



2026:AHC:124695

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2946 of 2026

Sunil Kumar Chauhan And Another

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	: Pankaj Sharma
Counsel for Respondent(s)	: Dharendra Srivastava, G.A., Raag Kumar Srivastava

Court No. - 1

HON'BLE MADAN PAL SINGH, J.

1. Heard Sri Pankaj Sharma, learned counsel for the appellants, Sri Raag Kumar Srivastava, learned counsel for the State, and perused the record.
2. This criminal appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been filed by the appellants with a prayer to set aside the impugned bail rejection order dated 04.02.2026 passed by the learned Special Judge (SC/ST Act), Mirzapur in Bail Application No. 100 of 2026, arising out of Case Crime No. 357 of 2025, under Sections 103(1), 238(a) B.N.S. (corresponding to Sections 302 and 201 I.P.C.) and Section 3(2)(5) of the SC/ST Act, Police Station Vindhyachal, District Mirzapur, and further to enlarge the appellants on bail in the aforesaid case.
3. Learned counsel for the appellants submits that the appellants have been falsely implicated in the present case on the basis of mere suspicion and village rivalry. It is argued that the deceased had gone missing on 15.09.2025 and a missing report was lodged on 17.09.2025, whereas the FIR came to be lodged only on 09.10.2025 after recovery of the dead body from a well on 08.10.2025. During the entire period of about 23 days, neither the informant nor any

member of his family raised any allegation against the appellants. It is further submitted that prior to lodging of the FIR, a written information (Tehrir) dated 08.10.2025 was submitted by the son of the informant regarding recovery of the skeleton, but therein also no allegation whatsoever was levelled against the appellants. Attention has been drawn to the fact that while the FIR states that the deceased had gone missing from Bada Bagicha, Vindhyachal, the earlier Tehrir mentions Patehra Bandhwa as the place from where the deceased had disappeared, which creates a serious doubt regarding the prosecution story.

4. Learned counsel further submits that the entire case is based upon circumstantial evidence and the theory of last seen, which was introduced belatedly during investigation through statements recorded nearly two months after the alleged incident. It is further submitted that the alleged recoveries are wholly inconsequential and no incriminating article has been recovered from the possession of the appellants. The so-called confessional statements made before the police are inadmissible in evidence. It is also submitted that the prosecution story is not corroborated by medical evidence; no material exists to attract the provisions of the SC/ST Act; the appellants have no criminal history; they are in jail since 11.10.2025; and there is no likelihood of their absconding or tampering with the prosecution evidence. On these grounds, prayer has been made to enlarge the appellants on bail.
5. Per contra, learned counsel for the opposite party no.2 as well as learned A.G.A. opposed the appeal and prayer for bail and submitted that there is evidence against the appellants. It is contended that witness Arvind Lal Verma had last seen the appellants along with the deceased on 15.09.2025 and certain recoveries have also been made, which support the prosecution case.

6. Having heard learned counsel for the parties and upon perusal of the record, it transpires that no one has witnessed the actual occurrence of the alleged murder. The case rests entirely upon circumstantial evidence. So far as the statement of witness Arvind Lal Verma is concerned, the same was recorded on 08.11.2025, i.e., after a delay of nearly two months from the date on which the deceased allegedly went missing. The said witness did not disclose the alleged facts to any person immediately after the incident. It also appears from the record that before lodging of the FIR, a written information (Tehrir) dated 08.10.2025 was submitted by Jhoomnath, son of the informant, before the Station House Officer, Vindhyachal, wherein he merely stated that his father had lodged a missing report regarding his brother on 17.09.2025 and that on 08.10.2025 a dead body was recovered from a well and identified as that of the deceased. Significantly, no allegation whatsoever was made against the appellants in the said Tehrir. It was only on the next day, i.e., 09.10.2025, that the FIR came to be lodged naming the appellants and attributing to them the role of committing the murder on the basis of suspicion. The record further reflects inconsistency regarding the place from where the deceased allegedly went missing, as the FIR mentions Bada Bagicha, Vindhyachal, whereas the earlier Tehrir refers to Patehra Bandhwa. The post-mortem report also indicates that only a decomposed body was examined and no ante-mortem injury could be detected. At this stage, the evidentiary value of the alleged recoveries and confessional statements is a matter for trial.

7. Considering the facts and circumstances of the case, nature of evidence available on record, the fact that the case is based upon circumstantial evidence, the absence of any direct eyewitness account, the delay in introduction of the last-seen theory, the period of incarceration undergone by the appellants since 11.10.2025, and without expressing any opinion on the merits of the case, this Court is of the view

that the appellants have made out a case for grant of bail.

8. Let the appellants, namely, **Sunil Kumar Chauhan and Neeraj Chauhan**, be released on bail in the aforesaid case crime number on furnishing a personal bond of Rs.50,000/- each and two sureties each in the like amount to the satisfaction of the court concerned, subject to the following conditions:-

(i) The appellants shall not tamper with the prosecution evidence and shall not harm, intimidate or harass the victim/complainant in any manner whatsoever.

(ii) The appellants shall abide by the orders of the Court, attend the Court on each and every date fixed, and shall not cause any delay in the conclusion of the trial.

(iii) The appellants shall file an undertaking before the trial court that they shall not seek any adjournment on the date fixed for evidence when the prosecution witnesses are present in Court. In case of default, it shall be open to the trial court to treat the same as an abuse of the liberty of bail and pass appropriate orders in accordance with law.

(iv) The appellants shall not misuse the liberty of bail in any manner whatsoever. In case they misuse the liberty of bail during trial and, in order to secure their presence, proclamation under Section 84 B.N.S.S. (corresponding to Section 82 Cr.P.C.) is issued and they fail to appear before the Court on the date fixed therein, the trial court shall be at liberty to initiate proceedings against them in accordance with law under Section 209 B.N.S.

(v) The appellants 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 their statement under Section 351 B.N.S.S. (corresponding to Section 313 Cr.P.C.). In the event the trial court finds that their absence

is deliberate or without sufficient cause, it shall be open to the trial court to treat such default as an abuse of the liberty of bail and proceed against them in accordance with law.

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

9. The identity, status and residential proof of the sureties shall be verified by the court concerned. In case of breach of any of the conditions mentioned above, it shall be open to the court concerned to cancel the bail and take the appellants into custody.

10. Accordingly, the appeal succeeds and is allowed.

11. The impugned order dated 04.02.2026 passed by the learned Special Judge (SC/ST Act), Mirzapur is hereby set aside.

June 2, 2026

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(Madan Pal Singh,J.)