



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

**CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C.
No. - 386 of 2026**

Aashif Khan

.....Applicant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko. And Another

.....Opposite Party(s)

Counsel for Applicant(s) : Sajjad Husain, Badar Iftikhar, Kulsoom Firoz
Counsel for Opposite Party(s) : G.A.

Court No. - 13

HON'BLE MANISH KUMAR, J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. The present anticipatory bail application under Section 438 Cr.P.C./ 482 BNSS has been filed by the accused-applicant who is apprehending his arrest in connection with FIR/Case Crime No. 274 of 2024, under Section 306, 504 and 506 IPC, Police Station Nanpara, District Bahraich.
3. The brief facts of the case are that a First Information Report (FIR) dated 25.05.2024 has been lodged under Sections 306, 504 and 506 IPC against three named accused persons including the present applicant alleging therein that daughter of informant was in love with the applicant and he had promised to marry with his daughter and when he refused to marry with her, she committed suicide on 18/19.05.2024.
4. Learned counsel for the applicant has submitted that FIR has been lodged with an unexplained delay of six days.
5. It is further submitted that it is a simple case of broken relationship and no offence is made out under Section 306 of IPC against the applicant and in support of his submission, he placed reliance upon the judgment of Hon'ble Supreme Court in the case of *Kamaruddin Dasagir Sanadi Vs. State of Karnataka through SHO Kakati Police (Criminal Appeal No. 551 of 2012)*, judgment and order dated 29.11.2024 wherein it has been held that "promise to marry the deceased is a simple case of broken relationship for which there is a different cause of action, but not prosecution or conviction for an offence under Section 306 IPC."
6. It is further submitted that except the allegation, no evidence of abetment has been found against the applicant.
7. It is further submitted that the ingredient of Section 306 IPC i.e. Abetment is not

attracted in the present case for the reason that to constitute the offence of abetment, there must be a course of conduct or action of intentionally aiding or facilitating another person to end his life.

8. It is further submitted that Hon'ble Supreme Court in the case of **Gurucharan Singh vs. State of Punjab [2017 (1) SCC 433]** has held that to constitute abetment, intention and involvement of the accused to aid or instigate commission of suicide is imperative. Any severance or absence of any of these constituents would militate against the indictment. There must be evidence that an accused intended by such act(s) to instigate the deceased to commit suicide.

9. Learned counsel for the applicant has relied upon the judgment of Hon'ble Supreme Court in the case of **Geo Varghese Vs. the State of Rajasthan and ors. (2021) INSC 618** wherein it has been held that there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegation of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such actions on the part of the accused which compelled the commission of suicide.

10. It is further submitted that applicant has a criminal history of one case with regard to a family dispute in which proceedings of mediation are going on.

11. It is further submitted that the applicant is a permanent resident of Gulal Purwa, Bahraich, Uttar Pradesh, so there is no chance of absconding and he has specifically pleaded in paragraph no. 32 of the affidavit filed alongwith the present bail application that he will co-operate in investigation.

12. It is further submitted that the applicant is apprehending arrest by the Police and that is why, he has approached this Court by filing the present Anticipatory Bail Application.

13. On the other hand, learned AGA on the basis of instructions received has opposed the prayer for grant of ad-interim bail but is unable to dispute the submissions of learned counsel for the applicant and case laws relied.

14. Having heard learned counsel for the parties, perused the material available on record, totality of facts and circumstances and considering the law laid down by Hon'ble Supreme Court in the cases of Gurucharan Singh (supra), Geo Varghese (supra) and Kamaruddin Dasagir Sanadi (supra) and the ingredients of Section 306 IPC, prima-facie offence of abetment is not attracted against the applicant for the reason that to constitute the offence of abetment, there must be a course of conduct or action of intentionally aiding or facilitating another person to end his life, which is prima-facie not present in this case; FIR has been lodged with an unexplained delay of six days; prima-facie, it appears that it is a simple case of broken relationship and no offence is made out under Section 306 of IPC against the applicant; except the

allegation, no evidence of abetment has been found against the applicant.

15. As per the judgment in the case of **Bhadresh Bipinbhai Sheth Vs. State of Gujarat reported in MANU/SC/0949/2015**, the Hon'ble Supreme Court has held that the nature and gravity of the accusation and the exact role of the accused must be properly comprehended, the previous criminal antecedents of the applicant whether he has previously undergone imprisonment on conviction, the possibility of applicant to flee and where the accusation has been made only with the object of injuring or humiliating the applicant by arresting him.

16. In the case of **Joginder Kumar v. State of Uttar Pradesh, [AIR 1994 SC 1349]**, the Apex Court has referred to the third report of National Police Commission wherein it is mentioned that arrests by the police in India is one of the chief source of corruption in the police. Personal liberty is a very precious fundamental rights and it should be curtailed only when it becomes imperative. According to the peculiar facts and circumstances of the peculiar case the arrest of an accused should be made.

17. In view of the aforesaid facts and looking into the circumstances, it is found that there is a case registered against the applicant and it cannot be definitely said when the police may arrest the applicant. After the lodging of FIR the arrest can be made by the police at will. There is no definite period fixed for the police to arrest an accused against whom an FIR has been lodged. The nature and gravity of the accusation and the exact role of the accused has not been properly comprehended; as undertaken by the learned counsel for the applicant there is no possibility of him fleeing from the judicial proceedings and in the light of aforesaid judgments of Hon'ble the Supreme Court, this Court finds it a fit case to issue an interim order of anticipatory bail as per Section 438 (2) of the Cr.P.C./ 482 BNSS, till further orders of this Court.

18. In the event of arrest, let the accused-applicant **Aashif Khan** be released forthwith on ad-interim anticipatory bail in the aforesaid Case Crime Number on bail on furnishing a personal bond of Rs.50,000/- and two sureties each in the like amount to the satisfaction of the Arresting officer/Investigating Officer/ S.H.O. concerned on the following conditions:-

(i) That the accused-applicant shall make himself available for interrogation by police authorities as and when required and will cooperate with the investigation;

(ii). That the accused-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 to any police officer; and

(iii). That the accused-applicant shall not leave India without the previous permission of the Court.

19. The papers regarding bail submitted to the police officer on behalf of the

accused/applicant shall form part of the case diary and would be submitted to the court concerned along with same at the time of submission of report under Section 173(2) Cr.P.C.

20. In case there is breach of any of the above conditions or in case it is otherwise found for any other reason the bail is required to be cancelled, it shall be open for the State or the appropriate authority to move application for cancellation of bail in accordance with law.

21. Issue notice to the respondent no. 2.

22. Steps be taken within three working days.

23. List this case in the week commencing 20.07.2026, as fresh.

24. In the meantime, learned AGA and learned counsel for the respondent no. 2 may file counter affidavit, if they so chose.

25. Office is directed to submit service report by the next date of listing.

May 22, 2026
Ashish

(Manish Kumar,J.)