



2026:AHC:124908

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 5563 of 2026

Varun Yadav @ Sheru Yadav

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Devendra Yadav
Counsel for Respondent(s)	:	G.A., Pankaj Shekhar Saroj, Vinod Kumar Baranwal

Court No. - 1

HON'BLE MADAN PAL SINGH, J.

1. Heard learned counsel for the appellant, learned counsel for opposite party no.2, learned counsel for the State and perused the record.

2. This criminal appeal under Section 14A(2) of SC/ST (Prevention of Atrocities) Act, 1989 has been filed by the appellant-Varun Yadav @ Sheru Yadav with the prayer to set-aside the impugned bail rejection order dated 16th April, 2026 passed by the Special Judge (S.C./S.T.) Act, Azamgarh in Bail Application No. 1523 of 2026 (Varun Yadav @ Sheru Yadav vs. Subash Vs. State of U.P.) arising out of Case Crime No. 127 of 2025 under Sections 103 (1), 3 (5), 61 (2) B.N.S. and Section 3 (2) 5 of S.C./S.T. Act, Police Station-Mehnajpur, District-Azamgarh, and with a further prayer to release the appellant on bail in the aforesaid case.

3. The prosecution case in short is that the informant, Shubham Sonkar, lodged a First Information Report at the concerned police station alleging that on 31.12.2025, at about 8:00 p.m., his cousin Akhilesh Sonkar was returning home from Itaili Bazaar towards Moudha Mod on motorcycle bearing registration No. UP61P9416 (Passion Pro, red colour) along with Sandeep Kumar, who is resident of the same village. When they had proceeded about 400 meters ahead near Maruka Mata Temple, three unknown persons riding a motorcycle came from behind and struck Akhilesh Sonkar, who was seated on the rear seat, on the head with a stick. As a result whereof, Akhilesh Sonkar fell from the motorcycle. Upon receiving information from Sandeep, the informant and other family members reached the spot and took the injured Akhilesh Sonkar to CHC Mehnajpur. However, since ECG facilities were not available there, the doctors advised them to take him to **Lalganj**. Accordingly, they took him to the Government Hospital at Lalganj, where the doctor examined him and declared him dead. Thereafter, they remained present at

Sidhauna Bazaar with the dead body of deceased Akhilesh Sonkar.

4. Learned counsel for the appellant submits that the first information report has been lodged against unknown persons. According to the prosecution, Sandeep who is stated to be rider and the deceased Akhilesh Sonkar was pillion rider at the time of incident, is a solitary eye witness. In the first statement recorded under Section 180 B.N.S.S. the said eye witness has stated that when he was riding the motorcycle and the deceased was sitting behind him on the same near Maruka Mata Temple, four accused persons, namely, Varun Yadav @ Sheru Yadav (appellante herein), Arun Yadav @ Vakeel Yadav, Ravi Yadav and Laalu Yadav were on another motorcycle having bamboos and sticks. When as a matter of fact, in the re-instatement (*Majid Vyan*), the said eye witness has stated that at the time of incident, when he was riding motorcycle and the deceased was on his back seat, three accused persons, namely, Ravi Yadav, Ashutosh Singh and Varun Yadav @ Sheru Yadav (appellant herein). In the first statement he has taken names of appellant and Ravi Yadav along with Arun Yadav and Laalu Yadav but in the second Yadav he has not taken names of Arun Yadav and Laalu Yadav. In the second statement he has taken name of Ashutosh Singh for the first time. In the first statement he has assigned general role of causing assault to the deceased to all the accused persons, but in the second statement, the eye witness has assigned specific role of causing injuries to the deceased to the appellant only.

5. Learned counsel for the appellant further submits that in the statement recorded under Section 180 B.N.S.S. the eye witness has stated that on the date of incident, the eye witness Sandeep, the deceased Akhilesh Sonkar, Chandan Rajbhar, Sanjay Gupta, Priyansh Gupta, Karan Sonkar, Jaikishan Sonkar @ Jaiki and Manish Sonkar were having a chicken and liquor party at Chandan Rajbhar's mill. Akhilesh Sonkar, even after being intoxicated with liquor, insisted on buying more liquor. When he did not agree even after a lot of persuasion, the eye witness and the deceased took two beers and a quarter of English liquor. However, as per the postmortem report of the deceased, there was no smell of liquor found on the body of the deceased.

6. On the above premise, learned counsel for the appellant urges that since there is only one eye witness of the incident in question and in the first and second statements of the eye witness themselves, there are contradictions, therefore, the appellant is liable to be enlarged on bail.

7. Per contra, learned counsel for the opposite party no.2 and the learned A.G.A. for the State have opposed the appeal and prayer for bail. However, they fairly concede that no smell of any alcohol was found on the body of the

deceased as per the postmortem report.

8. After having heard learned counsels for the parties and perusing the records, it is evident that the first information report has been lodged against unknown person and there are material contradiction in the statements of eye witness Sandeep recorded under Section 180 Cr.P.C. In the first statement, the eye witness has assigned general role of causing injuries to the deceased to all the accused persons, whereas in the second statement, he has signed specific role to the appellant alone. In the first statement, the eye witness has made allegation against four persons, whereas in the second statement, he has taken names of only three accused persons. In both the statements, the eye witness has stated that at the time of incident, the deceased was intoxicated with liquor but as per postmortem report, no smell of any alcohol was found on his body.

9. 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.

10. Let the appellant-Varun Yadav @ Sheru Yadav, 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.

11. 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.

12. Accordingly, the appeal succeeds and the same stands allowed.

13. The impugned order dated 16th April, 2026 passed by the Special Judge (S.C./S.T.) Act, Azamgarh in Bail Application No. 1523 of 2026 (Varun Yadav @ Sheru Yadav vs. Subash Vs. State of U.P.) arising out of Case Crime No. 127 of 2025 under Sections 103 (1), 3 (5), 61 (2) B.N.S. and Section 3 (2) 5 of S.C./S.T. Act, Police Station-Mehnajpur, District-Azamgarh is set aside.

June 3, 2026
Sushil/-

(Madan Pal Singh,J.)