** observed:-

"16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act/s of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behavior and responses/reactions. In the case of

accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act/s of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

16.1. For the purpose of finding out if a person has abetted commission of suicide by another; the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions aboveresferred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306 IPC. If the accused plays an active role in tarnishing the self esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended

nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.?

35. The FIR mentions the fact that the applicant had committed the murder of the deceased person, but the investigation states otherwise. It states that it is a case of abetment to suicide. The door of the deceased person is stated to have been broke open by the guard and the security officer of the society.

36. No direct overt act has been assigned to the applicant of having abetted the deceased to commit suicide. It is true that the deceased being a woman might have been under stress. There is a saying of 'George Bernard Shaw', which reads as under:

"It is a woman's business to get married as soon as possible, and a man's to keep unmarried as long as he can."

37. It is admitted in the instant case that the applicant and the deceased person were having consensual corporeal relationship with each other. The element of abetting the deceased to commit suicide seems to be missing in the instant case.

38. Considering the aforementioned facts and circumstances of the case,

submissions made by learned counsel for the parties, the evidence on record, and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is **allowed**.

39. Let the applicant- **Saurabh Meena** involved in aforementioned case crime number 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 following conditions.

(i) The applicant shall not tamper with evidence.

(ii) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C/351 B.N.S.S. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

40. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

41. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(2025) 2 ILRA 9

**APPELLATE JURISDICTION
CIVIL SIDE**

DATED: LUCKNOW 17.02.2025

BEFORE

THE HON'BLE RAJNISH KUMAR, J.

First Appeal From Order No. 32 of 2022

Prakash Narain & Ors. ...Appellants
Versus
Hari Bux Singh & Ors. ...Respondents

Counsel for the Appellants:
Ankit Pande

Counsel for the Respondents:
Onkar Nath Pandey

Civil Law-The Code of Civil Procedure, 1908-Sections 96, 100 & 107 - Order 41 - Rule 17, 23, 23-A, 25 & Order 43 Rule 1 (u))-Appeal under Order XLIII Rule 1(U) against the remand order passed by the Appellate Court---If particular issue of limitation was not framed by the trial court as recorded by the lower appellate court and on the basis of record the trial court has recorded a finding which shows the suit is not time barred, it could have considered the same and recorded a finding thereon, if the evidence is sufficient by framing a issue, if required as first appeal is in continuation of the suit and appellate court has all the powers for considering suit on facts as well as law---Admittedly the commission report is on record, but no objection to the same has been filed by the defendant-respondents and no finding has been recorded by the trial court that it is not satisfied with the proceedings and the report of commissioner, therefore, it stands final and if it has not been considered by the trial court and the lower appellate court was of the view that it was required to be considered, it could have considered the same and upon considering it an independent finding could have been recorded and after it if the appellate court was of the view that the matter is required to be remanded, it could have remanded recording specific findings as remand on technical ground without affecting merit is not tenable.(Para 36 & 40)

The impugned order was passed without dealing with the case as an appellate court under Section 96 of C.P.C. and exercising the powers