



2026:AHC-LKO:19311

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL No. - 684 of 2026

Chhotakannu @ Ajay Kumar Dixit

.....Appellant(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. Home U.P.
Lko. And Another

.....Respondent(s)

Counsel for Appellant(s)	:	Vishwas Shukla
Counsel for Respondent(s)	:	G.A.

Court No. - 27

HON'BLE RAM MANOHAR NARAYAN MISHRA, J.

1. The instant criminal appeal against the impugned order dated 16.02.2026 passed by learned Court of Special Judge SC/ST (P.A.) Act Hardoi in Special Complaint Case No. 596 of 2019 "Pradeep Versus Chandan Lal Dixit and others" arising out of case crime No. 963 of 2010 under section 147, 148, 149, 504, 506, 307 Indian Penal Code and section 3(2)(v) SC/ST (PA) Act, Police Station Atrauli, District Hardoi; by which application no. 39B filed by the appellant has been rejected.
2. Heard learned counsel for the appellant, learned A.G.A. for State and perused the record.
3. Learned counsel for the appellant submits that in the present case final report was submitted twice after the investigation in the said criminal case in which the appellant and three other persons are accused. The second final report was submitted by the Additional Superintendent of Police in which he has given a finding that the main accused was standing as a candidate in the Bar Association Election of Lucknow Bar on the date of the incident and the appellant was named in the case wrongly due to 'Partibandi' and enmity due to Gram Pradhan Election. His presence was not found at the place of the incident.
4. Learned counsel for the appellant submits that during the investigation, the presence of the appellant and co-accused on the spot on the basis of their CDR and mobile phone location. However, the complainant had

filed a protest petition against the final report which was allowed by the learned trial court vide order dated 11/11/2019 and all the accused persons, including the appellant were summoned to face the trial for the said charges. Learned trial court had placed reliance on the statement of the informant, his mother Shakuntala Devi and brother Bachelal recorded during investigation whereas the independent witnesses have not supported the prosecution version in their statement under Section 161 Cr.P.C.

5. He further submitted that after said summoning order dated 11/11/2019, the case was registered as a complaint case; nevertheless learned trial court had adopted the procedure of the case instituted on a police report. The appellant had moved an application before the trial court for issuing appropriate orders on 26/5/2025 in which this issue was raised, but the learned trial court has dismissed the said application by the interim order dated 16/2/2026 with the observation that "in the present case, cognizance has been taken under Section 190(1)(b) Cr.P.C. upon consideration of the police report and the material collected during the investigation. Merely, because a protest petition was filed, it does not ipso-facto convert the proceedings into a complaint case. In the present matter, the summoning order clearly reflects that this court considered the police papers, case diary and statements recorded under Section 161 Cr.P.C. and other material collected during the investigation. A mere clerical or ministerial error in the cause title or registration of the case can not determine the true nature of the proceedings"

6. He next submitted that the trial court has rejected the prayer of the appellant to stay the non-bailable warrant of the remaining accused. He also submitted that the appellant has already been enlarged on bail in the present case. It is nowhere stated in FIR or protest petition that out of the four named accused who caused fire arm injury to the informant on his left thigh which is result of a single shot and it appears false.

7. Learned counsel for the appellant submits that appellant may be permitted to move an application for discharge before the trial court through counsel which may be decided in accordance with law.

8. Learned A.G.A. for the State raised no objection to the prayer made by learned counsel for the appellant. However, he submitted that the appellant may not seek cancellation of non-bailable warrant issued against co-accused.

9. The appellant is permitted to move discharge application before the court below through counsel within 15 days from today. If such an application is moved, the trial court shall make every effort to hear and decide the same within one month from the date of filing of the discharge application in accordance with law on the basis of material collected during investigation .

10. The appeal stands **disposed of** with the above observations.

(Ram Manohar Narayan Mishra,J.)

March 17, 2026

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