



2026:AHC:127029

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 3373 of 2026

Bantu Alias Banti Kumar

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	: Prem Chandra Dwivedi, Vivek Kumar Dwivedi
Counsel for Respondent(s)	: G.A.

Court No. - 1

HON'BLE SAMIT GOPAL, J.

1. List revised.

2. Heard Sri Prem Chandra Dwivedi, learned counsel for the appellant and Sri Birendra Pratap Singh, learned A.G.A. for the State/opposite party no.1 and perused the records.

3. Notice was issued to the opposite party no.2 vide order dated 02.04.2026. As per office report dated 27.05.2026, notice has been served personally on the opposite party no.2. The report to the said effect has been placed on record as Flag-'X'.

4. This Court has perused the said report dated 23.05.2026, the Chief Judicial Magistrate Agra alongwith the said report dated 23.05.2026 of Police Station Khandauli District Agra.

5. A report of the concerned Police Station has also enclosed with it. It is proof of receipt of notice by the opposite party no.2. It is also sufficient thus the notice is sufficient on the opposite party no.2. Despite service of notice on the opposite party no.2, no one appears on her behalf even in revised call.

6. This criminal appeal under Section 14A(2) of SC/ST (Prevention of Atrocities) Act, 1989 has been filed by the appellant Bantu Alias Banti Kumar, with the prayer to set-aside the impugned order dated 16.03.2026 passed by Special Judge (SC/ST) Act, Agra in Case Crime No. 249 of 2024 as well as S.C. No. 818 of 2025, under Sections 323, 325, 504, 506 I.P.C. and Section 3(2)(va), 3(1)(da) (dha) of SC/ST Act, Police Station Khandauli District Agra and with a further prayer to release the appellant on bail in the

aforesaid case.

7. The FIR of the matter was lodged on 20.06.2024 by Smt. Rajkumari against the appellant Bantu Alias Banti Kumar, Lallua and Luka alleging therein that on 18.06.2024 at about 12.00 p.m. the accused were breaking the iron grill fixed in the building of Nandlalpur Kashiram Scheme. She and her son Rihaan saw them and video was made after which the accused abused Rihaan and assaulted him. In an endeavour to save him his elder brother Dharmveer came who was assaulted by lathi and danda who received injuries on his hand and leg where Rihaan also received injuries in his leg and chest. Persons of nearby saw the incident and then accused while extending threats ran away.

8. Dharmveer was medically examined and was found to have received four injuries on his person, the same are as under:-

- (1) Stitch wound of size 03 cm on left frontal region with swelling around it.
- (2) Multiple abrasions on Rt. hand and swelling 04 cm x 04 cm on dorsal surface of Rt. hand.
- (3) Abrasion of size 0.5 cm x 0.5 cm on left hand and swelling around it of size 5 cm x 5 cm, on dorsal surface left hand.
- (4) C/o pain in chest left side upper chest medially.

9. The opinion of the doctor as noted therein was as under:-

All injuries are about fresh in duration and caused by hard and blunt object.

Nature will be given after expert opinion (KUO).

Adv:- CT Head, X-Ray Lt. hand with wrist and X-Ray rt. hand with wrist, X-Ray chest.

10. The X-Ray examination of Dharmveer was conducted wherein on his right hand fracture of second metacarpal was found. On his left hand with wrist fracture of second and third metacarpal was found but on his chest no obvious injury was seen.

11. Learned counsel for the appellant submitted that the appellant has been falsely implicated in the present case. It is submitted that common and general role has been assigned to the appellant along with two other co-

accused of assault upon two persons. It is further submitted that during investigation Rihan in his statement in reply to question put by the investigating officer stated that he did not receive any open injury and thus he did not have it medically examined. It is further submitted that in so far as the injuries received by Dharmveer are concerned the same are stated to have been caused by three persons. It is further submitted that general and omnibus allegation of assault upon the appellant and two co-accused has been stated on him. It is submitted that present case is a case of sudden provocation without any pre-meditation. It is further submitted that he appellant has no criminal history as stated in para 15 of the appeal and is in jail since 16.03.2026.

12. Per contra, learned counsel for the State opposed the appeal and prayer for bail and submitted that appellant is named in the FIR alongwith two co-accused persons and role of assault has been assigned to them and since Dharmveer has received fracture it cannot be said that no such incident took place. It is further submitted that the investigation in the matter is concluded and the charge sheet has already been submitted against all three accused persons and thus their participation in the incident is also brought on record.

13. After having heard learned counsels for the parties and perusing the records, it is evident that the case of the prosecution is assault by three persons including appellant on Dharmveer and Rihan. Rihan was not medically examined as he states that he did not receive any injury. In so far as the Dharmveer is concerned although he received injury but the author of such injuries is not known. The X-Ray of the chest did not find any injury on it. Although metacarpal on right hand and left hand was found fractured but the author of the said injury was not known. The investigation in the matter concluded and charge sheet has been submitted.

14. 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.

15. Let the appellant- **Bantu Alias Banti Kumar** 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.

16. 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.

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

18. The impugned order dated 16.03.2026 passed by Special Judge (SC/ST) Act, Agra in Case Crime No. 249 of 2024 as well as S.C. No. 818 of 2025,

under Sections 323, 325, 504, 506 I.P.C. and Section 3(2)(va), 3(1)(da) (dha) of SC/ST Act, Police Station Khandauli District Agra is hereby set aside.

June 12, 2026
Imtiyaz

(Samit Gopal,J.)