



2026:AHC-LKO:22638

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL No. - 856 of 2026

Gyanendra Dixit Alias Gyani

.....Appellant(s)

Versus

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

.....Respondent(s)

Counsel for Appellant(s)	:	Ram Kumar Singh
Counsel for Respondent(s)	:	G.A.

Court No. - 27

HON'BLE RAM MANOHAR NARAYAN MISHRA, J.

1. Heard learned counsel for the appellant, learned A.G.A. for the State and perused the record.

2. Instant criminal appeal under Section 14-A(1) of S.C./S.T. (P.A.) Act has been preferred against the impugned order dated 11.11.2019 and consequential order of non-bailable warrant order dated 16.02.2026 passed by learned court of Special Judge S.C./S.T. Act, Hardoi in Criminal Complaint Case No.596 of 2019 "Pradeep versus Chandan Lal Dixit and others", arising out of Case Crime No.963 of 2010, under Sections 147, 148, 504, 506, 307 IPC & Section 3(2)(v) S.C./S.T. Act, Police Station Atrauli, District Hardoi, whereby learned trial court allowed the protest petition filed by the complainant, rejected the final report filed by the police and summoned the appellant and other accused persons for trial and issued non-bailable warrant against the appellant, while deciding an application filed by co-accused.

3. Learned counsel for the appellant submitted that in the instant case, FIR was lodged on 13.08.2010 at the instance of respondent no.2 under the aforesaid sections with the allegation that the accused appellant and co-accused had approached the informant, abused him by caste indicative words and opened fire at him, which hit him in his left thigh. The police investigated the case and submitted final report in the case in which the complicity of the appellant was not found in the incident. The informant filed a protest petition before the learned court below, in which further

investigation was directed. However, the further investigation which was conducted by the Additional Superintendent of Police, did not find complicity of the appellant and the co-accused in the offence and the final report was submitted. The informant filed a protest petition before the learned court below against the second final report, on which summoning order was passed against the appellant and the co-accused on 11.11.2019 and the closure report filed after the second investigation was dismissed. The protest petition was allowed.

4. At the time of the passing of the summoning order, one co-accused, Chandra Prakash Shukla, had died. The appellant and the co-accused, Gyani, Chhotakannu and Dilip were summoned. The co-accused Ajay Kumar Dixit @ Chhotkannu preferred an application for issuing appropriate order before the learned court below on 26.05.2025 on the ground that after the passing of the summoning order, the case was registered as a complaint case, which was not permissible, as summoning order was passed without adherence to procedure prescribed under Chapter XV of Cr.P.C. under the Code of Criminal Procedure. However, the learned court below dismissed the said application under Section 39(B) and issued a non-bailable warrant against the remaining co-accused: Chandan Lal Dixit, Gyani and Dilip, due to their absence. The co-accused, Ajay Kumar Dixit, has been bailed out by orders of the competent court.

5. He next submitted that the appellant, Ajay Kumar Dixit @ Chhotkannu, had also moved an application before this Court against the summoning order as well as the order dated 16.10.2026 passed by the learned trial court, by way of criminal appeal under Section 14A of the S.C./S.T. Act, which was disposed of by this Court with providing liberty to the appellant to move an application for discharge before the court below.

6. He next submitted that if this Court finds that no interference is warranted in the impugned order, the appellant may be provided an opportunity to move a discharge application before the trial court, through counsel, as liberty has already been given to the co-accused Ajay Kumar Dixit in this regard.

7. In view of the above, the appeal is **disposed of** with liberty to the appellant to appear and to approach the trial court and move an application for discharge through counsel within two weeks and said application will be heard and decided by the learned trial court, preferably within one month of the filing of the application, in accordance with the law. No adjournment will be acceptable to the appellant during the hearing of the discharge application except on exceptional grounds. In the meanwhile, the non-bailable warrant issued against the appellant shall remain in abeyance.

8. In case of dismissal of discharge application by learned trial court, the appellant shall surrender before the court below and as he is not enlarged on bail, his bail application will be considered in accordance with law. In case he fails to surrender, the trial court shall be at liberty to secure the appearance of the appellant by issuing coercive process.

(Ram Manohar Narayan Mishra,J.)

March 31, 2026

Mohd. Sharif