



2026:AHC-LKO:64617

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL No. - 2499 of 2026

Karan Singh Yadav

.....Appellant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko. And
Another

.....Respondent(s)

Counsel for Appellant(s)	: Dr. Pooja Singh, Ankit Pandey, Surya Prakash Tiwari
Counsel for Respondent(s)	: G.A.

Court No. - 12

HON'BLE MANISH MATHUR, J.

1. Heard learned counsel for appellant, learned Additional Government Advocate for respondent No.1 while power on behalf of respondent No.2 has been filed by Mr. Prakash Verma, Ms. Pinki Devi and Mr. Pankaj Verma, Advocates which is taken on record.
2. This Criminal Appeal has been filed by the /appellant under Section 14-A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 [here-in-after referred to as '**SC/ST Act**'] with a prayer to set aside order dated 04.08.2026 passed by Special Judge (SC/ST Act), Gonda on Anticipatory Bail Application No.1791/2026 arising out of Case Crime No.888 of 2025, under Section 103(1) BNS & Section 3(2)(v) of the SC/ST Act, Police Station Kotwali Nagar, District Gonda rejecting bail to appellant. Further, a prayer has been made to seek anticipatory bail.
3. As per contents of First Information Report, the incident is said to have taken place on 04.11.2025 at about 11.30 a.m. when the appellant alongwith co-accused being personnel of the Railway Protection Force (RPF) are said to have arrested and taken away Sanjay Sonkar, brother of informant for purposes of questioning pertaining to a criminal case registered. Allegedly on the same day at about 04.30 p.m., the said Sanjay Sonkar was brought to the village by the appellant and co-accused for purposes of further investigation and again took him away. Allegation levelled is that on 05.11.2025, at about 10 a.m., the informant was intimated with regard to corpse of his brother being in the mortuary. Allegation therefore has been

levelled of brutal assault by the appellant and co-accused of the informant's brother during custody which led to his demise.

4. Learned counsel for appellant submits that he has been falsely implicated in allegations levelled against him and that the post-mortem report does not support the allegations levelled against him since only two injuries are indicated in the post-mortem report being a contusion over upper thigh and abrasion over both knees. It is submitted that the injuries indicated in post-mortem report cannot lead to death as is being alleged. It is further submitted that the appellant is a police personnel and is co-operating in investigation which is on-going and therefore, there is no occasion for taking him into custody.

5. Learned counsel for respondents have opposed the application with the submission that the allegations levelled in FIR clearly indicate custodial death which is a serious offence and the nature of allegations levelled would be punishable either by death or life sentence. It is submitted that the application, even otherwise, is barred in terms of Section 18 of SC/ST Act.

6. Learned counsel for respondent No.2 has adverted to the general diary entry of 05.11.2025 to indicate that it is the appellant and co-accused who took the injured to the hospital whereafter he was declared brought dead and was registered into the mortuary.

7. Learned Additional Government Advocate, on the basis of instructions, has submitted that the appellant is not co-operating in the investigation. Although learned counsel for respondent No.2 has placed reliance on judgment rendered by Hon'ble Supreme Court in **Kiran v. Rajkumar Jivraj Jain & Anr.**, reported in 2025 SCC OnLine SC 1886, to submit that in view of bar of Section 18 of SC/ST Act, anticipatory bail application would not be maintainable but a perusal of aforesaid judgment clearly indicates that the earlier judgment rendered by Hon'ble Supreme Court in **Prathvi Raj Chauhan v. Union of India** reported in (2020) 4 SCC 727 has not been overruled nor has any definitive enunciation being done that an anticipatory bail application would be absolutely bar in case any allegation pertaining to SC/ST is levelled in the FIR.

8. Even otherwise, from a perusal of FIR, it does not appear that any allegation has been levelled with regard to SC/ST Act *per se* and Section 3(2)(v) SC/ST has been indicated in view of seriousness of allegations and

the nature of sentence/punishment. The preliminary objection is therefore rejected.

9. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, at this stage, without entering into the merits of case and subject to evidence in trial, it appears that primary gist of allegations pertains to custodial death. The aspect of post-mortem report corroborating allegations levelled against the appellant will require to be examined during examination and subsequently, during trial in case charge-sheet is filed.

10. It is thus apparent from the aforesaid that the allegations levelled pertain to the aspect of venomous snake of custodial death rearing its head once again in the present proceedings. It appears that although COVID - 19 pandemic had run its course but the plague of custodial death does not show any sign of abating. In cases of custodial death, the burden of proof can and should ordinarily be on the police personnel to rebut the allegations levelled against them pertaining to trivializing human life in their depravity. The said burden of proof therefore would be upon the appellant to explain, which does not appear at this stage to be made out.

11. In view of discussion made here-in-above, this Court does not find any good ground to grant indulgence.

12. Criminal Appeal therefore stands ***rejected***.

September 15, 2026
lakshman

(Manish Mathur,J.)