2026:AHC:207931

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 3533 of 2026

Yogendra @ Pappu Shakya

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Santosh Kumar Shukla
Counsel for Respondent(s)	:	G.A., Renu Devi Dohre

Court No. - 74

HON'BLE SAMIT GOPAL, J.

1. List revised.

2. Heard Sri Santosh Kumar Shukla, learned counsel for the appellant, Ms. Renu Devi Dohre, learned counsel for the opposite party no.2/first informant and Sri Devendra Nath Mishra, learned counsel for the State and perused the record.

3. Counter affidavit dated 14.05.2026 of the first informant / opposite party no.2 and rejoinder affidavit to the same on behalf of the appellant dated 22.07.2026 are on record. The Court proceeds to hear the matter.

4. This criminal appeal under Section 14A(2) of SC/ST (Prevention of Atrocities) Act, 1989 has been filed by the appellant Yogendra @ Pappu Shakya with the prayer to set-aside the bail rejection order dated 11.03.2026 passed by learned Special Judge (SC/ST) Act, Auraiya in Bail Application No. 280 of 2026 (Yogendra @ Pappu Shakya Vs. State of U.P.) arising out of Case Crime No. 09 of 2026, under Sections 103(1), 333, 3(5) BNS and Section 3(2)(V) of SC/ST Act, Police Station Bela, District Auraiya and with a further prayer to release the appellant on bail in the aforesaid case.

5. The FIR of the matter was lodged on 19.01.2026 at 19:04 hours by Ashok Kumar against unknown person alleging therein that on 17.01.2026 at about 12:00 PM he and his elder brother Arvind Kumar had gone to attend the cremation of a lady and he returned back at about 06:00 pm to his house whereas as his brother Arvind Kumar stayed on the way in a programme of Nauhwar. He returned at about 11:00 pm. In the night some unknown person murdered him inside the house. He came to know about the incident in the morning after which his neighbour informed about it to the police on which his inquest was conducted and the postmortem was done on 18.01.2026 and then he was cremated. He is now coming to give a report which may be registered and action be taken.

6. The postmortem examination on the body of the deceased Arvind Kumar was conducted on 18.01.2026 at about 02:55 pm and the doctor found a single injury on his body which was as under:

"i. Wound of entry, lacerated wound size of 08cm x 04cm with tattooing, blackening and scorching on mid forehead with underlying bone fractured the bond fracture is circular with size of 01 x 01 cm."

The cause of death was opined as shock and haemorrhage due to firearm injury.

7. Learned counsel for the appellant submitted that the appellant has been falsely implicated in the present case. It is submitted that the appellant is not named in the FIR. It is submitted that the FIR has been lodged against unknown person. It is further submitted that the incident is a night incident. It is submitted that there is no eye witness to the murder. It is further submitted that during investigation, the Investigating Officer collected three CCTV footages in which also only in one of the footage Arvind Kumar is seen wearing a shawl and moving up. It is submitted that the appellant is not seen there. It is submitted that subsequently the police informer informed the police that he has come to know that Priya the wife of the deceased was having mobile No. 9897429887 and the appellant was having another mobile No. 7895973654 and both used to talk to each other, the CDR of the same be obtained and they be interrogated. It is submitted that on the same the police took out the mobile status both the mobile numbers and found both the SIMS issued in the name of Priya. It is submitted that subsequently the appellant was arrested on 22.01.2026 and two mobile phones and some cash was recovered from his possession and it is alleged that on his pointing out, from the bush in a field a country made pistol was recovered after which he gave his confessional statement of being involved in the matter and using it in the incident. It is submitted that there is no further on record to show that the said weapon was used in the present incident and as such there is no corroboration of use of the said weapon through any expert evidence for the same. It is submitted that later on the supplementary statement of the first informant, his son and daughter were recorded wherein the name of the appellant as the person involved in the matter was recorded. It is submitted the same thus is an afterthought just in order to falsely implicate and harass the appellant. It is submitted that the present case is a case of night incident and a case of single shot. The appellant has no criminal history as stated in para 23 of the bail application in appeal and is in jail since 23.01.2026.

8. Per contra, learned counsel for the State and opposite party no.2/first informant vehemently opposed the prayer for bail and submission of learned counsel for the appellant. It is submitted by learned counsel for the first informant/opposite party no.2 that the appellant was having illicit relationship with the wife of the deceased and in a pre-planned manner murdered him so that there would not be any disturbance between them

and thus he is involved in the present matter.

9. After having heard learned counsels for the parties and perusing the records, it is evident that the appellant is not named in the FIR. Suspicion of the appellant at the first instance was shown by the police informer after which he was apprehended and mobile phones, cash and on his pointing out a country made pistol was recovered. Subsequently the supplementary statement of the first informant, his son and daughter were recorded wherein they have stated of the appellant as the assailant. The incident is a night incident and the deceased was found to have received a single injury.

10. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the appellant may be enlarged on bail.

11. Let the appellant **Yogendra @ Pappu Shakya** be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The appellant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The appellant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The appellant shall file an undertaking to the effect that he shall not seek any adjournment on the date 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.

(iv) The appellant will not misuse the liberty of bail in any manner whatsoever. In case, the appellant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 84 BNSS/82 Cr.P.C., may be issued and if appellant 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 209 BNS/174-A I.P.C.

(v) The appellant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 251 BNSS/313 Cr.P.C. If in the opinion of the trial court absence of the appellant 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 and the trial court may proceed against him under Section 269 BNS/229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the appellant.

12. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the appellant to prison.

13. Accordingly, the appeal succeeds and the same stands **allowed**.

14. The order dated 11.03.2026 passed by learned Special Judge (SC/ST) Act, Auraiya is hereby set aside.

(Samit Gopal,J.)

October 5, 2026
M. ARIF

Digitally signed by :-
MOHAMMAD ARIF
High Court of Judicature at Allahabad