



HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 3416 of 2026

Savitri Devi Asha Bahu

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Awadhesh Singh, Parvat Singh
Counsel for Opposite Party(s) : G.A.

Court No. - 77

HON'BLE PRAVEEN KUMAR GIRI, J.

1. Sri Kishan Gautam, learned counsel holding brief of Sri Parvat Singh, learned counsel for the applicant submits that this Court vide order dated 12.02.2026 issued notice to opposite party No.2. The order dated 12.02.2026 is delineated below:

"1. Heard Sri Kishan Gautam, learned counsel holding brief of Sri Parvat Singh, learned counsel for the applicant and Sri Pankaj Kumar, learned State Law Officer for the State.

2. Learned counsel for the applicant submits that he has filed the instant application under Section 528 BNSS with the relief which has been mentioned in the prayer clause of the application. The relief which has been mentioned in the application is delineated below:-

"It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to allow this application and kindly quash/ set aside the Charge Sheet No. 01 of 2019 dated 13.10.2019, cognizance order dated 9.7.2021 and Summoning order dated 26.08.2021, passed by learned Special Judge (S.C./ S.T. Act)/ Additional Sessions Judge Allahabad/Prayagraj in Special Sessions Trial No. 318 of 2021 (State of U.P. Versus Smt. Raj Kumari Pal and others) in pursuance of Case Crime No. 80 of 2018, Under Section 304A I.P.C., and Section 3 (2) (va) SC/ST Act, Police Station Utraon, District Allahabad/Prayagraj.

It is further prayed that this Hon'ble Court may kindly be pleased to stay

the further Criminal Proceeding of Special Sessions Trial No. 318 of 2021 (State of U.P. Versus Smt. Raj Kumari Pal and others) in pursuance of Case Crime No. 80 of 2018, Under Section 304A I.P.C., and Section 3 (2) (va) SC/ST Act, Police Station Utraon, District Allahabad/ Prayagraj, pending in the Court of learned Special Judge (S.C./ S.T. Act)/Additional Sessions Judge Allahabad/ Prayagraj, during pendency of present case before this Hon'ble Court.

And/or pass such other and further order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case."

3. Learned counsel for the applicant submits that FIR has been lodged against the applicant, who works as a Asha Bahu (Obstetrician/Midwife) registered as Case Crime No.80 of 2018 under Section 304 IPC and under section 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. He further submits that brother of informant/O.P. no.2 approached the village ANM (Auxiliary Nurse Midwife) namely Raj Kumar Pal (co-accused) regarding delivery of the wife of O.P. no.2 and she went to the house of O.P. no.2 along two Asha Bahu including the present applicant. He further submits that during delivery of the wife of O.P. No.2 she died, and thereafter an FIR was lodged with allegation of medical negligence against the ANM, Raj Kumar Pal and both Asha Bahu. He further submits that there is no post mortem report of the deceased. He further submits that the FIR was registered on 20.05.2018 with regard to incident dated 13.05.2018 i.e. after delay of about five months and no satisfactory explanation has been given for such delay. Learned counsel for the applicant further submits that police has lodged the FIR due to pressure of public, against the provisions of law. He further submits that there is no allegation which attracts the provisions of SC/ST Act but even then, charge sheet has been filed under Section 3(2)(va) of SC/ST Act, however, not finding any evidence of culpable homicide, Section 304 IPC has been modified to Section 304A IPC in the charge sheet.

4. The matter requires consideration.

5. Issue notice to O.P. No.2 through the concerned Chief Judicial Magistrate for filing counter affidavit.

6. Learned State Counsel is also directed to file counter affidavit by the next date.

7. Put up this case on 23.02.2026 as fresh."

2. Shri Pankaj Kumar, learned AGA for the State submits that the daughter of opposite party No.2 has received the notice and its report has been sent by the Station House Officer, Police Station Utraon, District Prayagraj.

3. Shri Amit Kumar Mishra, Advocate (Advocate Roll- A/A 2196/2013) appearing on behalf of opposite party No.2 and holding brief of Shri Amit Tiwari, Advocate, submits that opposite party No.2 has knowledge about this case, therefore, one week time may be granted for filing counter affidavit in this matter.

4. As prayed, list this case **as fresh on 10.03.2026.**

5. Till the next date of listing, the Criminal Proceeding of Special Sessions Trial No. 318 of 2021 (State of U.P. Versus Smt. Raj Kumari Pal and others) in pursuance of Case Crime No. 80 of 2018, under Section 304A I.P.C., and Section 3 (2) (va) SC/ST Act, Police Station Utraon, District Allahabad/ Prayagraj, pending in the court of learned Special Judge (S.C./ S.T. Act)/Additional Sessions Judge Allahabad/ Prayagraj, shall remain stayed.

(Praveen Kumar Giri,J.)

February 23, 2026

K.Tiwari