

## **Niraj Yadav @ Niraj vs State Of U.P. And Another on 4 February, 2025**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:14975

Court No. - 82

Case :- CRIMINAL APPEAL No. - 10196 of 2024

Appellant :- Niraj Yadav @ Niraj

Respondent :- State of U.P. and Another

Counsel for Appellant :- Bhiya Vikash Bharti,Vipin Chandra Pal

Counsel for Respondent :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Heard learned counsel for the appellant, learned A.G.A. for the State and perused the material available on record. Supplementary affidavit filed today is taken on record.
2. This criminal appeal under Section 14-A (2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred by the appellant - Niraj Yadav @ Niraj with the prayer to set aside the bail rejection order dated 19.9.2024 passed by the learned Special Judge (SC/ST Act), Kanpur Nagar.
3. As per prosecution case the lady deceased of the case was having some friendly relations with the present accused appellant Niraj Yadav @ Niraj and they were planning for marriage but the said marriage was refused by the mother of the deceased and one day when she was traveling in the tempo of the present accused appellant he did not stop the tempo on her request and for this reason she threatened to jump out of the tempo and really made a jump and sustained injuries which were

caused fatal to her and she died of the injuries.

4. It is submitted by the learned counsel for the appellant that the appellant is innocent and has been falsely implicated in this case. He has not committed the present offence. Alleged offences are not attracted against him. Essential ingredients to establish an offence under SC/ST Act are also missing in this case. It is further submitted that the prosecution case does not fall within the purview of provisions of Sections 108 BNS (Section 306 I.P.C.) and 3 (2)5 SC/ST Act. It is further submitted that no ingredients to establish an offence under Section 306 I.P.C are made out from the perusal of material on record. It is also submitted that no such witnesses was interrogated by the I.O. who stated in his statement that the accused appellant in any way abetted or provoked the deceased to commit suicide. There is no suicide note also on record. The appellant has no criminal history to his credit. The trial Court while passing the impugned order did not take into account the facts and evidence available on record in right perspective and erred in passing the same. Appellant is in jail since 8.8.2024. It is lastly submitted that the impugned order rejecting the bail application of the appellant suffers from infirmity and illegality warranting interference by this Court.

5. On the other hand, learned AGA opposing the prayer for bail submitted that the appellant committed the present offence having knowledge that the victim belonged to scheduled caste community. There is no infirmity or illegality in the impugned order dated 19.9.2024. It has been submitted that although the marriage between the deceased and the accused appellant was refused by the mother of the deceased but the accused appellant was compelling the deceased to live with him and he also continued the contact with the deceased despite objection by the family members of the deceased.

6. I have considered the rival submissions made by the learned counsel for the parties and have gone through the entire record including the impugned order carefully.

7. In Gurcharan Singh v. State of Punjab, (2017) 1 SCC 433 the Hon'ble Apex Court held that the basic ingredients of Section 306 IPC are suicidal death and abetment thereof. To constitute abetment, intention and involvement of accused to aid or instigate commission of suicide is imperative. Any severance or absence of any of these constituents would militate against said indictment. Remoteness of culpable acts or omissions rooted in intention of accused to actualise the suicide would fall short of offence of abetment essential to attract Section 306 IPC. Contiguity, continuity, culpability and complicity of indictable acts or omission are concomitant indices of abetment. Section 306 IPC thus criminalises sustained incitement for suicide.

8. In M. Arjunan v. State, (2019) 3 SCC 315 the Hon'ble Apex Court held that insulting deceased by using abusive language will not, by itself, constitute abetment of suicide. There should be evidence capable of suggesting that accused intended by such act(s) to instigate deceased to commit suicide. Unless ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 IPC.

9. I have considered the rival submissions made by learned counsel for the parties and have gone through the entire record including the impugned judgment.

10. Having regard to the facts and circumstances of the case and keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, the legal issue involved in the instant case, the Court is of the opinion that the appellant has made out a case for bail. The trial Court erred in rejecting the bail application. The impugned order suffers from infirmity and illegality and the same is liable to be set-aside and the appeal is to be allowed.

11. Accordingly, the appeal is allowed and the impugned order rejecting the bail application of the appellant is, hereby, set-aside.

12. Let the appellant - Niraj Yadav @ Niraj involved in Case Crime No. 249 of 2024 under Sections 108 BNS & Section 3(2)(V) SC/ST Act, Police Station - Nawabganj, District Kanpur Nagar be released on bail on furnishing a personal bond and two heavy sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(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.

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

Order Date :- 4.2.2025 Fhd