

**IN THE COURT OF THE SESSIONS JUDGE, AMBEDKAR NAGAR****Bail Application No.: 813/2026****CNR No.: UPAN010048042026****In the Matter of:**

Om Kannaujia, Aged about 18 years, Son of Pradeep Kannaujia, Resident of Baskhari Chuna Gali Ward No.-14, Police Station Baskhari, 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, Om Kannaujia, under **Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023**, seeking release in Case Crime No. 83/2026. The application is supported by an affidavit sworn by the applicant's pairokar, Shanti.

In evaluating the merits of this application, this Court has extensively reviewed the case record.

Points for Determination

The core points arising for determination in this bail application are as follows:

1. Whether a *prima facie* case exists against the applicant, given that he was not named in the initial First Information Report (FIR) and his name surfaced subsequently during the investigation.

2. Whether the alleged recovery of ₹16,000/- from the personal search of the applicant possesses sufficient evidentiary nexus to connect him to the crime scene, in the absence of an independent witness or a Test Identification Parade (TIP).
3. Whether the applicant's criminal history of two prior cases serves as an absolute legal bar to the exercise of judicial discretion for granting regular bail.
4. Whether the applicant's prolonged detention since May 30, 2026, combined with his status as an 18-year-old young adult, weighs in favour of granting liberty during the trial.

Findings

1. Outline of the Prosecution Case

As per the prosecution narrative, on April 11, 2026, at 15:00 hours, the informant, Mohd. Raees, lodged an FIR at P.S. Jehangirganj. The informant and his associate, Mohd. Jalal, both lungi and gamcha merchants, were returning from Jaynagar, District Madhubani (Bihar) after collecting dues. While riding their Apache motorcycle (UP 45X 0885) from Khalilabad station toward Jehangirganj, they were intercepted near the Bidhar bridge at approximately 7:35 AM by three unidentified individuals travelling in a white Swift car.

The occupants assaulted the informant on the head with the butt of a country-made pistol (*katta*) and forcibly took two bags containing cash and three bank checks. The case was initially registered under Section 309(6) BNS against unknown car occupants. During the ongoing investigation, the name of the present applicant surfaced. Section 309(6) BNS was subsequently deleted, and Sections 310(2), 311, 317(3), and 61(2) BNS were added to the case.

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 due to local enmity to cause harassment. He further contended that:

1. The applicant was not named in the FIR, and his name was dragged in solely based on a co-accused statement.
2. No genuine recovery was made from the applicant; the alleged recovery of ₹16,000/- is entirely fabricated by the police.
3. There are no independent public witnesses to the alleged arrest or recovery, and the entire narrative relies on police witnesses.

4. The applicant did not engage in any dacoity, robbery, or criminal conspiracy, and has been in jail since May 30, 2026.

The learned District Government Counsel (Criminal) strongly opposed the bail application, emphasising that the applicant was arrested based on a police informer's tip on May 30, 2026, near the culvert ahead of village Isauri Nasirpur. He stated that ₹16,000/- of the looted money was found on the applicant's person and pointed out that the applicant has a criminal history consisting of two prior offences.

3. Judicial Analysis and Legal Precedents

After reviewing the case diary materials and hearing the arguments, this Court notes the following legal and factual discrepancies:

1. **Anonymity in the Primary FIR & Lack of TIP:** The applicant was not named in the initial FIR. His identity was linked to the crime later through a police informer's tip. Crucially, the prosecution has not conducted a Test Identification Parade (TIP) for the applicant or for the recovered amount of ₹16,000/- to confirm it as part of the looted wealth. When the identity of the accused is unestablished, and the recovered item is common currency, a failure to hold a TIP weakens the prosecution's *prima facie* link at the bail stage.
2. **Absence of Independent Public Witnesses:** The recovery memo indicates the applicant was arrested in a public area near a culvert, yet no independent local witness was joined by the police during the search. No names or details of public members who refused to participate were recorded, raising doubts regarding the transparency of the recovery.
3. **Discrepancy in the Number of Offenders:** The prosecution's foundational narrative categorically states that only three persons were actively involved in executing the road robbery. The inclusion of multiple subsequent accused individuals raises triable questions regarding the actual extent of the applicant's involvement.
4. **Evaluation of Criminal History:** While the applicant has a record of two prior cases, criminal history cannot serve as an automatic ground to deny bail. As ruled by the Hon'ble Supreme Court in [*Prabhakar Tewari v. State of U.P.: AIR ONLINE 2020 SC 96*](#), a pending criminal background cannot be the lone reason to reject bail if the primary evidence in the immediate case lacks a clear connection.

5. **Age and Custody Period:** The applicant is a young adult of approximately 18 years and has been jailed since May 30, 2026. Since the investigation as to this applicant does not require further custodial extraction, continuous detention would be punitive, following the principle of "*Bail is the rule, jail is the exception*" established in [Satender Kumar Antil v. CBI: \(2022\) 10 SCC 51](#).

Conclusively, without delivering any definitive opinion on the final outcome of the trial, this Court finds that the applicant has made out a sufficient case for the grant of regular bail.

Order

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

Let the applicant be released on bail upon executing a **personal bond of ₹1,00,000/- (Rupees One Lakh)** with **two reliable sureties** each in the like amount to the satisfaction of the trial court concerned, subject to the fulfilment of the following conditions:

1. **Trial Cooperation:** The applicant shall fully extend cooperation to the trial court, attend every scheduled hearing, and shall not seek intentional or unnecessary adjournments.
2. **Court Attendance:** The applicant shall personally present himself before the court on every date fixed for proceedings.
3. **Non-Tampering of Evidence:** The applicant shall not directly or indirectly threaten, intimidate, or influence any prosecution witnesses, nor shall he attempt to tamper with the case records.
4. **Consequences of Violation:** If any of these bail conditions are violated, the trial court shall have full liberty to take independent legal action, including ordering the cancellation of bail, in accordance with the law.

Date: 09.06.2026

Place: Ambedkar Nagar

(Chandroday Kumar)

Sessions Judge, Ambedkar Nagar

J.O. Code No.: UP6553

