2026:AHC-LKO:81857

HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

CRIMINAL APPEAL No. - 2733 of 2026

Sandep Vishwakarma

.....Appellant(s)

Versus

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

.....Respondent(s)

Counsel for Appellant(s)	:	Wali Nawaz Khan, Yash Vardhan Gupta
Counsel for Respondent(s)	:	G.A.

Court No. - 16

HON'BLE SYED QAMAR HASAN RIZVI, J.

1. Rejoinder Affidavit filed in Court today, is taken on record.

2. Heard Sri Wali Nawaz Khan, learned counsel for the appellant; and Sri Vishvash Saraswat, learned A.G.A. for the State; and perused the material available on record.

3. This appeal has been filed with the following prayer:-

> *"It is most respectfully prayed that this Hon'ble Court may graciously be pleased to set aside the impugned order dated 09.09.2026, passed by the Learned Court of Special Judge, SC/ST Act, Pratapgarh, in Anticipatory Bail Application No. 2806/2026, arising out of Case Crime No. 496/2026, registered at Police Station Kotwali Nagar, District Pratapgarh, under Sections 3(5), 109(1) and 352 of the Bharatiya Nyaya Sanhita, 2023 (BNS), and Sections 3(1)(r), 3(1)(s), 3(2)(v) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SC/ST Act), and further be pleased to direct that the Appellants be enlarged on anticipatory bail in the event of their arrest or being taken into custody in connection with the aforesaid FIR/Case Crime, in the interest of justice."*

4. In pursuance of earlier orders dated 30.09.2026 and 08.10.2026, a counter affidavit was filed by Mr. Manoj Kumar Singh Raghuvanshi, Deputy Superintendent of Police/Circle Officer, Sadar, Pratapgarh, annexing

therewith service of notice upon the complainant dated 07.10.2026. The said notice was received and signed by the complainant on 07.10.2026, wherein he also mentioned his mobile number. However, no one has appeared on behalf of the complainant. Therefore, the present appeal is being decided with the assistance of learned counsel for the appellant and learned State Counsel.

5. Learned counsel for the appellant has submitted that the appellant is an educated person belongs to Vishwakarma family and has no criminal antecedents. The appellant has been falsely implicated in the present case at the behest of the accused persons in Case Crime No. 279 of 2026, registered at Police Station Lilapur, District Pratapgarh, which was lodged by one Motilal Vishwakarma against Saurabh Tiwari, Daroga Tiwari, Sonu Tiwari, Anuj Tiwari, Sanjay Tiwari, Ashok Tiwari and six unknown persons in connection with the murder of his son, who was working as computer operator in the office of District Supply Officer, as his son refused to approve ration cards at the insistence of Sonu Tiwari, who is a fair price shop dealer. His contention is that since the police was manoeuvring the investigation and the associates of the accused persons were also trying to manoeuvre the post-mortem process; the appellant, being well-wisher of the deceased's family, raised desired objections.

5.1 It has next been submitted that it came to the notice of the appellant that Saurabh Vishwakarma was working as a computer operator in the Civil Supplies Department, whereas Sonu Tiwari was a fair price shop dealer, and he was insisted for approval of certain ration cards on the basis of forged documents. However, Saurabh Vishwakarma refused to accede to his request. Approximately four months prior to the incident, Sonu Tiwari and his associates had fired six to seven rounds at the house of Saurabh Vishwakarma with the intention of creating fear and exerting pressure upon him. However, despite such intimidation, Saurabh Vishwakarma did not accede to the demands of Sonu Tiwari. Consequently, on 13.08.2026, at about 7:00 to 7:15 p.m., while Saurabh Vishwakarma was returning from his office, an ambush was laid near Gajadhar Inter College, Lakshmanpur, by Saurabh Tiwari son of Sanjay Tiwari, Daroga Tiwari and Sonu Tiwari (sons of Awadhesh Tiwari), residents of Dandi, Leelapur, Anuj Tiwari and six unknown persons, armed with lathi and danda. As soon as Saurabh

Vishwakarma reached the aforesaid place, all the accused persons collectively assaulted him and inflicted grievous injuries with the intention of killing him. Thereafter, the accused persons fled from the spot after taking away the mobile phone of Saurabh Vishwakarma. Upon hearing the alarm of the injured, Sonu Upadhyay and Shubham Pandey were informed about the occurrence and they immediately reached at the spot and found Saurabh Vishwakarma lying in an injured condition. He was immediately taken to Pratapgarh Medical College, where he was declared dead.

5.2 It has further been submitted that the appellant came to know about the incident from the family members of Saurabh Vishwakarma (deceased). A brutal murder of above-named young man by a fair price shop dealer and his associates caused anguish. Thereafter, huge police force was deployed at the place of occurrence. After completion of the inquest, the dead body was sent to the mortuary for post-mortem examination. A huge police force was also deployed at the mortuary, where Munna Singh, Member of the Zila Panchayat, and Dinesh Singh were present, and they were allegedly trying to manoeuvre the investigation as well as the post-mortem proceedings in collusion with the local police, in favour of the accused persons, particularly Sonu Tiwari, who was a fair price shop dealer and with whom they were allegedly associated. The appellant raised certain objections on the action of the State machinery, so that, and anyhow post-mortem should be conducted.

5.3 It has been submitted that after the incident, certain persons also tried to communicate with the injured Saurabh Vishwakarma. At that time, he narrated the entire incident and specifically disclosed the respective roles of the accused persons. Thereafter, on the basis of the written complaint submitted by Motilal Vishwakarma, father of the deceased- Saurabh Vishwakarma, Case Crime/FIR No. 279 of 2026, under Sections 191(2), 191(3), 190, 103(1), 310(3), 61(2)(a), 351(3) and 125 of the Bharatiya Nyaya Sanhita, 2023, was registered at Police Station Leelapur, District Pratapgarh, at 03:27 hours on 14.08.2026. Immediately after the incident, a huge police force was deployed at the spot, and several persons captured pictures on their mobile phones. The said pictures are also available on the social media accounts of various persons. Thereafter, inquest of the dead body of Saurabh Vishwakarma was conducted, and the dead body was subsequently shifted to the mortuary for post-mortem examination. At the

mortuary, certain associates of the accused persons of the aforesaid case were also present, namely, Munna Singh alias Brijendra Singh (Member of Jila Panchayat) along with his associates and they were continuously trying to interfere with and hamper the investigation as well as the post-mortem proceedings of the deceased. Consequently, objections were raised before the police officials present at the mortuary. The police was also trying to exert pressure upon the family members of the deceased- Saurabh Vishwakarma. In these circumstances, on 15.08.2026, the appellant made a social media post highlighting the conduct of the police and the action being taken in connection with the murder of Saurabh Vishwakarma. Thereafter, the District Administration got offended. The informant of the present case was being used as a tool to lodge the FIR in question for implicating the appellant.

5.4 It has further been submitted by the learned counsel for the appellant that the facts of the case in question is that on 14.08.2026, at about 01:30 p.m., Avinash Saroj, son of Phoolchandra Saroj, resident of Isipur, Police Station Kotwali Dehat, District Pratapgarh, who belongs to the Scheduled Caste community, came to the post-mortem house in sympathy of the deceased-Saurabh Vishwakarma. It is alleged that a few persons were present behind the mortuary and were engaged in a conversation with the intention of agitating the family members of the deceased and other persons gathered there. When the complainant of the case in question, namely, Avinash Saroj, objected to their conduct and spoke against them, one of the persons present there asked his name. Upon being informed of his name, the said persons took him behind the mortuary along with four to five other unknown persons, allegedly with the intention of killing him, and started strangulating him. The complainant of the present case raised alarm for help. Upon hearing his alarm, Munna Singh, Ram Sanjeev Saroj, Shailendra Singh and three to four other persons reached at the spot, whereupon the complainant was able to save his life. Thereafter, the complainant allegedly viewed certain photographs/videos circulating on social media and identified one of the persons involved in the incident as Sandeep Vishwakarma. Subsequently, he approached the police station for lodging the FIR.

5.5 It has next been submitted that the FIR of the present case was lodged after a delay of two days, although the alleged incident had taken place on

14.08.2026 at about 01:30 p.m. Despite the deployment of a huge police force at the mortuary, the complainant did not make any complaint to the police officials present there. Instead, he approached the police station and lodged the FIR after two days, after identifying the alleged assailant through social media. There is no whisper that the complainant of the present case was beaten or physically assaulted by the accused persons. Rather, the specific allegation made in the FIR is that the complainant of the present case was strangulated by pressing his throat. The complainant of the present case was medically examined on 16.08.2026 at 9:55 PM, and seven injuries were found. However, the duration of injuries Nos. 1, 2, 3, 4, 6 and 7 is not mentioned in the medical examination report, whereas the duration of injury No. 5 is mentioned as 2-3 days old.

5.6 It has been submitted that the statement of the complainant of the present case was recorded on 16.08.2026, wherein he changed the version given by him in the FIR. In his statement, he stated that following the murder of Saurabh Vishwakarma, he had gone to the mortuary in sympathy, where some persons were discussing and trying to agitate the family members of the deceased. When the complainant of the present case opposed them, they started quarrelling with him. Thereafter, he came outside the post-mortem house, and after some time, those persons also came there and asked his name. After he disclosed his name, one person tried to humiliate him by using caste-related words, thereafter, that person, along with 4-5 other persons, brought him at the back side of the mortuary and brutally assaulted him with kicks and punches, and they also tried to strangulate him with the intention of killing him, and during the said incident, he raised alarm. Upon hearing his alarm, other persons reached at the spot. After two days, he identified the said person as Sandeep Vishwakarma through social media, whereupon he lodged the complaint. The statements of the eye-witnesses, namely, Shailendra Pratap Singh, Ram Sajivan Saroj and Munna Singh, also disclose different versions of the alleged incident. The Investigating Officer failed to seek clarification from the Medical Officer, who had conducted the medical examination of the complainant, regarding the duration of the injuries.

5.7 Learned counsel for the appellant, while drawing attention of the Court at page Nos. 60 and 61 at Annexure No. 7 of the appeal, has submitted that

the appellant had made a statement on social media on 15.08.2026 alleging that the police administration was exerting pressure upon the family of the deceased who was working as a Computer Operator in the Civil Supplies Department, Pratapgarh. The oral statement of the deceased was also available on social media; however, the same was neither being considered by the Investigating Officer nor by the police administration. The district administration, the accused person- Munna Singh, representative of the Zila Panchayat, and his associates were under the impression that the appellant was supporting the family of the deceased. Consequently, the appellant was falsely implicated in the present case.

5.8 Learned counsel for the appellant, while drawing attention of the Court to the photographs annexed with the appeal, which were captured by several persons at the mortuary at the time of the post-mortem examination of the deceased- Saurabh Vishwakarma; has submitted that the said photographs reveal that a huge police force was deployed at the spot, and in case the alleged incident, as narrated in the FIR, had actually taken place, there was no reason why the matter was not immediately reported to the police. The FIR of the present case was lodged on 16.08.2026, and thereafter, the Superintendent of Police declared the appellant absconding and on 29.08.2026, a reward of Rs. 25,000/- was declared against the appellant under Paragraphs 464-A and 465 of the U.P. Police Regulations, read with the respective Government Orders.

5.9 It has been submitted that the present case is peculiar in nature, as a reward was declared by the Superintendent of Police against the appellant within 13 days of the registration of the FIR. The appellant is ready and willing to cooperate with the investigation. However, all these relevant facts and circumstances were not duly considered by the learned trial court while rejecting the anticipatory bail application of the appellant.

5.10 Learned counsel for the appellant, while placing reliance upon the judgments of the Hon'ble Supreme Court in the case of ***Subhash Kashinath Mahajan vs. State of Maharashtra***, reported in ***(2018) 6 SCC 454***, in the case of ***Prathvi Raj Chauhan vs. Union of India***, reported in ***(2020) 4 SCC 727***, and in the case of ***Shajan Sakaria vs. State of Kerala***, reported in ***2024 SCC OnLine SC 2249***, has lastly submitted that in the present case, the

entire story is fabricated and no offense under the provisions of SC/ST Act is made out, therefore, the impugned order is liable to be set aside and the appellant is entitled for anticipatory bail.

6. Learned State Counsel, while vehemently opposing the prayer for anticipatory bail, has submitted that the anticipatory bail application is not maintainable, as the ingredients of the alleged offence are clearly made out against the appellant, and the judgments relied upon by learned counsel for the appellant are not applicable to the facts and circumstances of the present case.

6.1 It has further been submitted that after lodging of the FIR of the present case, the complainant was medically examined, and injuries were found on his body. Since the appellant was absconding, the Superintendent of Police announced a reward for his arrest, and the competent court also passed an order for the issuance of a warrant. Therefore, there is no illegality in the impugned order passed by learned trial court, and the appellant is not entitled to anticipatory bail.

7. Considering the submissions advanced by learned counsel for the parties and going through the contents of the appeal, the impugned order, the counter-affidavit filed by the Circle Officer, as well as other relevant material, the record reveals that the FIR No. 279 of 2026 (supra) was lodged by Motilal Vishwakarma with the averment that about four months prior to the incident, the accused persons had come to his house, fired 6-7 rounds and threatened to kill Saurabh Vishwakarma. On 13.08.2026, Saurabh Vishwakarma, who was working in the office of the District Supply Officer, was returning to his home when the accused persons attempted to kill him, thereafter, the accused persons fled from the spot after taking away his mobile phone. The injured was subsequently shifted to the hospital, where he was declared dead. In this connection, the aforesaid FIR was lodged against Saurabh Tiwari, Daroga Tiwari, Sonu Tiwari (Fair Price Shop Dealer), Anuj Tiwari, Sanjay Tiwari, Ashok Tiwari and six unknown person.

7.1 The record further reveals that there was resentment among the public regarding the murder of Saurabh Vishwakarma. The photographs indicate that huge police force was deployed at the spot. After completion of the

inquest proceedings, the dead body was sent to the mortuary. The photographs taken at the mortuary and annexed with the appeal also reveal that huge police force was deployed there.

7.2 Apparently, at page No. 72 of the appeal, two persons, namely, Munna Singh and Dinesh Singh, are identified in the presence of the police. Munna Singh is also one of the witnesses in the present case. At page No. 73 of the appeal, the appellant, the police personnel and other family members of the deceased are seen sitting together and talking to each other.

7.3 The record also reveals that on 15.08.2026, the appellant posted a message along with a photograph on Facebook, alleging that the police administration was exerting pressure upon the family of the deceased-Saurabh Vishwakarma. On the very next day, i.e., 16.08.2026, the FIR of the case in question was lodged at 23:03 hours on the written complaint of Avinash Saroj. The complainant of the present case has not disclosed any connection or relationship with the deceased, even then, he visited the mortuary in sympathy.

7.4 It is very surprising that if a person is not known to the deceased, even then, he visited mortuary. In the FIR, the complainant of the present case stated that certain persons standing behind the mortuary were making conversation with the intention to agitate the family members of the deceased and other persons gathered there; upon hearing their conversation, he objected to their conduct. This clearly indicates that the complainant of the present case was also present behind the mortuary. One person asked the name of the complainant of the present case and upon knowing his name, that person, along with 4-5 other persons, tried to drag him towards the back side of the mortuary, and they tried to press his throat. Thereafter, the complainant of the present case raised alarm; upon hearing his alarm, Munna Singh (Member of the Zila Panchayat), who is also one of the witnesses in the present case, along with other persons, reached at the spot. However, none of them made any effort to apprehend the alleged assailants. After two days, when the complainant of the present case saw the said person on social media, he identified him and subsequently lodged the complaint.

7.5 It is evident that there is no allegation in the FIR that all the accused

persons had brutally assaulted the complainant of the present case. The allegation of assault appears to have been subsequently developed. Munna Singh, who is one of the witnesses in the present FIR, is also seen standing in the photograph available at page No. 72 which has been annexed with the appeal.

7.6 Another surprising aspect of the matter is that the Superintendent of Police declared a reward against the appellant within 13 days of the investigation. This act of the Superintendent of Police seems to be an annoyance with the appellant as a message was posted by the appellant on 15.08.2026 regarding the action of the police administration in connection with the murder case of Saurabh Vishwakarma.

7.7 It is further evident that there is no whisper regarding any injury sustained by the complainant in the FIR in question, which was lodged two days after the alleged incident. Moreover, the duration of the injuries has not been mentioned by the doctor in his statement recorded by the Investigating Officer. The record further reveals that the statement of the complainant of the present case under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023, was also recorded, wherein he narrated a different version of the incident, stating that he was initially inside the mortuary, where a quarrel took place with the accused persons, thereafter, he came outside, whereupon he was brought at the back side of the mortuary and assaulted, and his throat was also pressed. However, there is no allegation that the complainant of the present case was beaten brutally.

7.8 Therefore, this Court is of the view that the trial court failed to properly consider the material contradictions, and other relevant circumstances while rejecting the anticipatory bail application of the appellant. Accordingly, the impugned order is liable to the set aside and the appellant is entitled for anticipatory bail.

8. In view of the aforesaid facts and circumstances, the present appeal is ***allowed***. The impugned order dated 09.09.2026 (supra) is hereby ***set aside***.

9. The appellant is entitled to be released on anticipatory bail. In case the appellant is taken into custody, he shall be released forthwith by the arresting officer on furnishing a personal bond of **Rs. 50,000/-**, and two

sureties each in the like amount, subject to compliance of the following conditions:

(i) The appellant shall cooperate in the proceedings either personally or through his counsel.

(ii) In case, the appellant misuses the liberty of bail during proceedings and in order to secure his presence, notice be issued, and in case the appellant fails to appear on the date fixed, the trial court shall initiate proceedings against him in accordance with law.

10. The record clearly reveals that a reward was declared against the appellant, treating him as an absconder, within 13 days from the date of alleged incident. In such circumstances, it is open to the appellant to move an appropriate application before the State Government seeking transfer of the investigation to the Special Task Force (STF) or the Crime Branch-Criminal Investigation Department (CB-CID). In case any such application is moved, the Secretary of the concerned department is directed to consider the same and pass an appropriate order in accordance with law regarding the transfer of the investigation.

11. Office is directed to communicate this order to the trial court, forthwith.

(Syed Qamar Hasan Rizvi,J.)

November 16, 2026
Manoj K.

Digitally signed by :-
MANOJ KUMAR
High Court of Judicature at Allahabad,
Lucknow Bench