

**IN THE COURT OF THE SESSIONS JUDGE, AMBEDKAR NAGAR****Bail Application No.: 747/2026****CNR No.: UPAN010046662026****In the Matter of:**

Shahid, Aged about 40 years, Son of Badre Alam, Resident of Village Mundera, Police Station Hanswar, District Ambedkar Nagar.

... Applicant / Accused

Versus

State of Uttar Pradesh

... Prosecution / Opposite Party

Order Date: June 09, 2026

Case Crime No.: 83/2026

Under Sections: Sections 310(2), 311, 317(3), and 61(2) of the Bharatiya Nyaya Sanhita (BNS), 2023.

Police Station: Jehangirganj, District Ambedkar Nagar

This is the first regular bail application moved on behalf of the applicant/accused, Shahid, under **Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023**, seeking regular bail in Case Crime No. 83/2026. The application is supported by an affidavit sworn by the applicant's pairokar, Saleha Khatun.

Points for Determination

The following key legal and factual points arise for determination in this regular bail application:

1. Whether a *prima facie* case is established against the applicant, considering he was not named in the First Information Report (FIR) and his identity was revealed later via an informant's tip.
2. Whether the recovery of ₹1,00,000/- from the applicant holds definitive evidentiary value when no Test Identification Parade (TIP) of the property or the accused was conducted.

3. Whether the absence of independent public witnesses during the arrest and recovery weakens the prosecution's case for pretrial detention.
4. Whether the applicant's criminal history of two prior cases serves as an absolute bar to granting regular bail.

Findings

1. Factual Background of the Prosecution Case

According to the FIR lodged on April 11, 2026, at 15:00 hours by the informant, Mohd. Raees, he and his friend Mohd. Jalal are textile traders dealing in lungis and towels. While returning from Jaynagar, District Madhubani (Bihar) on an Apache motorcycle (UP 45X 0885) after collecting business dues, they were intercepted near the Bidhar bridge around 7:35 AM by three unidentified individuals in a white Swift car.

The individuals assaulted the informant on the head with the butt of a country-made pistol and snatched two bags containing cash and three checks. The case was initially registered under Section 309(6) BNS against unknown car occupants. During the investigation, the applicant's name came to light, leading to his arrest on April 20, 2026, and the addition of Sections 310(2), 311, 317(3), and 61(2) BNS.

2. Submissions on Behalf of the Parties

The learned counsel for the applicant submitted that the applicant is entirely innocent and has been falsely implicated by the local police following his refusal to fulfill an extortion demand. It was argued that:

1. The applicant was not named in the FIR, and no identification proceedings were carried out.
2. The applicant actually sent his brother Mohd. Jalal and the informant for business purposes, and they were looted by unknown offenders.
3. Sub-Inspector Chandrakant Singh called the applicant to the station via telephone, and when the applicant refused to pay a bribe to facilitate the "recovery" of the cash, a fabricated story was framed, leading to his arrest on April 20, 2026.
4. The applicant has been in judicial custody since April 20, 2026, and a co-accused has already been granted bail.

The learned District Government Counsel (Criminal) strongly opposed the bail application, arguing that a substantial sum of ₹1,00,000/- was recovered from the personal search of the applicant at Tilaktanda, which

constitutes a portion of the looted money. He also placed on record the applicant's criminal history, which involves two prior cases.

3. Judicial Analysis and Legal Precedents

On a thorough scrutiny of the case diary, arrest memo, and relevant records, this Court arrives at the following conclusions:

1. **Absence of Test Identification Parade (TIP):** It is an undisputed fact that the applicant was not named in the initial FIR. Furthermore, the prosecution has failed to conduct a Test Identification Parade (TIP) for either the applicant or the recovered currency notes of ₹1,00,000/-. Under settled criminal jurisprudence, when an accused is not named in the FIR, and the recovered property is common currency, a TIP of both the suspect and the property is necessary to connect the recovery with the crime. Without a TIP of the accused, the identification of recovered cash by its owner cannot be definitively linked to the robbery at this stage.
2. **Lack of Independent Witnesses:** The recovery memo states that the applicant was apprehended at 4:00 AM based on a police informer's tip. However, the police did not join any independent public witnesses to validate the search. The recovery memo does not record the names or addresses of any local citizens who were requested to witness the recovery but declined, casting doubt on the objectivity of the procedure.
3. **Evaluation of Criminal History:** The prosecution emphasises that the applicant has two prior criminal cases. The case diary indicates that the applicant is already on bail in Case Crime No. 208/2024. This Court notes that criminal history alone cannot form the sole basis for denying bail. As established by the Hon'ble Supreme Court in [*Prabhakar Tewari v. State of U.P.*: AIR ONLINE 2020 SC 96, \(2020\)](#).

"The criminal history of an accused cannot be made the sole basis for the mechanical rejection of a bail application if the facts of the immediate case do not exhibit exceptional aggravating circumstances or a direct threat to public justice."

4. **Period of Detention:** The applicant has been in continuous judicial confinement since April 20, 2026. Given that the material recovery has already been completed, further pretrial detention would be punitive and contrary to the principles laid down in [*Satender Kumar Antil v. CBI*: \(2022\) 10 SCC 51](#).

Therefore, without expressing any opinion on the final merits of the trial, this Court finds that there are sufficient grounds to enlarge the applicant on regular bail.

Order

The regular bail application filed on behalf of the applicant **Shahid** in connection with Case Crime No. 83/2026, under Sections 310(2), 311, 317(3), and 61(2) BNS, Police Station Jehangiranj, District Ambedkar Nagar, is hereby **Allowed**.

Let the applicant be released on regular bail upon furnishing a **personal bond of ₹1,00,000/-** along with **two reliable sureties** each in the like amount to the satisfaction of the concerned Trial Court, subject to the following conditions:

1. **Trial Cooperation:** The applicant shall fully cooperate with the trial proceedings, appear before the Trial Court on every scheduled date, and shall not seek unnecessary or unjustified adjournments.
2. **Presence in Court:** The applicant shall remain present before the competent court on every date fixed for the hearing.
3. **No Witness Intimidation:** The applicant shall not directly or indirectly threaten, induce, or intimidate any prosecution witnesses, nor shall he attempt to tamper with the evidence in any manner.
4. **Consequences of Default:** In the event of a breach of any of the conditions mentioned above, the Trial Court shall be fully at liberty to initiate necessary legal measures and entertain applications for the cancellation of this bail order in accordance with the law.

Date: 09.06.2026

Place: Ambedkar Nagar

(Chandroday Kumar)

Sessions Judge, Ambedkar Nagar

J.O. Code No.: UP6553