

# **Suresh vs State Of U.P. Thru. Prin. Secy. Deptt. ... on 21 February, 2025**

**Author: Rajesh Singh Chauhan**

**Bench: Rajesh Singh Chauhan**

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:11559

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1663 of 2025

Applicant :- Suresh

Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Home Lko.

Counsel for Applicant :- Ram Chandra Dwivedi,Uday Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. As per learned counsel for the applicant, the present applicant is in jail since 12.10.2024 in Case Crime No. 275 of 2024, under Sections 108, 3(5), 352, 351(3) of Bhartiya Nyaya Sanhita (in short "B.N.S."), Police Station- Behta Mujawar, District- Unnao. It has been submitted that the applicant has been falsely implicated in this case as he has not committed any offence as alleged.
3. Attention has been drawn towards the impugned F.I.R. which shows that for the alleged incident dated 9.10.2024 the F.I.R. has been lodged on 11.10.2024. In the impugned F.I.R. general

allegations have been levelled against five accused persons including the present applicant to the extent that the deceased had lodged one F.I.R. against the accused persons and accused persons were compelling him to enter into a compromise but the deceased did not agree. Thereafter all the accused persons exerted pressure upon him, resultant thereof he committed suicide. As per postmortem report the deceased suffered four ante-mortem injuries and those injuries have not been explained inasmuch as there is no allegation against the present applicant that those injuries have been caused by the present applicant or other accused persons.

4. Learned counsel has stated that at least the ingredients of section 108 of B.N.S. are not available inasmuch as there is no overt or positive act of the present applicant to instigate or abet the victim to commit suicide. The applicant has no prior criminal history of any kind whatsoever. The charge-sheet has been filed in this case. Besides, co-accused Sushila has been granted bail by this Court vide order dated 20.12.2024 passed in Criminal Misc. Bail Application No. 13279 of 2024. Though she was given the benefit of section 480 BNSS but the allegations are similar in nature.

5. Learned counsel for the applicant has further submitted that another co-accused namely Naresh has also been granted bail by this Court vide order dated 13.01.2025 passed in Cr. Misc. Bail Application No. 194 of 2025. He submits that the applicant is also entitled to be released on bail on the ground of parity.

6. The learned counsel for the applicant has given an undertaking on behalf of applicant that the applicant shall not misuse the liberty of bail and shall cooperate with the trial proceedings and shall abide by all terms and conditions of bail, if granted.

7. Learned A.G.A. opposed the prayer for bail but could not dispute the aforesaid facts as argued by the learned counsel for the applicant.

8. Without entering into the merits of the case and considering the arguments of learned counsel for the parties, contents and allegations of the F.I.R., the fact that F.I.R. shows that for the alleged incident dated 9.10.2024 the F.I.R. has been lodged on 11.10.2024 without explaining the delay, general allegations have been levelled against five accused persons including the present applicant to the extent that the deceased had lodged one F.I.R. against the accused persons and accused persons were compelling him to enter into a compromise but the deceased did not agree, as per postmortem report the deceased suffered four antemortem injuries and those injuries have not been explained inasmuch as there is no allegation against the present applicant that those injuries have been caused by the present applicant or other accused persons, the ingredients of section 108 of B.N.S. are not available inasmuch as there is no overt or positive act of the present applicant to instigate or abet the victim to commit suicide, the applicant has no prior criminal history of any kind whatsoever, charge-sheet has been filed in this case, besides, one co-accused Sushila has been granted bail by this Court vide order dated 20.12.2024 passed in Criminal Misc. Bail Application No. 13279 of 2024 and another co-accused namely Naresh has also been granted bail by this Court vide order dated 13.01.2025 passed in Cr. Misc. Bail Application No. 194 of 2025 and the undertaking given on behalf of the applicant that he shall not misuse the liberty of bail and shall cooperate in the trial proceedings, the applicant is entitled to be released on bail in this case.

9. Accordingly, the bail application is allowed.

10. Let the applicant- Suresh be released on bail in the aforesaid case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A IPC/269 of the B.N.S., 2023.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C./84 of B.N.S.S., 2023 is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A IPC/208 of the B.N.S., 2023.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C./351 of B.N.S.S., 2023. 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.

(v) The present applicant shall not leave the country without prior permission of the Court.

(Rajesh Singh Chauhan,J.) Order Date :- 21.2.2025 (Manoj K.)