

(2025) 06 AHC CK 0577
In the Allahabad High Court
Case No : Criminal Appeal No. 2045 Of 2025

Kamal Bharbhujia

APPELLANT

Vs

State Of U.P. And Another

RESPONDENT

Date of Decision : 20-06-2025

Acts Referred:

Constitution of India, 1950 — Article 227
Code of Civil Procedure Act, 1908 — Section 97
Hindu Succession Act, 1956 — Section 8
Transfer of Property Act, 1882 — Section 41

Citation : (2025) 06 AHC CK 0577

Hon'ble Judges : Rohit Ranjan Agarwal, J

Bench : Single Bench

Advocate : Bhuwan Raj, Shiv Om Vikram Singh Chauhan, Nitin Yasharth,
Yasharth

Final Decision : Dismissed

Judgement

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 Bharbhujia 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.