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**HIGH COURT OF JUDICATURE AT ALLAHABAD**

Reserved On:13.10.2026

Delivered On: 28.10.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD  
CRIMINAL APPEAL No. - 11314 of 2025

Hirdesh Kumar

◆..Appellant(s)

Versus

State of U.P. and another

◆..Respondent(s)

Counsel for Appellant(s) : Virendra Kumar

Counsel for Respondent(s) : G.A., Lavlesh Kumar Sharma

WITH

CRIMINAL APPEAL No.10391 of 2025

Hirdesh Kumar ◆. Appellant(s)

Versus.

State of U.P. and Another ◆◆◆ Respondent(s)

◆

Counsel for Appellant(s) Virendra Kumar Gupta

Counsel for Respondent(s) ,G.A.,Lavlesh Kumar Sharma

Court No. - 74 [A.F.R.]

HON'BLE SAMIT GOPAL, J.

1. These are two appeals connected in compliance of the order dated 28.11.2025 passed by a co-ordinate Bench of this Court in Criminal Appeal Defective No.1429 of 2025, Hirdesh Kumar vs. State of U.P. and another, which was subsequently numbered as Criminal Appeal No.11314 of 2025, Hirdesh Kumar vs. State of U.P. and another.

2. Criminal Appeal No.11314 of 2025 has been filed by the appellant- Hirdesh Kumar with the following prayers:-

◆It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to cancel the bail order dated 09.10.2025 of the opposite party no.2 passed by Additional District and Sessions Judge/ Special Judge (S.C./S.T.) Act, Mahoba in Second Bail Application Computer No. 791/2025 (Junaid @ Sheebu Vs. State of Plaing out of Case Crime No. 350/2024, under Sections 115(2), 352, 103(1), 3(5) B.N.S., 2023 and under Sections 3(1)(r), 3(1)(s), 3 (2) (5A) and 3 (2) (5) Scheduled Castes/Scheduled Tribes Act, Police Station Kotwali Nagar Mahoba, District Mahoba; otherwise, the applicant/appellant shall suffer irreparable loss and injury.◆

3. Criminal Appeal Defective No.1429 of 2025 was heard on 28.11.2025 by a co-ordinate Bench of this Court and the following order was passed:-

◆1. Learned counsel for the appellant and Shri R.K. Singh, learned AGA for the State are present.

2. Learned counsel for the appellant states that he has removed the defects pointed out by the office.

3. As the defects are removed, office is directed to allot a regular number to this appeal.

4. Issue notice to opposite party no.2 through C.J.M. concerned.

5. Learned AGA is also directed to serve the notice upon informant through concerned Investigating Officer.

6. As prayed, connect this appeal with Criminal Appeal No. 10391 of 2025.

7. Put up this case as fresh on 15.12.2025. ◆

4. Subsequently the matter was renumbered as Criminal Appeal No. 11314 of 2025. Co-ordinate Bench of this Court vide

order dated 15.12.2025 allowed the said appeal, set aside the impugned order dated 09.10.2025 and cancelled the bail granted to the respondent no.2 (Junaid Khan@Sheebu). He was directed to surrender before the trial court concerned within two weeks and the following order was passed by the said Bench:-

❖ 1. As per office report, notice has been served on opposite party no. 2, however, none has appeared on behalf of opposite party no.2 even in the revised call.

2. Heard Sri Virendra Kumar Gupta, learned counsel for appellant and Sri R.K. Singh, learned AGA for State and perused the record.

3. Appellants/ informant have filed this appeal with a prayer to cancel the bail order dated 09.10.2025 of the opposite party no.2 (Junaid Khan @ Sheebu) passed by Additional District and Sessions Judge/ Special Judge (S.C./S.T.) Act, Mahoba in Second Bail Application Computer No. 791/2025 (Junaid @ Sheebu Vs. State of U.P.) arising out of Case Crime No. 350/2024, under Sections 115(2), 352, 103(1), 3(5) B.N.S., 2023 and under Sections 3(1)(r), and 3(2) (5A) 3(1)(s), 3(2) (5) Scheduled Castes/Scheduled Tribes Act, Police Station Kotwali Nagar Mahoba, District Mahoba; otherwise, the applicant/appellant shall suffer irreparable loss and injury.

4. Learned Counsel for appellant has submitted opposite party no.2 filed his first bail application no. 793/2024 Sheebu @ Junaid vs State of U.P. before Special Judge Sc/St Act, Mahoba and it was rejected on 25-09-2024. Aggrieved by rejection order dated 25-09-2024, he filed bail application before this Court and said bail application Criminal Appeal No. 10376/2024 Sheebu @ Junaid was rejected by a coordinate bench on 09-04-2025. Subsequently he filed second bail application before same Court of Special Judge Sc/St. His second bail application no.791/ 2025 Junaid Khan @ Sheebu was allowed by the Learned Subordinate Court. Learned Trial Court, being aware that first bail application of opposite party has already been rejected by this Court, allowed the second bail application. Entertaining Second bail application by Subordinate Court after rejection of first bail application amounts to gross illegality.

5. Learned AGA has also conceded that if first bail application was rejected by this Court, it was not proper for Learned Subordinate Court to entertain the second bail application of opposite party no.2. He submitted it is settled law that successive bail applications shall be placed before the same Court.

6. Heard Learned Counsels and perused the records. It is apparent from records that second bail application no.791/ 2025 Junaid Khan @ Sheebu was allowed by the Learned Subordinate Court after first bail application of opposite party no.2 was rejected. It has been settled in catena of judgements that successive bail applications shall be placed before the same court under changed circumstances. Apart from it, court entertaining second bail application is also duty bound to consider the grounds on which first bail application was rejected. Supreme Court in Kalyan Chandra Sarkar vs Rajesh Ranjan @ Pappu Yadav & Anr, AIR 2005 SC 921 held:-

"This Court also observed that though an accused had a right to make successive applications for grant of bail, the court entertaining such subsequent bail applications has duty to consider the reasons and grounds on which the earlier bail applications were rejected and in such cases the court also has a duty to record what are the fresh grounds which persuaded it to take a view different from the one taken in the earlier applications."

7. I have carefully examined the rejection order dated 09-04-2025 passed by the Coordinate Bench of this Court in Criminal Appeal No. 10376/ 2024. The court, while rejecting the bail application of the opposing party numbered -2, has considered the available evidence, including the CCTV footage collected by the I.O., and has concluded that the evidence is sufficient to indicate the active involvement of the opposing party no.2.

8. The Learned Court's findings in Second Bail Application no. 791/2025 were also reviewed. The order in the second bail application clearly shows that the prosecution opposed it. They argued that CCTV footage, which they claimed was material evidence, had not been collected by the I.O. Consequently, an application for further investigation is pending for hearing before the Court. The prosecution also requested a defer the hearing until the further investigation application is heard. However, the Trial Court conceded the accused counsel's argument and held that bail can only be considered if the materials are available at the time of the hearing. It further considered that co accused has already been granted bail and the case of the accused is on same footing.

9. The impugned order dated 9-10-2025 passed in the second bail application clearly shows that the learned court failed to mention any reasons or grounds considered by the coordinate bench of this court while rejecting the earlier bail application. In such cases, the court was bound to record the fresh grounds that led it to adopt a different stance compared to the earlier applications. However, Trial Court not only ignored the grounds and reason assigned by Coordinate Bench to reject the earlier bail application of opposite party no.2, but had also committed a grave error in refusing to adjourn the hearing on request of prosecution. If Coordinate Bench rejected the accused's earlier bail application based on CCTV footage not collected by the I.O. during the investigation, it was enough for the learned court to be cautious and wait for an order on that matter. Even the grounds considered by Learned Court to grant second bail are not convincing.

10. Accordingly, this Criminal Appeal is allowed. Impugned order 9.10.2025 is set aside. The bail granted to respondent no.2- Junaid Khan is cancelled.

11. Opposite Party No. 2 (Junaid Khan @ Sheebu) is directed to surrender before the trial court within two weeks from today. If he fails to surrender, coercive steps will be taken against him.❖

5. Criminal Appeal No. 10391 of 2025 has been filed by the appellant Hirdesh Kumar with the following prayers:-

❖ It is, therefore, most respectfully prayed no.2 that this Hon'ble Court may be pleased to cancel the bail order dated 03.09.2025 of the opposite party passed by Additional District and Sessions Judge/ Special Judge Act, Mahoba in Second Bail Application Computer No. 737/2025 (Arseel @ Amaan Vs. State of U.P.) arising out of Case (S.C./S.T.) Crime No. 350/2024, under Sections 115(2), 352, 103(1), 3(5) B.N.S., 2023 and under Sections 3(1)(r), 3(1)(s), 3(2) (5A) and 3(2) (5) Police Scheduled Castes/Scheduled Tribes Act, Station Kotwali Nagar Mahoba, District Mahoba; otherwise, the applicant/appellant shall suffer irreparably.❖

6. Co-ordinate Bench of this Court vide order dated 15.12.2025 allowed the said appeal, set aside the impugned order dated

03.09.2025 and cancelled the bail granted to the respondent no.2 (Arsheel@Amaan). He was directed to surrender before the trial court within two weeks and the following order was passed by the said Bench:-

- ◆ 1. As per office report, notice has been served on opposite party no. 2, however, none has appeared on behalf of opposite party no.2 even in the revised call.
2. Heard Sri Virendra Kumar Gupta, learned counsel for appellant and Sri R.K. Singh, learned AGA for State and perused the record.
3. Appellants/ informant have filed this appeal with a prayer to cancel the bail order dated 3.9.2025 of the opposite party no.2 (Arsheel @ Amaan) passed by Additional District and Sessions Judge/ Special Judge (S.C./S.T.) Act, Mahoba in Second Bail Application Computer No.723/2025 ( Arsheel @ Amaan Vs. State of U.P.) arising out of Case Crime No. 350/2024, under Sections 115(2), 352, 103(1), 3(5) B.N.S., 2023 and under Sections 3(1)(r), 3(2)(5A), 3(1)(s) and 3(2)(5) Scheduled Castes/Scheduled Tribes Act, Police Station Kotwali Nagar Mahoba, District Mahoba; otherwise, the applicant/appellant shall suffer irreparable loss and injury.
4. Learned Counsel for appellant has submitted opposite party no.2 filed his first bail application no. 937/2024 Arsheel @ Amaan vs State of U.P. before Special Judge Sc/St Act, Mahoba and it was rejected on 07-11-2024. Aggrieved by rejection order dated 07-11-2024, he filed bail application before this Court and said bail application Criminal Appeal No. 11380/2024 Arsheel @ Amaan was rejected by a coordinate bench on 09-04-2025. Subsequently he filed second bail application before same Court of Special Judge Sc/St. His second bail application no.723/ 2025 Arsheel @ Amaan was allowed by the Learned Subordinate Court . Learned Trial Court, being aware that first bail application of opposite party has already been rejected by this Court, allowed the second bail application. Entertaining Second bail application by Subordinate Court after rejection of first bail application amounts to gross illegality.
5. Learned AGA has also conceded that if first bail application was rejected by this Court, it was not proper for Learned Subordinate Court to entertain the second bail application of opposite party no.2. He submitted it is settled law that successive bail applications shall be placed before the same Court.
6. Heard Learned Counsels and perused the records. It is apparent from records that second bail application no.723/ 2025 Arsheel @ Amaan was allowed by the Learned Subordinate Court after first bail application of opposite party no.2 was rejected. It has been settled in catena of judgements that successive bail applications shall be placed before the same court under changed circumstances. Apart from it, court entertaining second bail application is also duty bound to consider the grounds on which first bail application was rejected. Supreme Court in Kalyan Chandra Sarkar vs Rajesh Ranjan @ Pappu Yadav & Anr, AIR 2005 SC 921 held:-  
"This Court also observed that though an accused had a right to make successive applications for grant of bail, the court entertaining such subsequent bail applications has duty to consider the reasons and grounds on which the earlier bail applications were rejected and in such cases the court also has a duty to record what are the fresh grounds which persuaded it to take a view different from the one taken in the earlier applications."
7. I have carefully examined the rejection order dated 09-04-2025 passed by the Coordinate Bench of this Court in Criminal Appeal No. 11380/ 2024. The court, while rejecting the bail application of the opposing party numbered -2, has considered the available evidence, including the CCTV footage collected by the I.O., and has concluded that the evidence is sufficient to indicate the active involvement of the opposing party no.2.
8. The Learned Court's findings in Second Bail Application no. 723/2025 were also reviewed. The order in the second bail application clearly shows that the prosecution opposed it. They argued that CCTV footage, which they claimed was material evidence, had not been collected by the I.O. Consequently, an application for further investigation is pending for hearing before the Court. The prosecution also requested a defer the hearing until the further investigation application is heard. However, the Trial Court conceded the accused counsel's argument and held that bail can only be considered if the materials are available at the time of the hearing. It further considered that co accused has already been granted bail and the case of the accused is on same footing.
9. The impugned order dated 3.9.2025 passed in the second bail application clearly shows that the learned court failed to mention any reasons or grounds considered by the coordinate bench of this court while rejecting the earlier bail application. In such cases, the court was bound to record the fresh grounds that led it to adopt a different stance compared to the earlier applications. However, Trial Court not only ignored the grounds and reason assigned by Coordinate Bench to reject the earlier bail application of opposite party no.2, but had also committed a grave error in refusing to adjourn the hearing on request of prosecution. If Coordinate Bench rejected the accused's earlier bail application based on CCTV footage not collected by the I.O. during the investigation, it was enough for the learned court to be cautious and wait for an order on that matter. Even the grounds considered by Learned Court to grant second bail are not convincing.
10. Accordingly, this Criminal Appeal is allowed. Impugned order 3.9.2025 is set aside. The bail granted to respondent no.2- Arsheel @ Amaan is cancelled.
11. Opposite Party No. 2 (Arsheel @ Amaan) is directed to surrender before the trial court within two weeks from today. If he fails to surrender, coercive steps will be taken against him.◆
7. The orders dated 15.12.2025 were subjected to challenge before the Apex Court in two Special Appeals being SLP(Crl.) No.880 of 2026, Junaid Khan@Sheebu vs. State of U.P. and another, and SLP(Crl.) No.1123 of 2026, Arsheel @Amaan vs. State of U.P. and another. The said appeals were allowed and disposed of vide order dated 02.4.2026, the orders impugned therein were set aside and the matter was remanded back to the High Court for re-consideration. The order passed therein read as follows:-

◆ Leave granted.

2. Learned counsel for the appellants, with reference to the impugned orders, brought to our notice the fact that the appellants were not heard by the High Court while passing the impugned order(s) and thereby cancelling the relief of regular bail granted to them by the Sessions Court.

3. He submitted that the liberty of the appellants herein has been taken away in violation of the principles of natural justice inasmuch as the appellants were not heard by the High Court and the relief of bail granted to them by the Sessions Court has been cancelled. On that short ground alone, this Court may set aside the impugned order and grant the relief of bail to the appellants herein as this Court has already, by interim orders dated 19.01.2026 and 06.02.2026 respectively, granted interim protection to the appellants herein.

4. Per contra, learned counsel for the second respondent submitted that if this Court is inclined to hold that the appellants were not heard in the matters and therefore they have right of being heard then this Court may remand the matters to the High Court for a fresh consideration of Criminal Appeal No.11314/2025 and Criminal Appeal No.10391/2025 which were filed by the second respondent herein seeking cancellation of the bail granted to the appellants herein by the Trial Court.

5. He submitted that if this Court is to remand the matters to the High Court then appropriate orders may be made with regard to the disposal of the Criminal Appeal No.11314/2025 and Criminal Appeal No.10391/2025 in an expeditious manner so that the appellants also could be heard in the matters along with the respondent(s) herein and fresh orders could be made.

6. Learned counsel for the respondent-State submitted that having regard to the facts and circumstances of these cases, appropriate orders may be made in these appeals.

7. We find that having regard to the fact that the appellants herein were granted the relief of bail by the Sessions Court and the same was cancelled at the instance of the second respondent herein by the High Court without affording any opportunity of being heard to the appellants

herein, there is violation of the principles of natural justice. On that short ground alone, the impugned order is set aside and the matters are remanded to the High court for reconsideration of Criminal Appeal NO.11314/2025 and Criminal Appeal No.10391/2025 which are now restored on the file of the High Court.

8. Since the parties are represented by their respective counsel, they shall appear before the High Court on 20.04.2026 without expecting any separate notices from the High Court.

9. The High Court is requested to consider these appeals filed by the second respondent herein by affording a reasonable opportunity to all parties and to dispose of the appeals in an expeditious manner and preferably within a period of six weeks from today.

10. Since this Court had passed interim orders dated 19.01.2026 and 06.02.2026 in Criminal Appeal No.1710/2026 and Criminal Appeal No.1711/2026 respectively by granting interim protection to the appellants herein, the same shall be continued till the disposal of the Criminal Appeals by the High Court.

11. These Criminal Appeals are allowed and disposed of in the aforesaid terms.

12. Pending application(s), if any, shall stand disposed of. ♦

8. This matters were heard by this Bench on 03.09.2026 and the judgment was reserved. Subsequently the following order was passed by this Bench on 05.10.2026:-

♦1. These two criminal appeals are connected together in compliance of the order dated 28.11.2025 passed in Criminal Appeal Defective No. 1429 of 2025, Hirdesh Kumar vs. State of U.P. and another, which was subsequently numbered as Criminal Appeal No. 11314 of 2025, Hirdesh Kumar vs. State of U.P. and another, and are of co-accused on similar grounds and thus have been taken up together and heard.

2. Heard Sri Virendra Kumar, learned counsel for the appellants, Sri Ajay Singh, learned A.G.A.-I for the State, Sri Amit Daga, learned Senior Advocate, assisted by Sri Lavlesh Kumar Sharma, learned counsel for the opposite party no. 2 and perused the records.

3. Although these matters were heard by this Bench and judgement was reserved vide order dated 03.09.2026 but at the time of dictation of the judgement it transpired that neither this matter is nominated to this Bench nor there is any office report regarding the fact as to why these matters are listed before this Bench even in spite of it being decided earlier by another Bench of this Court which is still available.

4. In these circumstances, let both the matters be placed before Hon'ble The Chief Justice for passing appropriate orders with regards to the said issue as stated above and nominating these matters.

5. Office to place these matters before Hon'ble The Chief Justice forthwith. The matters be then listed before the concerned Bench, if possible, on 13.10.2026. ♦

9. The matters were then placed before Hon'ble The Chief Justice by the office through its report dated 06.10.2026 and vide order dated 12.10.2026 this Bench was nominated to hear the matters by orders of Hon'ble The Chief Justice. The matters were then heard by this Bench again on 13.10.2026 and judgment was reserved. The said order reads as under:-

♦1. List revised.

2. Heard Sri Virendra Kumar, learned counsel for the appellant(s), Sri Devendra Nath Mishra, learned counsel for the State, Sri Lavlesh Kumar Sharma, learned counsel for the opposite party no. 2 and perused the record.

3. On 05.10.2026 the following order was passed by this Bench:-

"1. These two criminal appeals are connected together in compliance of the order dated 28.11.2025 passed in Criminal Appeal Defective No. 1429 of 2025, Hirdesh Kumar vs. State of U.P. and another, which was subsequently numbered as Criminal Appeal No. 11314 of 2025, Hirdesh Kumar vs. State of U.P. and another, and are of co-accused on similar grounds and thus have been taken up together and heard.

2. Heard Sri Virendra Kumar, learned counsel for the appellants, Sri Ajay Singh, learned A.G.A.-I for the State, Sri Amit Daga, learned Senior Advocate, assisted by Sri Lavlesh Kumar Sharma, learned counsel for the opposite party no. 2 and perused the records.

3. Although these matters were heard by this Bench and judgement was reserved vide order dated 03.09.2026 but at the time of dictation of the judgement it transpired that neither this matter is nominated to this Bench nor there is any office report regarding the fact as to why these matters are listed before this Bench even in spite of it being decided earlier by another Bench of this Court which is still available.

4. In these circumstances, let both the matters be placed before Hon'ble The Chief Justice for passing appropriate orders with regards to the said issue as stated above and nominating these matters.

5. Office to place these matters before Hon'ble The Chief Justice forthwith. The matters be then listed before the concerned Bench, if possible, on 13.10.2026."

4. These two matters have subsequently been nominated to this Bench vide order dated 12.10.2026 of Hon'ble The Chief Justice.

5. Arguments have been advanced again at length by learned counsels for the parties.

6. Judgement reserved.❖

10. The facts common to both the matters are as under:-

(A) A First Information Report was lodged on 17.7.2024 as Case Crime No. 350 of 2024, under Sections 115(2), 110, 352 BNS, Police Station- Kotwali, District Mahoba, by Adarsh Kumar Gupta alleging therein that he has a Reliance Petrol Pump situated in Gandhi Nangar, Mahoba, in which Amit son of Vasudev Verma, is appointed as D.S.M. and Brajesh Kumar son of Ramgopal Savita, is appointed as pick-up tanker driver. Both persons were present in the office situated at the petrol pump on 16/17.07.2024 at about 1:30 a.m. wherein two unknown persons came on a motorcycle and tried to get the door of office of petrol pump opened. On hearing voices Amit Verma came near the door and tried to stop them from opening the door and was talking to them, after sometimes Amit Verma opened the door and immediately on opening the door one person caught Amit Verma from his baniyan and pulled him outside and while abusing assaulted him, after which Amit Verma got himself released and came inside the office and closed the door. After it the person standing outside forcibly pushed the glass door due to which it broke and glass pierced the neck of Amit Verma. Amit Verma got seriously injured and fell on the ground and became unconscious. On seeing the same both the persons ran away on their motorcycle. Amit Verma in an unconscious state was taken to Sadar Hospital, Mahoba where the doctors seeing him serious referred him to Jhansi. The incident was seen by Brajesh Kumar and a CCTV footage is also available. Report be lodged and action be taken.

(B) Amit Kumar Verma subsequently died and his post mortem examination was conducted on 20.07.2024. The doctor found the following injuries on his body:-

❖1. Surgical stitched wound having 12 black colored stitches present over antero-lateral aspect of right side of neck.

Underneath neck muscles are ecchymosed. Stitches present over vascular structures of neck.❖

Cause of death was opined as under:-

❖Cause of death in this case is injury sustained to Neuro-vascular structures of Neck. Nature of Injury should be decided on the basis of M.L.C. report and other circumstantial evidences collected. However, Viscera has been preserved for chemical analysis for detection of any intoxicating/irritant agent, sealed and handed over to police constable concerned. Duration of death is within 08 hours since post-mortem examination. Signs of Medical Intervention and Hospitalization present.❖

(C) The matter was investigated and a charge sheet dated 17.09.2024 was filed against Arsheel @ Amaan and Junaid Khan @ Sheebu for offences under Sections 352/103(1)/115(2)/3(5) BNS and Sections 3(1)द, 3(1)घ, 3(2)5क, 3(2)5 S.C./S.T. Act. The court of Additional District and Sessions Judge/Special Judge (S.C./S.T. Act), Mahoba took cognizance upon the same vide order dated 15.10.2024. The accused Sheebu@Junaid filed Criminal Appeal No.10376 of 2024, Sheebu@Junaid vs. State of U.P. and another, and accused Arsheel alias Amaan filed Criminal Appeal No.11380 of 2024, Arsheel alias Amaan vs. State of U.P. and another, before this Court with the prayer for bail. Both the said appeals were connected together and decided by a common order dated 09.4.2025 by another Bench of this Court and both the appeals were dismissed. The orders passed therein read as under:-

❖1. Counter and rejoinder affidavits have been exchanged between the parties.

2. Heard learned counsel for the appellants, learned counsel for the opposite party no.2/informant as well as the learned A.G.A. for the State and perused the entire record.

3. The above two connected Criminal Appeals under Section 14-A (2) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act have been preferred by the appellants - Sheebu @ Zunaid and Arsheel @ Amaan with the prayer to allow the appeals and set aside the bail rejection orders dated 25.09.2024 (Sheebu @ Zunaid Vs. State of U.P.) and 07.11.2024 (Arsheel @ Amaan Vs. State of U.P.) passed by Special Judge (SC/ST Act), Mahoba and release the appellants on bail in Case Crime No.350 of 2024 under Sections 115 (2), 352, 103(1), 3 (5) of B.N.S. and Sections 3(1)(r), 3(1)(s), 3(2)(5), 3(2)(5A) of S.C./S.T. Act, Police Station Kotwali, District Mahoba.

4. Since both the connected criminal appeals arise out of same crime number and relate to the same controversy, they are being disposed of by a common order.

5. The prosecution case, in brief, is that in the intervening night of 16/17.7.2024 at about 1:30 A.M. when Amit Verma and Brijesh Kumar, the employees of the informant, were present at the office of reliance petrol pump, two unknown persons came by motorcycle and asked to open the door of the office, which was refused by Amit, but after sometime when he opened the door, one of the accused took him out of the office, hurled abuses and started beating him, but anyhow Amit rescued himself and again came inside the office and closed the door. Meanwhile one unknown person forcibly smashed the glass door of the office and due to which the broken glass of the door got stuck in Amit's neck, who sustained serious injuries and became unconscious. Both the unknown accused persons fled away from the spot. The injured was taken to the hospital and the said incident was captured in the CCTV. On the very next day in the morning, F.I.R. was lodged against unknown accused persons and subsequently after investigation, charge-sheet was submitted in this matter.

6. It is submitted by the learned counsel for the appellants that the appellants are innocent and have been falsely implicated in this case. They have not committed the present offence. Alleged offences are not attracted against them. It is also submitted that the prosecution story is totally false and fabricated. It is also submitted that the essential ingredients to constitute an offence under the S.C./S.T. Act are lacking in this matter, therefore no case under the S.C./S.T. Act is made out against the appellants. It is also submitted that the appellants are not named in the F.I.R. and no identification parade has been conducted

by the I.O. of this case. It is also submitted that during investigation in his subsequent statement, which was recorded very belatedly, the informant disclosed the name of the appellants as assailants. It is also submitted that the medical evidence does not corroborate the prosecution version. It is also submitted that there are material contradictions in the statement made by the injured and eyewitness Brijesh Kumar. It is also submitted that charge-sheet in this matter was submitted under Sections 115 (2), 352, 103(1), 3 (5) of B.N.S. and Sections 3(1)(r), 3(1)(s), 3(2)(5), 3(2)(5A) of S.C./S.T. Act. It is also submitted that the present case is never connected with the murder of the deceased. It is true that the deceased was a member of the weaker section of the Society and belonged to S.C./S.T. Community but no caste related remarks or abuses were hurled to him by the appellants because the deceased was unknown for them. It is also submitted that how the informant came to know the names of the appellants, has not been clarified by the prosecution. It is also submitted that except the motorcycle, no other incriminating article had been recovered on the pointing out of the appellants. It is also submitted that after so many days, consequent upon the incident, death of the deceased was caused on 20.7.2024 whereas the alleged assault was made on 17.7.2024. It is also submitted that the cause of death has been opined by the doctor as injuries over the neck of the deceased. It is also submitted that the appellants had absolutely no motive to commit the crime and the crime, if any, was occurred in the spur of moment and was a result of grave and sudden provocation, which cannot be termed as murder at all. It is also submitted that the appellants are languishing in jail since 20.7.2024 having no criminal antecedents to their credit. It is also submitted that the court concerned while passing the impugned orders did not take into account the facts and evidence available on record in right perspective and erred in passing the same. It is lastly submitted that the impugned orders rejecting the bail applications of the appellants suffer from infirmity and illegality warranting interference by this Court.

7. Per contra, learned counsel for the opposite party no.2/informant as well as the learned A.G.A. for the State vehemently opposed the present appeal and it is submitted that at the time of incident, the accused persons were not identified by the informant or injured but subsequently during the course of investigation, the name of both the accused appellants came into light. The injured person died during investigation on account of his injuries sustained in the incident by a broken glass and that is why the offence was amended for other serious sections. It is also submitted that Brijesh Kumar, the associate of the deceased, has corroborated the prosecution version in his statement given to the I.O. The offence of the accused appellants is very serious. It is also submitted that the deceased was a member of the weaker section of the Society and belonged to S.C./S.T. Community. The appellants committed the present offence having knowledge that the deceased belonged to SC/ST community. There is no infirmity or illegality in the impugned order. The appellants are not entitled for any relaxation and their bail applications are liable to be rejected and the appeals having no force are liable to be dismissed.

8. I have considered the rival submissions made by the learned counsel for the parties and have gone through the entire record including the bail rejection orders carefully.

9. Considering the facts and circumstances of the case, the rival submissions made by the parties, nature of offence, complicity of accused and also considering the fact that the deceased belonged to SC/ST community and a serious injury was caused to him by the accused appellants in furtherance of common intention of both the appellants; that there was no possibility of any false implication of the appellants; that ample evidence has been collected by the I.O. regarding the active participation of both the appellants in the commission of the crime; that not only by the eyewitness but by the CCTV footage as well the accused appellants have been sufficiently identified and keeping in view the gravity and seriousness of the offence wherein one person lost his life, this Court finds that no ground is made out to allow the appeals, set-aside the anticipatory bail rejection orders and release the accused appellants on bail.

10. Accordingly, both the appeals are dismissed.

(D) Subsequently charge against the accused were framed vide order dated 25.10.2024, trial in the matter started and testimony of Adarsh Kumar Gupta the first informant as P.W.-1 was recorded on 04.06.2025 and 01.07.2025 and thus concluded. Further testimony of Brajesh Kumar was recorded as P.W.-2 before the trial court on 01.08.2025 and concluded on the same date.

(E) The accused Junaid Khan@Sheebu then filed a second bail application dated 04.09.2025 numbered as Bail Application Computer No.791 of 2025, before the trial court which was allowed vide order dated 09.10.2025 passed by the Additional District and Sessions Judge/Special Judge (S.C./S.T. Act), Mahoba and he was directed to be released on bail.

(F) The accused Arsheel @ Amaan filed second bail application dated 18.8.2025 before the trial court being Bail Application Computer No.737 of 2025, Arsheel @ Amaan vs. State of U.P., which also was allowed vide order dated 03.09.2025 passed by the Additional District and Sessions Judge/Special Judge (S.C./S.T. Act), Mahoba and he was directed to be released on bail.

(G) Thus two appeals have then been filed before this Court by Hirdesh Kumar the brother of the deceased Amit Kumar Verma, with the prayers as aforesaid.

11. Heard Sri Virendra Kumar, learned counsel for the appellant(s), Sri Devendra Nath Mishra, learned counsel for the State, Sri Lavlesh Kumar Sharma, learned counsel for the opposite party no. 2 and perused the record.

12. Submission of learned counsel for the appellant(s) in both the appeals is common. It is submitted that the orders impugned are totally illegal and arbitrary. It is submitted that once prayer for bail in an appeal has been rejected by the High Court, the trial court was not competent to consider the prayer for bail of the said two accused in a second bail application and then grant bail to them. It is submitted that grant of bail by the trial court concerned after rejection of bail by the High Court is clearly overstepping jurisdiction of the court. It is further submitted that the bail of accused Arsheel@Amaan was presented for hearing before the court concerned on 02.09.2025 on which 03.09.2025 was fixed as next date. Subsequently the bail was allowed vide order dated 03.09.2025. It is submitted that pairkar of accused Arsheel@Amaan also submitted bail bonds and sureties with affidavit of two guarantors namely Santosh and Shakil Ahmad who were identified by Oath Commissioner on 02.09.2025 which clearly shows that the accused had a clear belief that they shall be granted bail in their second bail application even on the day of its presentation before the court concerned. It is submitted that once bail application has been rejected by the High Court, the trial court seizes to have power to consider a second bail application of the same accused in

the same case. Reliance has been placed on the judgments of the Apex Court in the case of Kalyan Chandra Sarkar etc. vs. Rajesh Ranjan alias Pappu Yadav and another: AIR 2005 Supreme Court 921, para-8. It is submitted that thus the appeal be allowed and the bail granted to the said two accused-respondents namely Junaid Khan@Sheebu and Arsheel alias Amaan, be cancelled and they be directed to be taken into custody and trial be directed to proceed expeditiously.

13. Per contra, learned counsel for the accused/respondents no. 2 in both the appeals opposed the present appeal for cancellation of bail and submissions of learned counsel for the appellants. It is submitted that after rejection of bail of the accused by this Court in their respective appeals vide order dated 09.04.2025 trial in the matter started in which two prosecution witnesses namely Adarsh Kumar Gupta the first informant as P.W.-1 and Brajesh Kumar the alleged eye witness as P.W.-2 were examined and then the second bail applications of the accused/respondents were filed before the trial court concerned which have been decided by a detailed order on merits on considering fresh and new ground as pleaded and they have been granted bail. It is submitted that the trial court concerned has in the order granting bail specifically mentioned that it is a second bail application of the accused and the first bail application was rejected after which his appeal was rejected by the High Court. It is submitted that before the trial court concerned counsel for the accused, learned State counsel and counsel for the first informant were also heard and then trial court concerned considering the matters on its merit and also taking into account the statements of the prosecution witnesses examined before it, granted bail to the accused. It is submitted that there has been no allegation of misuse of bail granted to the accused/respondents, any tempering with the evidence by both the accused/respondents and also any such act of not co-operating with the investigation and even with the trial. It is submitted that the second bail application before the trial court was filed after testimony of the first informant and other witness who is an eye witness was recorded before the trial court and the same was the basis of filing the second bail application which was fresh and new ground in the same. It is submitted that the accused had the liberty to prefer a fresh bail application before the trial court after dismissal of their appeals by the High Court in changed circumstances as he cannot be left remediless. Reliance has been placed on the judgement of a Division Bench of the High Court of Madhya Pradesh at Jabalpur dated 17.3.2025 passed in Criminal Appeal No. 9530 of 2024 (Dharam Singh Parihar vs. The State of Madhya Pradesh and others, with connected Criminal Appeals: Neutral Citation No. 2025:MPHC-JBP:7868, to submit that the accused cannot be left remediless after rejection of bail by the High Court in an appeal but has a liberty to file a second bail application before the trial court in changed circumstances. It is submitted that thus the present appeals for cancellation of bail do not in anyway show that there has been any act of misuse of bail, tempering with the evidence or non-cooperation in the trial by the accused/respondents and thus the same be dismissed.

14. After having heard learned counsels for the parties and perusing the records, it is evident that the issue before this Court as of now is that orders dated 09.10.2025 and 03.09.2025 respectively granting bail to the accused/respondents are under challenge and prayer has been made to cancel their bails. The accused/respondents are on bail in the present matter. The appeals are for cancellation of their bail granted by the trial court in their second bail applications.

15. Grant of bail and cancellation of bail are two entirely different situations. The law with regards to grant of bail to an accused and also regarding cancellation of bail to an accused are different and well defined.

16. The considerations for cancellation of bail have been considered in various cases by the Apex Court. It has been repeatedly held as under:

A. In *Raghubir Singh v. State of Bihar* : (1986) 4 SCC 481 the Court culled out the grounds for cancellation of bail which are as under:

- (i) the accused misuses his liberty by indulging in similar criminal activity,
- (ii) interferes with the course of investigation,
- (iii) attempts to tamper with evidence or witnesses,
- (iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation,
- (v) there is likelihood of his fleeing to another country,
- (vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency,
- (vii) attempts to place himself beyond the reach of his surety, etc.

B. In *Dolat Ram v. State of Haryana* : (1995) 1 SCC 349 para 4 is as under:

4. Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a non-bailable case in the first instance and the cancellation of bail already granted.

C. In *Central Bureau of Investigation v. Subramani Gopal Krishnan* : (2011) 5 SCC 296 para 23 is as under:

23. It is also relevant to note that there is difference between yardsticks for cancellation of bail and appeal against the order granting bail. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail already granted. Generally speaking, the grounds for cancellation of bail are, interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concessions granted to the accused in any manner. These are all only few illustrative materials. The satisfaction of the court on the basis of the materials placed on record of the possibility of the accused absconding is another reason justifying the cancellation of bail.

In other words, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. ♦

D. In ♦Neeru Yadav♦v.♦State of U.P. : (2014) 16 SCC 508 paragraph No. 12 is as under:

♦12. We have referred to certain principles to be kept in mind while granting bail, as has been laid down by this Court from time to time. It is well settled in law that cancellation of bail after it is granted because the accused has misconducted himself or of some supervening circumstances warranting such cancellation have occurred is in a different compartment altogether than an order granting bail which is unjustified, illegal and perverse. If in a case, the relevant factors which should have been taken into consideration while dealing with the application for bail have not been taken note of, or bail is founded on irrelevant considerations, indisputably the superior court can set aside the order of such a grant of bail. Such a case belongs to a different category and is in a separate realm. While dealing with a case of second nature, the court does not dwell upon the violation of conditions by the accused or the supervening circumstances that have happened subsequently. It, on the contrary, delves into the justifiability and the soundness of the order passed by the court. ♦

E. In Himanshu Sharma♦v.♦State of M.P. : (2024) 4 SCC 222 paragraph No. 11 is as under:

♦11. Law is well settled by a catena of judgments rendered by this Court that the considerations for grant of bail and cancellation thereof are entirely different. Bail granted to an accused can only be cancelled if the Court is satisfied that after being released on bail:

- (a) the accused has misused the liberty granted to him;
- (b) flouted the conditions of bail order;
- (c) that the bail was granted in ignorance of statutory provisions restricting the powers of the Court to grant bail;
- (d) or that the bail was procured by misrepresentation or fraud.

In the present case, none of these situations existed. ♦

F. In Ankit Mishra v. State of M.P. : 2025 SCC OnLine SC 809 paragraph 8 is as under:

♦8. ♦Before proceeding to deal with the merits of the case it would be appropriate to bear in mind the law laid down by this Court in the matter of ♦Deepak Yadav♦v.♦State of Uttar Pradesh, ♦(2022) 8 SCC 559 as to when bail once granted should be cancelled by the same Court or by the higher Court. The following is held in paras 31 to 36:

♦31. ♦This Court has reiterated in several instances that bail once granted, should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during trial. Having said that, in case of cancellation of bail, very cogent and overwhelming circumstances are necessary for an order directing cancellation of bail (which was already granted).

32. A two-Judge Bench of this Court in ♦Dolat Ram♦v.♦State of Haryana, ♦(1995) 1 SCC 349♦♦1995 SCC (Cri) 237] laid down the grounds for cancellation of bail which are:

- (i) interference or attempt to interfere with the due course of administration of justice;
- (ii) evasion or attempt to evade the due course of justice;
- (iii) abuse of the concession granted to the accused in any manner;
- (iv) possibility of the accused absconding;
- (v) likelihood of/actual misuse of bail;
- (vi) likelihood of the accused tampering with the evidence or threatening witnesses.

33. It is no doubt true that cancellation of bail cannot be limited to the occurrence of supervening circumstances. This Court certainly has the inherent powers and discretion to cancel the bail of an accused even in the absence of supervening circumstances. Following are the illustrative circumstances where the bail can be cancelled:

33.1. ♦Where the court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record.

33.2. ♦Where the court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is prima facie misuse of position and power over the victim.

33.3. ♦Where the past criminal record and conduct of the accused is completely ignored while granting bail.

33.4. ♦Where bail has been granted on untenable grounds.

33.5. ♦Where serious discrepancies are found in the order granting bail thereby causing prejudice to justice.

33.6. ♦Where the grant of bail was not appropriate in the first place given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified.

33.7. ♦When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case.

34. In ♦Neeru Yadav♦v.♦State of U.P., ♦(2014) 16 SCC 508♦♦(2015) 3 SCC (Cri) 527], the accused was granted bail by the High Court. In an appeal against the order [♦Mitthan Yadav♦v.♦State of U.P., ♦2014 SCC OnLine All 16031] of the High Court, a two-Judge Bench of this Court examined the precedents on the principles that guide grant of bail and observed as under : (SCC p. 513, para 12)

♦12. ♦It is well settled in law that cancellation of bail after it is granted because the accused has misconducted himself or of some supervening circumstances warranting such cancellation have occurred is in a different compartment altogether than an order granting bail which is unjustified, illegal and perverse. ♦If in a case, the relevant factors which should have been taken into consideration while dealing with the application for bail have not been taken note of or it is founded on irrelevant considerations, indisputably the superior court can set aside the order of such a grant of bail. Such a case belongs to a different category and is in a separate realm. While dealing with a case of second nature, the court does not dwell upon the violation of conditions by the accused or the supervening circumstances that have happened subsequently. It, on the contrary,

dives into the justifiability and the soundness of the order passed by the court. (emphasis supplied)

35. This Court in *Mahipal v. Rajesh Kumar*, (2020) 2 SCC 118; (2020) 1 SCC (Cri) 558] held that : (SCC p. 126, para 17)

17. Where a court considering an application for bail fails to consider relevant factors, an appellate court may justifiably set aside the order granting bail. An appellate court is thus required to consider whether the order granting bail suffers from a non-application of mind or is not borne out from a prima facie view of the evidence on record. It is thus necessary for this Court to assess whether, on the basis of the evidentiary record, there existed a prima facie or reasonable ground to believe that the accused had committed the crime, also taking into account the seriousness of the crime and the severity of the punishment.

36. A two-Judge Bench of this Court in *Prakash Kadam v. Ramprasad Vishwanath Gupta*, (2011) 6 SCC 189; (2011) 2 SCC (Cri) 848] held that : (SCC p. 195, paras 18-19)

18. In considering whether to cancel the bail, the court has also to consider the gravity and nature of the offence, prima facie case against the accused, the position and standing of the accused, etc. If there are very serious allegations against the accused, his bail may be cancelled even if he has not misused the bail granted to him.

19. In our opinion, there is no absolute rule that once bail is granted to the accused then it can only be cancelled if there is likelihood of misuse of bail. That factor, though no doubt important, is not the only factor. There are several other factors also which may be seen while deciding to cancel the bail.

G. In *Victim X Versus State of Bihar and Another* : 2025 SCC OnLine SC 1490 para 23 is as under:

23. Recently, this Court in the case of *Shabeen Ahmad v. The State of Uttar Pradesh*, (2025) 4 SCC 172 while placing reliance upon the case of *Ajwar v. Waseem*, (2024) 10 SCC 768 cancelled the bail granted to the accused in a dowry death case observing as follows:

18. A superficial application of bail parameters not only undermines the gravity of the offence itself but also risks weakening public faith in the judiciary's resolve to combat the menace of dowry deaths. It is this very perception of justice, both within and outside the courtroom, that courts must safeguard, lest we risk normalizing a crime that continues to claim numerous innocent lives. These observations regarding grant of bail in grievous crimes were thoroughly dealt with by this Court in *Ajwar v. Waseem* in the following paras:

26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. [Refer: *Chaman Lal v. State of U.P.*, [(2004) 7 SCC 525]; *Kalyan Chandra Sarkar v. Rajesh Ranjan*, [(2004) 7 SCC 528]; *Masroor v. State of U.P.*, [(2009) 14 SCC 286]; *Prasanta Kumar Sarkar v. Ashis Chatterjee*, [(2010) 14 SCC 496]; *Neeru Yadav v. State of U.P.*, [(2014) 16 SCC 508]; *Anil Kumar Yadav v. State (NCT of Delhi)*, [(2018) 12 SCC 129]; *Mahipal v. Rajesh Kumar*, [(2020) 2 SCC 118].

27. It is equally well settled that bail once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse order of bail is always open to interference by the superior court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by the same Court that has granted the bail. Bail can also be revoked by a superior court if it transpires that the courts below have ignored the relevant material available on record or not looked into the gravity of the offence or the impact on the society resulting in such an order. In *P v. State of M.P.*, [(2022) 15 SCC 211] decided by a three-Judge Bench of this Court [authored by one of us (Hima Kohli, J.)] has spelt out the considerations that must weigh with the Court for interfering in an order granting bail to an accused under Section 439(1) CrPC in the following words: (SCC p. 224, para 24)

24. As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial [Dolat Ram v. State of Haryana, (1995) 1 SCC 349]. To put it differently, in ordinary circumstances, this Court would be loathe to interfere with an order passed by the court below granting bail but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court. Considerations for setting aside bail orders

28. The considerations that weigh with the appellate court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that may have occurred after granting relief to the accused, the conduct of the accused while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner. We may add that this list is only illustrative and not exhaustive. However, the court must be cautious that at the stage of granting bail, only a prima facie case needs to be examined and detailed reasons relating to the merits of the case that may cause prejudice to the accused, ought to be avoided. Suffice it is to state that the bail order should reveal the factors that have been considered by the Court for granting relief to the accused.

(Emphasis Supplied)

H. In *Phireram v. State of U.P.* : 2025 SCC OnLine SC 1915 it is as under:

Principles governing Cancellation of Bail

54. The law on cancellation of bail is well settled through a plethora of decisions of this Court.

55. In *P v. State of M.P.*, (2022) 15 SCC 211 this Court held that the grant of bail is always conditional and may be subject to cancellation, if after the grant of the same there is any supervening circumstances that impedes fair trial.

23. In a recent decision of a three-Judge Bench of this Court in *Imran v. Mohd. Bhava* [Imran v. Mohd. Bhava, (2022) 13 SCC 70] it has been held as follows:

20. Indeed, it is a well-established principle that once bail has been granted it would require overwhelming circumstances for its cancellation. However, this Court in its judgment in *Vipan Kumar Dhir v. State of Punjab* [Vipan Kumar Dhir v. State of Punjab, (2021) 15 SCC 518] has also reiterated, that while conventionally, certain supervening circumstances impeding fair trial must develop after granting bail to an accused, for its cancellation by a superior court, bail, can also be revoked by a superior court, when the previous court granting bail has ignored relevant material available on record, gravity of the offence or its societal impact. It was thus observed:

9. Conventionally, there can be supervening circumstances which may develop post the grant of bail and are non-conducive to fair trial, making it necessary to cancel the bail. This Court in *Dolat Ram v. State of Haryana* [Dolat Ram v. State of Haryana, (1995) 1 SCC 349; (1995 SCC (Cri) 237] observed that:

4. Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are : interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial.

10. These principles have been reiterated time and again, more recently by a three-Judge Bench of this Court in *X v. State of Telangana* [X v. State of Telangana, (2018) 16 SCC 511; (2020) 1 SCC (Cri) 902].

11. In addition to the caveat illustrated in the cited decision(s), bail can also be revoked where the court has considered irrelevant factors or has ignored relevant material available on record which renders the order granting bail legally untenable. The gravity of the offence, conduct of the accused and societal impact of an undue indulgence by Court when the investigation is at the threshold, are also amongst a few situations, where a Superior Court can interfere in an order of bail to prevent the miscarriage of justice and to bolster the administration of criminal justice system.

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23. Thus, while considering cancellation of bail already granted by a lower court, would indeed require significant scrutiny at the instance of superior court, however, bail when granted can always be revoked if the relevant material on record, gravity of the offence or its societal impact have not been considered by the lower court. In such instances, where bail is granted in a mechanical manner, the order granting bail is liable to be set aside. Moreover, the decisions cited hereinabove, enumerate certain basic principles which must be borne in mind when deciding upon an application for grant of bail. Thus, while each case has its own unique factual matrix, which assumes a significant role in determination of bail matters, grant of bail must also be exercised by having regard to the abovementioned well-settled principles.

24. As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial [Dolat Ram v. State of Haryana, (1995) 1 SCC 349; (1995 SCC (Cri) 237]. To put it differently, in ordinary circumstances, this Court would be loathe to interfere with an order passed by the court below granting bail but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court.

(Emphasis supplied)

56. This Court then summed up the principles or circumstance governing the cancellation of bail as under:

25. Some of the circumstances where bail granted to the accused under Section 439(1) CrPC can be cancelled are enumerated below:

- (a) If he misuses his liberty by indulging in similar/other criminal activity;
- (b) If he interferes with the course of investigation;
- (c) If he attempts to tamper with the evidence;
- (d) If he attempts to influence/threaten the witnesses;
- (e) If he evades or attempts to evade court proceedings;
- (f) If he indulges in activities which would hamper smooth investigation;
- (g) If he is likely to flee from the country;
- (h) If he attempts to make himself scarce by going underground and/or becoming unavailable to the investigating agency;
- (i) If he attempts to place himself beyond the reach of his surety.
- (j) If any facts may emerge after the grant of bail which are considered unconducive to a fair trial.

We may clarify that the aforesaid list is only illustrative in nature and not exhaustive.

(Emphasis supplied)

57. The governing principle is that if the accused tampers with evidence, threatens witnesses, or attempts to subvert the trial, the indulgence of bail is to be withdrawn. It is a recognition that liberty is conditional, not absolute, and subject always to the larger interest of ensuring a fair trial. Considerations for cancellation of bail must always be on the basis of the well settled

principles as discussed aforesaid. There cannot be any extraneous considerations involved that are unknown to the law of bails.

58. At the same time, emphasis has to be laid that cancellation of bail occupies a distinct space in the criminal justice machinery. Cancellation intervenes at the stage of violation, to prevent recurrence. In *State through Delhi Administration v. Sanjay Gandhi*, (1978) 2 SCC 411, this Court underscored that tampering with witnesses constitutes a cogent ground for cancellation, for the opportunity of being on bail cannot be permitted to be abused for the purpose of thwarting the course of justice. Similarly, in *Raghubir Singh v. State of Bihar*, (1986) 4 SCC 481, it was reiterated that intimidation of witnesses is sufficient to revoke the liberty granted. It must be guided by the lodestar of preventing interference with witnesses that strikes at the root of the rule of law.

59. Thus, the considerations that must weigh with the court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that might have occurred after granting relief to the accused, the conduct of the accused while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner etc.

I. In *Abhimanue v. State of Kerala* : 2025 SCC OnLine SC 2037 it is as under:

17. Law is well settled that cancellation of bail is distinct from revocation of an order granting bail. Bail may be cancelled when the accused violates any of the conditions imposed. On the other hand, an order granting bail can be revoked if such an order is found to be perverse or illegal. In *P v. State of Madhya Pradesh*, (2022) 15 SCC 211 a three-judge Bench of this Court, after analyzing various previous decisions, discussed the distinction between the two. Relevant paragraphs of the decision are reproduced below:

21. Echoing the above principle, in *Ranjit Singh v. State of M.P.* [*Ranjit Singh v. State of M.P.*, (2013) 16 SCC 797; (2014) 6 SCC (Cri) 405], it has been held thus:

19. There is also a distinction between the concept of setting aside an unjustified, illegal or perverse order and cancellation of an order of bail on the ground that the accused has misconducted himself or certain supervening circumstances warrant such cancellation. If the order granting bail is a perverse one or passed on irrelevant materials, it can be annulled by the superior court.

22. In *Abdul Basit v. Mohd. Abdul Kadir Chaudhary* [*Abdul Basit v. Mohd. Abdul Kadir Chaudhary*, (2014) 10 SCC 754; (2015) 1 SCC (Cri) 257], this Court has opined that: (SCC p. 763, para 19)

19. Therefore, the concept of setting aside an unjustified, illegal or perverse order is different from the concept of cancellation of a bail on the ground of accused's misconduct or new adverse facts having surfaced after the grant of bail which require such cancellation and a perusal of the aforesaid decisions would present before us that an order granting bail can only be set aside on grounds of being illegal or contrary to law by the court superior to the court which granted the bail and not by the same court.

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24. As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial [*Dolat Ram v. State of Haryana*, (1995) 1 SCC 349; 1995 SCC (Cri) 237]. To put it differently, in ordinary circumstances, this Court would be loathe to interfere with an order passed by the court below granting bail but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court.

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- (b) If he interferes with the course of investigation;
- (c) If he attempts to tamper with the evidence;
- (d) If he attempts to influence/threaten the witnesses;
- (e) If he evades or attempts to evade court proceedings;
- (f) If he indulges in activities which would hamper smooth investigation;
- (g) If he is likely to flee from the country;
- (h) If he attempts to make himself scarce by going underground and/or becoming unavailable to the investigating agency;
- (i) If he attempts to place himself beyond the reach of his surety.
- (j) If any facts may emerge after the grant of bail which are considered unconducive to a fair trial.

We may clarify that the aforesaid list is only illustrative in nature and not exhaustive.

(emphasis ours)

3. Cancellation of bail can be done in cases on the parameters referred to above.

17. Apart from the above grounds for cancellation of bail it is to be kept in mind that rejection of bail and cancellation of bail are two different things wherein the cancellation of bail is a harsh step as it interferes with the liberty of an individual and thus the same should not be resorted to lightly.

18. The Apex Court in *Prasanta Kumar Sarkar v. Ashis Chatterjee* : (2010) 14 SCC 496, has laid down the following principles, while deciding petition for bail:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the accusation;

- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of course, of justice being thwarted by grant of bail. ♦

19. It is well settled that gravity alone cannot be a decisive ground to deny bail, rather competing factors are required to be balanced by the court while exercising its discretion. It has been repeatedly held by the Apex Court that object of bail is to secure the appearance of the accused person at his trial. The object of bail is neither punitive nor preventative. The Apex Court in ♦Sanjay Chandra♦v.♦Central Bureau of Investigation :♦(2012) 1 SCC 40♦has been held as under: ♦

♦The object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The Courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. Detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, ♦necessity♦ is the operative test. In India, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. ♦

20. In ♦Manoranjana Singh alias Gupta♦v.♦CBI :♦(2017) 5 SCC 218, the Apex Court has held as under:

♦This Court in ♦Sanjay Chandra♦v.♦Central Bureau of Investigation♦(2012) 1 SCC 40, also involving an economic offence of formidable magnitude, while dealing with the issue of grant of bail, had observed that deprivation of liberty must be considered a punishment unless it is required to ensure that an accused person would stand his trial when called upon and that the courts owe more than verbal respect to the principle that punishment begins after conviction and that every man is deemed to be innocent until duly tried and found guilty. It was underlined that the object of bail is neither punitive nor preventive. This Court sounded a caveat that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of a conduct whether an accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. It was enunciated that since the jurisdiction to grant bail to an accused pending trial or in appeal against conviction is discretionary in nature, it has to be exercised with care and caution by balancing the valuable right of liberty of an individual and the interest of the society in general. It was elucidated that the seriousness of the charge, is no doubt one of the relevant considerations while examining the application of bail but it was not only the test or the factor and that grant or denial of such privilege, is regulated to a large extent by the facts and circumstances of each particular case. That detention in custody of under-trial prisoners for an indefinite period would amount to violation of Article 21 of the Constitution was highlighted. ♦

21. The Apex Court in the case of ♦Dataram Singh♦v.♦State of U.P. :♦(2018) 3 SCC 22♦held that freedom of an individual can not be curtailed for indefinite period, especially when his/her guilt is yet to be proved. It has further been held by the Apex Court in the aforesaid judgment that a person is believed to be innocent until found guilty. The was held as under:

♦2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society.

3. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case.

4. While so introspecting, among the factors that need to be considered is whether the accused was arrested during investigations when that person perhaps has the best opportunity to tamper with the evidence or influence witnesses. If the investigating officer does not find it necessary to arrest an accused person during investigations, a strong case should be made out for placing that person in judicial custody after a charge sheet is filed. Similarly, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Surely, if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimised, it would be a factor that a judge would need to consider in an appropriate case. It is also necessary for the judge to consider whether the accused is a first-time offender or has been accused of other offences and if so, the nature of such offences and his or her general conduct. The poverty or the deemed indigent status of an accused is also an extremely important factor and even Parliament has taken notice of it by incorporating an Explanation to Section 436 of the Code of Criminal Procedure, 1973. An equally soft approach to incarceration has been

taken by Parliament by inserting Section 436A in the Code of Criminal Procedure, 1973.

5. To put it shortly, a humane attitude is required to be adopted by a judge, while dealing with an application for remanding a suspect or an accused person to police custody or judicial custody. There are several reasons for this including maintaining the dignity of an accused person, howsoever poor that person might be, the requirements of Article 21 of the Constitution and the fact that there is enormous overcrowding in prisons, leading to social and other problems as noticed by this Court in *In Re-Inhuman Conditions in 1382 Prisons*. ♦

22. The object of granting of bail is to secure the attendance of an accused in trial. The normal rule is of bail and not jail. The Court has to keep in mind the nature of acquisitions, nature of evidence in support thereof, severity of punishment, character of the accused and the circumstances which are peculiar to the accused involved in the matter.

23. It is trite that bail once granted should not be cancelled ordinarily, but where the facts are so grave that they shake the conscience of the Court; and where the release of the accused on bail would have an adverse impact on the society, the Courts are not powerless and are expected to exercise jurisdiction conferred by law to cancel such bail orders so as to subserve the ends of justice. The present one is precisely a case of such nature.

24. The orders impugned dated 09.10.2025 & 03.09.2025 respectively are orders passed on the second bail applications of the accused/respondents. Perusal of the said orders goes to show that they are detailed orders considering the matters on merits. Even the fact that previously the first bail applications of the accused/respondents were rejected by the trial court and even the prayer for bail was rejected by the High Court previously, was also considered. The trial court considering the matters on merits and also considering the statements of two prosecutions witnesses recorded before it as P.W.-1 and P.W.-2, after a detailed analysis came to be satisfied that it is a fit case for bail and thus proceeded to grant bail to the accused/respondents. Nothing could be demonstrated in the present appeals with the prayer for cancellation of bail that there has been any misuse of bail granted to the accused, tempering with the evidence by them or their any non-cooperation in the trial, even in the four corners of the judgements mentioned above calling upon to consider the prayer for cancellation of bail. In so far as the submission regarding accused *Arsheel@Amaan* getting his bail bonds and sureties prepared on the day of filing of his bail application itself and getting them verified by Oath Commissioner on the same day is concerned, cannot be said to be an act which would demonstrate any such grave issue calling upon to cancel the bail granted to him. Trial in the matter is underway in which two witnesses have been examined. In this view of the matter no ground for interference is made out.

25. The present appeals lack merit and are hereby dismissed.

26. At this stage, however, trial court is directed to ensure expeditious disposal of trial which shall proceed without granting undue adjournment to either of the parties.

27. Pending application(s), if any, shall stand disposed of.

(Samit Gopal,J.)

October 28, 2026  
Naresh.