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Neutral Citation No. - 2025:AHC:94828

Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13376 of 2025

Applicant :- Jahid Baig alias Jahid Jamal Beg

Opposite Party :- State of U.P.

Counsel for Applicant :- Sr. Advocate, Zeeshan Mazhar

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh, J.

1-By means of this application, the applicant-Jahid Baig alias Jahid Jamal Beg, who is involved in Case Crime No. 188 of 2024, under Section 108 of BNS, Police Station Bhadohi, District Bhadohi, seeks enlargement on bail during the pendency of trial.

2-Heard Mr. Gopal Swaroop Chaturvedi, learned Senior Counsel assisted by Mr. Zeeshan Mazhar, learned counsel for the applicant and Mr. Rupak Chaubey, learned A.G.A. 1st, assisted by Mr. Deepak Mishra, learned Additional Government Advocate representing the State.

3-As per prosecution case in brief, Sub Inspector Har Datt Pandey got a first information report lodged on 14.9.2024 under Section 108 of BNS, 2023 against Jahid Baig alias Jahid Jamal Beg (applicant) and Smt. Seema Beg stating inter alia that:-

3.1-On 09.09.2024 at the resident of Jahid Baig alias Jahid Jamal Beg and Smt. Seema Beg, a teenager Nazia D/o Imran, who was working in the house of the applicant as maid, was found dead under suspicious circumstances and another girl Moni alias Sania was also working as a domestic maid. District Magistrate, Bhadohi

taking cognizance of the said fact, directed the Child Welfare Committee, District Probation Officer, Labour Enforcement Officer and police officers to take necessary action in the matter.

3.2-Accordingly, a joint team reached the residence of the applicant on 10.9.2024 at 6:00 P.M. and conducted spot inspection, where Moni alias Sania aged about 15 years was found present and working there. She was rescued from the workplace after interrogation by the investigating team and she was presented before the Child Welfare Committee Bhadohi. Thereafter as per order of the Chairman, Child Welfare Committee, Moni alias Sania was sent to Government Children Home.

3.3-In relation to Nazia, who was found dead at the house of the applicant in the night intervening 8/9.9.2024, Nazia's family members, her father Imran, Moni's cousin Zubair were questioned and their statements were recorded. According to which following facts were revealed:

i- Nazia lived there with Moni and worked as domestic maid. Moni alias Sania told that both of them were sometimes scolded for the work and she (Moni) had to face beatings. Nazia also worked as domestic maid at the house of Jahid Baig alias Jahid Jamal Beg and Smt. Seema Beg. Nazia used to cook food in addition to household chores. As per disclosure made by Moni, Nazia had asked her (Moni) 2-3 days prior to the incident to run away from the house as she

was bored of the domestic work of Mr. Jahid Baig alias Jahid Jamal Beg but she (Moni) refused.

ii-As per statement given by Nazia's father, Nazia had been living and working in the house of Jahid Baig alias Jahid Jamal Beg and Seema Beg for about nine years and she used to get Rs. 1000/- per month as remuneration, which Nazia's mother Noor Jahan used to take. Nazia was found dead at the house of Jahid Baig alias Jahid Jamal Beg and Seema Beg in the night intervening 8/9.9.2024. As such keeping in view Nazia's age and her working period of about 8-9 years, it is confirmed that deceased Nazia was also made to work as a child labour.

iii-In the preliminary investigation it was found that Nazia was fed up with the working condition, therefore she committed suicide in the night of 8/9.09.2024 by hanging herself with the help of her *dupatta* from the hook on the ceiling of the store room on the third floor of Jahid Baig alias Jahid Jamal Beg's house.

4-Main substratum of argument of learned counsel for the applicant is that the applicant is sitting MLA from Bhadohi constituency, district Bhadohi. The deceased-Nazia and Moni were working at the house of the applicant for the last 8-9 years. During this period Nazia came in contact with one Abhishek Saroj, who lived near the house of the applicant and their acquaintance gradually turned into love affair and she became very much friendly with Abhishek Saroj and started talking with him whenever she gets a chance. Prior to the commission of suicide, the deceased made several calls from

Mobile No. 9696326994 to Abhishek Saroj on his mobile number 8004138470. Much emphasis has been given by contending that mother of the deceased moved an application under Section 173(4) of BNSS, 2023 dated 03.10.2024 making allegations inter alia that on account of love affair, Abhishek has made physical relation with her daughter and also taken her inappropriate photographs and thereby he started blackmailing her, therefore, she committed suicide. The said application was disposed of vide order dated 14.10.2024 by the learned Magistrate with the observation that since with regard to said incident of suicide, F.I.R. being Case Crime No. 188 of 2024 has already been registered on 14.09.2024, therefore, it would be appropriate to investigate the facts mentioned in the application under Section 173(4) BNSS moved by the mother of the deceased in the investigation of case Crime No. 188 of 2024. Referring the statement of Moni alias Sania, it is argued that she has stated inter alia that since there was much work in the house of accused Jahid Baig alias Jahid Jamal Beg, therefore, sometime they scolded her and also slapped her. She has also disclosed that 2-3 days prior to the occurrence, the deceased told her to run away from there, but she refused. The said evidence will not constitute the ingredients of 'instigation' as defined under Section 107 of the IPC. Referring the statement of father of the deceased, he submits that he did not make any allegation of abetment against the applicant. Mother of the deceased also did not make allegation of instigation or abetment against the applicant. It has been repeatedly

submitted that the investigating officer has not conducted investigation in fair manner and due to political reasons, in order to falsely implicate the applicant and his family members took out the wrong conclusion that deceased-Nazia committed suicide on account of instigation and abetment by the applicant and co-accused. Lastly, it is submitted by the learned counsel for the applicant that there is no chance of the applicant of fleeing away from the judicial process or tampering with the prosecution evidence. The applicant is languishing in jail since 19.09.2024 and in case, he is released on bail, he will not misuse the liberty of bail and cooperate with the trial.

5-Learned counsel for the applicant in support of his submissions placed reliance on the following judgments:-

i-Mohit Singhal and another vs. The State of Uttarakhand and Others, (2024) 1 SCC 417.

ii-Jayedeeptsinh Pravinsinh Chavda and Others vs. State of Gujarat, (2025) 2 SCC 116.

iii-Ayyub and others vs. State of Uttar Pradesh and Another, 2025 Supreme (SC) 289.

6-Per-contra, learned Additional Government Advocate representing the State opposed the prayer for bail of the applicant by contending that:-

i-Moni alias Sania, who was also working along with Nazia at the house of the applicant, in her statement, has stated inter-alia that there was a lot of work at the house of MLA. So both

of us used to get scolded and some time even beaten. Two-three days prior to the incident, Nazia (deceased) told her to run away from there, but she refused to do so.

ii-Referring the statement of Abhishek Saroj, it is further argued that Abhishek was living near the applicant's house, therefore he got acquainted with Nazia and gradually they both became friends and started talking whenever they got chance. She used to call on his mobile number from any number of MLA's house and she used to tell about herself on the phone. For the last few days, she used to talk to him in a troubled state. On being asked, she used to say that she has to do more work than required. Her life has become miserable due to behaviour of the accused persons. In the night of 08/09.09.2024 prior to the commission of suicide, Nazia called him several times and she seemed mentally very disturb and was saying that since she cannot run away from here, therefore she wants to end her life.

iii- The statement of Abhishek Saroj is corroborated with the statement of Moni and under the facts of the case statement of Abhishek Saroj may be treated as dying declaration of deceased-Nazia.

iv-So far as application under Section 173(4) BNSS (corresponding section 156(3) Cr.P.C.) dated 03.10.2024 moved by the mother of the deceased against Abhishek Saroj is concerned, it is submitted that when the investigating officer came to know about the said application and order passed thereon by the Magistrate, he made efforts to contact

the father of the deceased, but his phone was switched off. Then he contacted mother of the deceased on her mobile number. When asked about the application, she said that she has not given any application before the Court. When the investigating officer asked for getting her statement recorded, she refused.

v-Thereafter, second statements of father and mother of the deceased were recorded, in which they have stated that they do not want to get their any other statement recorded. However, they have told that whatever application given to the Court, they have not read the application submitted in Court and had signed it on the advise of lawyer. Referring the said statement, it is argued that mother of the deceased was not aware about the contents of the application under Section 173(4) BNSS, 2023.

vi-Though the deceased died in the house of the applicant, but in the inquest proceeding, neither the applicant nor any member of his family was the witness of the inquest.

v-Lastly, it is submitted that considering the facts and circumstances of the case, only conclusion can be drawn that Nazia committed suicide on account of her harassment by the accused persons, hence bail application of the applicant is liable to be rejected.

7-Here it would be apposite to mention the well settled law/ingredients of abetment to suicide, which are as under:-

7.1-In order to bring a case within the purview of Section 108 BNS, 2023 (corresponding Section 306 IPC), there must be a

case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide.

7.2-To satisfy the requirement of "instigation", though it is not necessary that actual words must be used to that effect or what constitutes "instigation" must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. Where the accused had, by his acts or omission or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, in which case, an "instigation" may have to be inferred.

7.3-In terms of Section 45 BNS, 2023 (corresponding Section 107 IPC), a person abets the doing of a thing, who instigates any person to do that thing or engages with one or more persons in any conspiracy for the doing of that thing or intentionally aids, by any act or illegal commission the doing of that thing.

7.4-In the light of above mentioned settled law, in case of suicide, a person is liable for abetment if the person has inter alia instigated the deceased for committing suicide or has engaged in any conspiracy for committing suicide or intentionally aided the commission of suicide.

8-Now it would be apposite to refer judicial precedents relied upon on behalf of the applicant, which are as under:

8.1-In Mohit Singhal and another Vs. The State of Uttrakhand and others, 2024(1) SCC 417, Hon'ble Supreme Court has held that act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he has no choice but to commit suicide and such instigation must be in close proximity to act of committing suicide. The Court further held thus:

"In the fact of the case, secondly and thirdly in Section 107, will have no application. Hence, the question is whether the appellants instigated the deceased to commit suicide. To attract the first clause, there must be instigation in some form on the part of the accused to cause the deceased to commit suicide. Hence, the accused must have mens-rea to instigate the deceased to commit suicide. The act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he or she has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide."

8.2-The Hon'ble Supreme Court in Jayedeepsinh Pravinsinh Chavda and others Vs. State of Gujarat, 2025(2) SCC 116 has held that 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 decision above referred, 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 the accused is otherwise not ordinarily expected

to induce a similarly circumstances person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide.

8.3-In **Ayyub and others Vs. State of Uttar Pradesh and another, 2025 Supreme (SC) 289**, Hon'ble Supreme Court after considering a catena of judgements, has held that by a long line of judgements, this Court has reiterated that in order to make out an offence under Section 306 IPC, specific abetment as contemplated by Section 107 IPC on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. It has been further held that the intention of the accused to aid or instigate or to abet the deceased to commit suicide is a must for attracting section 306 IPC. Further, the alleged harassment meted out should have left the victim with no other alternative but to put an end to her life and that in cases of abetment of suicide there must be proof of direct or indirect acts of incitement to commitment suicide.

9-In addition to above judgments, it is also relevant to refer some other judgments on the issue, which are as under:-

9.1-In **Ramesh Kumar Vs. State of Chhattisgarh, (2001) 9 SCC 618**, the Hon'ble Apex Court held that to 'instigate' means to goad, urge, provoke, incite or encourage to do 'an act'. To satisfy the requirement of 'instigation', it is not necessary that actual words must be used to that effect or that the words or act should necessarily and specifically be suggestive of the consequence. Where the accused by his act or omission or by his continued course of conduct creates a situation that the

deceased is left with no other option except to commit suicide, then 'instigation' may be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be 'instigation'.

9.2-The Hon'ble Supreme Court in **A.P. Vs. M. Madhusudhan Rao, (2008) 15 SCC 582** held that not every kind of harassment would amount to 'cruelty' within the meaning of the provision, to constitute the offence punishable therein. Every case has to be analysed on its individual facts to assess whether the act of the accused persons constitutes cruelty. Further, cruelty can either be mental or physical, and it is to be seen on the facts of each case.

9.3- After considering the provisions of Section 306 and 107 of IPC, the Hon'ble Apex Court in the case of **Rajesh versus State of Haryana (2020) 15 SCC 359** held that conviction under Section 306 IPC is not sustainable on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide.

9.4-Again, the Hon'ble Apex Court in the case of **Kamaruddin Dastagir Sanadi Vs. State of Karnataka (2024) SCC Online SC 3541**, observed that discord and differences in domestic life are quite common in society. Commission of suicide largely depends upon the mental state of the victim. Until and unless some guilty intention on the part of the accused is established, it is ordinarily not possible to convict the accused for an offence under Section 306 IPC.

9.5- Hon'ble Supreme Court in **Patel Babubhai Manohardas and others Vs. The State of Gujarat, 2025 Live Law (SC)288**, after considering a catena of judgement on the subject, has held that mere harassment or blackmail, without direct incitement or proximate acts compelling suicide, is insufficient to sustain conviction under Section 306 IPC."

9.6- In a very recent judgement in **Thangavel Vs. State through Inspector of Police and another, 2025 Live Law (SC) 659**, Hon'ble Supreme Court while discharging the accused under section 306 IPC, has held thus:

"No normal person could have imagined that a scolding , that too based on a complaint by a student, would result in such tragedy due to the student so scolded taking his own life. Further, as submitted, such scolding was the least, a correspondent was required to do , to ensure that the complaint made against the deceased by another student was taken note of and remedial measures effected. In the considered opinion of this Court under such admitted factual position, no mens rea can be attributed to the appellant much less, with regard to abetment of suicide committed by the deceased."

9.7- As such it is clear that no straitjacket formula can be laid down to find out as to whether in a particular case there has been instigation which forced the person to commit suicide. Therefore, in such a case, an inference has to be drawn from the circumstances and it is to be determined whether circumstances had been such which, in fact, had created the

situation that a person felt totally frustrated and committed suicide.

10-Having heard learned counsel for the parties and examined the record in its entirety as well as surveyed the relevant legal provisions and the case laws on the subject as noted above, this Court is of the view that every case turns on its own facts. Even one additional or different fact may make a big difference between the conclusion in two cases, because even a single significant detail may alter the entire aspect.

11-In the present case, I find that:-

11.1-After the incident of suicide committed by Nazia in the intervening night of 8/9.09.2024, Seema Beg, wife of applicant immediately gave information to the deceased's grand-mother. Thereafter deceased's father-Imran Sheikh informed the police on 09.09.2024 at about 1:17 PM.

11.2-There is no suicide note of the deceased.

11.3-Inquest proceeding of the deceased was conducted on 09.09.2024 at about 1:30 PM and as per opinion of the appointed Panch witnesses, the deceased died by committing suicide. The family members of the deceased were present at that time, but they did not make any allegation against the applicant or his family members.

11.4-The post mortem of the deceased was conducted on 09.09.2024 at about 4.45 PM in which hyoid bone of the deceased was found intact and following four injuries were found on the body of the deceased:

i. Ligature mark obliquely placed of size 23.5 cm x 2.3 cm in front of neck passing through above thyroid cartilage up to right mastoid process with the gap of 5.0 cm in back of neck. The distance from left mastoid process is 3.4 cm while the distance from mid of chin is 3.8 cm.

ii. The colour of ligature mark is brownish and abraded.

iii. Abrasion of size 0.5 cm x 0.5 cm over lateral aspect of left thumb.

iv. Dry blood single streak present over lower portion of labia majora and medial aspect right thigh and no fresh injury seen over labia majora, labia minora clitoris and Perineum.

11.5-In the opinion of the doctor, the cause of death was found asphyxia due to ante mortem hanging. Probable time since death was assessed by the doctor within 12 to 24 hours.

11.6-The situation of genital organs of the deceased was found non Gravid Uterus & Introitus is spacious, hence taking into consideration the injury no. 4 and situation of genital organs of the deceased as noted above, the allegations made by mother of the deceased against Abhishek Saroj in her application under Section 173(4) BNSS, 2023 that frustrated by Abhishek Saroj's harassment, blackmailing and pressure to have physical relation, her daughter Nazia committed suicide, gets support and corroboration.

11.7-The spot inspection was done on 10.09.2024 by the team of officers, but no effort was made to lodge the first information report immediately thereafter.

11.8-F.I.R. was lodged after a delay of 5 days on 14.09.2024 at about 14:05 hours. Learned State counsel could not give any plausible explanation of such delay in lodging the F.I.R.

11.9-When family members of the deceased came to know about the cause of suicide committed by the deceased-Nazia, her mother moved an application under Section 173(4) BNSS on 03.10.2024 seeking directions to lodge FIR against Abhishekh. Since FIR of this case was already registered on 14.09.2024, therefore, the Magistrate did not pass any order and dispose it of with a direction to the investigating officer to investigate the contents of the application during investigation of this case, but the investigating officer did not take pain to investigate the allegations levelled by the mother of the deceased in her application dated 03.10.2024.

11.10-During investigation, CDR of mobile no. 9696326994 was also collected, from which Nazia used to talk Abhishek Saroj. From the CDR of mobile used by Nazia and Abhishek, it was found that soon before committing suicide, she made several call to Abhishek Saroj. Details are as under:-

Mobile No. of caller (deceased-Nazia)	Mobile No. of call receiver (Abhishek Saroj)	Date	Call Time & Duration
9696326994	8004138470	8.9.24	18:15:08 O'clock (9 seconds)
			21:47:50 O'clock

			(1940 seconds)
			22:21:32 O'clock (35 seconds)
			22:34:39 O'clock (1477 seconds)
			23:58:04 O'clock (3827 seconds)
		9.9.24	01:05:07 O'clock (2748 seconds)
			02:14:17 O'clock (33 seconds0
			02:15:02 O'clock (120 seconds)
			02:18:29 O'clock (174 seconds)
			02:31:36 O'clock (11 seconds)
			02:22:23 O'clock (159 seconds)
			02:25:22 O'clock (147 seconds)

11.11-Above mentioned call details also indicate that deceased committed suicide after having telephonic conversation with Abhishek Saroj, hence possibility of involvement of Abhishek Saroj behind commission of suicide by the deceased cannot be ruled out.

11.12-The mobile phone, which was being used by the deceased was found registered in the name of Mohammad Kaif, but the same was being used by one Ayesha, whereas the mobile no. 8004138470, which was being used by Abhishek was registered in the name of Manju Devi, but it is admitted fact that the investigating officer did not record the statement of Mohammad Kaif, Ayesha and Manju Devi.

11.13-As per statement of Moni with whom deceased-Nazia was working in the house of the applicant, that sometimes applicant scolded the deceased for work. Even assuming the same as correct at this stage, the same cannot be categorised as instigation or abetment to commit suicide.

11.14- Prima Facie, there is nothing to suggest that the accused-applicant instigated, conspired or aided in commission of suicide by the deceased.

11.15-There is no allegation against the applicant that he exhorted the deceased to commit suicide.

11.6-The father and mother in their statements did not blame the applicant for the suicide committed by their daughter-Nazia, who was aged about 18 years.

11.17- Investigation has been completed and charge sheet has been submitted against the applicant and other co-accused namely Seema Beg and Jaeem @ Saifi, hence there is no chance of tampering with the evidence.

12-In view of the above discussion, considering the facts and circumstances of the case as well as keeping in view the nature of the offence, evidence, complicity of the accused and submissions and judgment relied upon by the learned counsel for the parties and the fact that there is no possibility of absconding of the applicant from judicial proceeding, this Court is of the view that the applicant has made out a case for bail. Hence, bail application of the applicant is allowed.

13-Let the applicant-Jahid Baig Alias Jahid Jamal Beg, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:

(i) That the applicant shall cooperate with the expeditious disposal of the trial and shall regularly attend the court unless inevitable.

(ii) That the applicant 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 tamper with the evidence.

(iii) That after his release, the applicant shall not involve in any criminal activity.

(iv) The applicant shall not leave the country during his trial.

(v) The identity, status and residential proof of sureties will be verified by court concerned before the release of the applicant on bail.

14-It is made clear that the observations contained in the instant order are confined to the issue of bail only and shall not be construed to have any expression on the merit of the case.

Order Date: 28.05.2025

Ishrat