



2026:AHC:124689

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2126 of 2026

Monika @ Moni

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Anjani Kumar Shahwal, Ram Sajiwan Prajapati
Counsel for Respondent(s)	:	G.A.

Court No. - 1

HON'BLE MADAN PAL SINGH, J.

1. List revised. Heard Sri Ram Sajiwan Prajapati, learned counsel for the appellant, learned A.G.A. for the State and perused the record.
2. Despite service of notice, none has appeared on behalf of opposite party no.2.
3. The present criminal appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been preferred by the appellant seeking to set aside the order dated 19.01.2026 passed by the Special Judge (SC/ST Act), Aligarh in Bail Application No. 156 of 2026 arising out of Case Crime No. 248 of 2025, under Sections 103(1), 315, 238 B.N.S. and Section 3(2)(5) of the SC/ST Act, Police Station Gabhana, District Aligarh, whereby the bail application of the appellant has been rejected.
4. Learned counsel for the appellant submits that the appellant is a wholly innocent lady and has been falsely implicated in the present case. It is contended that the first information report was lodged against unknown persons with a delay of four days from the date of the alleged

incident and no plausible explanation for such delay has been furnished. It is further submitted that the name of the appellant does not find place either in the first information report or in the statement of the informant recorded under Section 180 B.N.S.S. The appellant has subsequently been implicated solely on the basis of the statement of the widow of the deceased, namely Smt. Neeru Devi.

5. Learned counsel further submits that as per the statement of Smt. Neeru Devi, her husband Ashok Kumar had left home on 01.08.2025 stating that he was proceeding to Kedarnath with co-accused Kanhaiya. On the following day, when she contacted the mobile phone of her husband, the call was answered by Kanhaiya, who informed her that the deceased was taking a bath and thereafter disconnected the call. Subsequently, she could not contact her husband and lodged a missing report on 24.08.2025.
6. Learned counsel has also drawn the attention of the Court to the statement of Smt. Neeru Devi wherein she admitted that she had received information on 24.08.2025 that an unidentified dead body had been recovered within the jurisdiction of Police Station Gabhana, District Aligarh, but she did not immediately visit the police station. In response to a specific query, she stated that she first wanted to meet Kanhaiya, but as he was not available at his residence, she could reach Police Station Gabhana only on 27.08.2025.
7. It is next submitted that no incriminating article has been recovered from the possession of the appellant and there is no direct evidence connecting her with the alleged occurrence. The statements of the independent witnesses also do not disclose any role attributable to the appellant in the commission of the alleged offence.

8. Learned counsel for the appellant further submits that the prosecution case rests entirely upon circumstantial evidence and the charge-sheet has been submitted without there being any legally admissible material against the appellant. The appellant has no criminal history, is in judicial custody since 27.08.2025 and undertakes to cooperate in the trial proceedings. It is, therefore, prayed that the appellant be enlarged on bail.
9. Per contra, learned A.G.A. opposed the prayer for bail and submitted that the co-accused Kanhaiya, husband of the appellant, has made a statement narrating the alleged manner of commission of the offence. However, he fairly conceded that except for the alleged confessional statement, there is no independent evidence available on record connecting the appellant with the commission of the crime.
10. Having heard learned counsel for the parties and upon perusal of the record, it is evident that the prosecution case is based entirely on circumstantial evidence. No eye-witness has seen the occurrence. The appellant was not named in the first information report. No recovery has been effected from her possession. There is no independent material collected during investigation connecting the appellant with the alleged offence except the confessional statement attributed to the co-accused. The implication of the appellant appears to be based primarily upon suspicion arising out of the alleged relationship between the deceased and the appellant.
11. Without expressing any opinion on the merits of the case and considering the nature of accusation, the evidence available on record, the period of incarceration undergone by the appellant, the absence of any criminal antecedents and the settled principles governing grant of bail, this Court finds that the appellant has made out a fit case for

grant of bail.

12. Consequently, the appeal succeeds and is **allowed**. The impugned order dated 19.01.2026 passed by the Special Judge (SC/ST Act), Aligarh in Bail Application No. 156 of 2026 is hereby set aside.
13. Let the appellant, **Monika @ Moni**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two reliable sureties each in the like amount to the satisfaction of the court concerned, subject to the following conditions:
 - (i) The appellant shall not tamper with the prosecution evidence and 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/her from disclosing such facts before the Court or any authority.
 - (ii) The appellant shall cooperate in the trial proceedings and shall remain present before the trial court on each and every date fixed unless her personal appearance is exempted by the court concerned.
 - (iii) The appellant shall file an undertaking before the trial court that she shall not seek any unnecessary adjournment on dates fixed for evidence when prosecution witnesses are present. In case of default, it shall be open for the trial court to treat the same as abuse of the liberty of bail and pass appropriate orders in accordance with law.
 - (iv) The appellant shall not misuse the liberty of bail in any manner whatsoever.
 - (v) In case the appellant misuses the liberty of bail during trial and in order to secure her presence a proclamation under Section 84 B.N.S.S. is issued and she fails to appear before the court on the date fixed in such

proclamation, the trial court shall be at liberty to proceed against her in accordance with law.

(vi) The appellant shall remain personally present before the trial court on the dates fixed for (a) opening of the case, (b) framing of charge and (c) recording of statement under Section 351 B.N.S.S. If in the opinion of the trial court her absence on any such date is deliberate or without sufficient cause, it shall be open for the trial court to treat such default as abuse of the liberty of bail and proceed in accordance with law.

(vii) The trial court shall make all possible endeavours to conclude the trial expeditiously after the release of the appellant.

15. The identity, status and residential proof of the sureties shall be verified by the court concerned before acceptance of the bail bonds.

16. It is made clear that any wilful violation of the conditions imposed hereinabove shall have consequences in accordance with law and the court concerned shall be at liberty to cancel the bail granted to the appellant.

June 2, 2026

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(Madan Pal Singh,J.)