

**IN THE COURT OF SESSIONS JUDGE AT
BAREILLY**

In Presence of: Pradeep Kumar Singh II,...H.J.S.

Criminal Revision No. 74 of 2026

UPBR010033302026



1. Waseem Qureshi, son of Chunna, resident of Gram Labheda,
Police Station-Hafizganj, District- Bareilly .

.....Revisionist/Accused

Versus

State of U.P.

.....Opposite Party

J U D G M E N T

1. The present revision is moved against the order dated 02.02.2026 passed by the learned Additional Chief Judicial Magistrate, Court No. 3, Bareilly. By the impugned order, the amount of surety is fixed upto the tune of Rs. 80,000/-.

-: Facts giving rise to Present Revision :-

2. The brief facts giving rise to the revision is that the Bail of the revisionist was allowed by the Hon'ble High Court vide order dated 28.10.2025 passed in Criminal Misc. Bail Application No. 34609 of 2025 and it was directed to release the applicant/ revisionist on bail on his executing a personal bond and two reliable sureties each in a like amount to the satisfaction of the Court concerned.
3. The application for fixing the surety amount, was moved on behalf of revisionist on 16.01.2026, while the order to release the revisionist on bail was passed on 28.10.2025 i.e the application was moved after lapse of period of more than two and half months. The learned Magistrate has passed the

impugned order fixing the surety value as Rs. 80,000/- on 02.02.2026.

-:Grounds Raised in the Revision:-

4. Feeling aggrieved by the said order the present revision is moved on the ground that the impugned order dated 02.02.2026 is passed by learned Court A.C.J.M, Court No. 3, Bareilly ignoring the binding judicial precedents. Thus the right is violates the spirit of Article 21 of the Constitution of India. It is also raised that the surety amount fixed is disproportionate to the financial capacity of the revisionist. The revision further consist that the order passed by the learned Court A.C.J.M, Court No. 3, Bareilly is illegal in the eye of law and suffers from non-application of judicial mind.

-:Proceedings after filing revision:-

5. The matter may be decided on the basis of record because the certified copy of application, for fixing the surety amount, is already filed. Moreover the copy of order passed by the Hon'ble High Court is also on record. Thus instead of summoning record this court proceeded to hear the matter on merit so that the aggrieved revisionist may seek relief as soon as possible.

-:Arguments advanced for the Revisionist:-

6. Learned Counsel for revisionist Sri. Mohd. Shahnawaz Quereshi Advocate, argued that the fixation of such a high surety amount has rendered the bail order illusory and the revisionist continues to remain in jail despite bail having been granted in his favour. Learned Counsel for revisionist further argued that the bail conditions must not be so onerous as to defeat the very object of granting bail. He relied on the view expressed by Hon'ble Supreme Court in **Ramchandra Thangappan Aachari Vs. State of Maharashtra** and view expressed by Hon'ble High Court in **Bacchi Devi Vs. State of U.P (2025)**. He also relied on **Pappu Mate Vs. State of U.P (2025)** and argued that the learned Trial Court has

directed to submit 02 sureties without taking into consideration the economical condition of the revisionist.

-:Arguments advanced by learned D.G.C(Crl.):-

7. Learned in-charge D.G.C(Crl.) was present in the court for State of U.P. He argued that the bail was granted vide order dated 28.10.2025 but the applicant himself moved application for fixing the surety value on 16.01.2026. Therefore, the delay could be attributed to the revisionist himself. He further argued that the impugned order is not disobeying the law laid down by the Higher Courts.
8. Heard both the learned Counsels and perused the record.

-:Discussion:-

9. This Court is in agreement with the arguments advanced by the learned D.G.C(Crl.). As the application was already moved after more than two and a half month, the revisionist could not avail the liberty on the ground of remaining in jail despite having been granted bail in his favour for his own fault. So far as the excessive amount is concern, it must bear in mind that the Court of Magistrate has discretion to fix amount as per the nature of offence, keeping in mind the direction of the Hon'ble Court granting bail.
10. Before making any final conclusion on the issue raised through this revisions it would be appropriate to discuss the law cited on behalf of revisionist. The learned Counsel for the revisionist relied on the law as laid down by the Hon'ble High Court in the case of **Smt. Bacchi Devi Vs. State of U.P 2025 : AHC : 136034**. In para 46 the Hon'ble Court has been pleased to issue following directions:-

“46. Accordingly, it is hereby directed that the mandatory requirement of two sureties are dispensed with, and henceforth, (i) the accused(s)/convict(s), as the case may be, shall be released on a "single surety", subject to the satisfaction of the Magistrate or the court concerned the satisfaction shall drive from the socio-economic condition of the accused- and that the surety bond amount be fixed in accordance with the financial strength of the accused. In case, the accused(s) is unable to produce sound surety within seven days from the date of grant of bail, it would be the duty of the Superintendent of Jail to inform the

*Secretary, DLSA who may depute from para legal volunteer or jail visiting advocate to interact with the prisoner and assist the prisoner in all ways possible for his release, besides other directions contained in order dated 31.1.2023 passed in **In Re: Policy Strategy for Grant of Bail (supra)**, and (ii) if the accused has been booked in multiple cases (FIRs) even across many states, the court shall forthwith release the accused -if secures bail in all cases- in the light of **Girish Gandhi v. State of U.P. and Others (supra)**.”*

11. On Perusal of the impugned order and the order for bail of the revisionist passed by the Hon’ble High Court dated 28.10.2025, it is surfaced that the Hon’ble High Court has been pleased to release the applicant on bail on his executing a personal bond and two sureties. The Court of Magistrate has no jurisdiction to alter the aforesaid direction even in compliance of view expressed by Hon’ble High Court in the case of **Bacchi Devi (Supra)**. The Magistrate is bound to ask two sureties in this particular case. So far as the socio-economic condition is concerned it may be evaluated during the further proceedings with regard to release of the accused.
12. To consider the aforesaid direction in better perception for compliance, it would be relevant to mention the direction in **SMWP (Criminal) No. 04/2021. In Re Policy strategy for Grant of Bail** which reads as under:-

"1. The Court which grants bail to an undertrial prisoners/ convict would be required to send a soft copy of the bail order by e-mail to the prisoner through the Jail Superintendent on the same day or the next day. The Jail Superintendent would be required to enter the date of grant of bail in the e-prison software (or any other software which is being used by the Prison Department).

2. If the accused is not released within a period of 07 days from the date of grant of bail, it would be the duty of the Superintendent of Jail to inform the Secretary, DLSA who may depute para legal volunteer or jail visiting advocate to interact with the prisoner and assist the prisoner in all ways possible for his release.

3. NIC would make attempts to create necessary fields in the e-priosn software so that the date of grant of bail and date of release are entered by the Prison Department and in case the prisoner is not released within 07 days, then an automatic email can be sent to the Secretary, DLSA.

4. The Secretary, DLSA with a view to find out the economic condition of the accused, may take help of the Probation Officers or the Para Legal Volunteers to prepare a report on the socio-economic conditions of the

inmates which may be placed before the concerned Court with a request to relax the condition (s) of bail/surety.

5. In case where the undertrial or convicts requests that he can furnish bail bond or sureties once released, then in an appropriate case, the Court may consider granting temporary bail for a specified period to the accused so that he can furnish bail bond or sureties.

6. If the bail bonds are not furnished within one month from the date of grant bail, the concerned Court may suo moto take up the case and consider whether the conditions of bail require modification/relaxation.

7. One of the reasons which delays the release of the accused/convicts is the insistence upon local surety. It is suggested that in such cases, the Courts may not impose the condition of local surety."

13. In the case in-hand, the revisionist himself came before the Court and prayed to fix surety after lapse of time of two and a half months and the learned Magistrate has fixed the surety of Rs. 80,000/- which cannot be directly said that it is excessive until and unless the evidence of socio-economic status of the revisionist is placed before the Court. Learned Counsel for revisionist very fairly admitted that it is mentioned in the application only that the applicant is a poor labourer and has no sufficient means to arrange the surety immediately and he also cited the para 3, 4 & 5 of the application which reads as follows:-

3. that the Hon'ble High Court, vide order dated 20.10.2025, was pleased to direct that the applicant be released on two sureties to the satisfaction of the learned trial Court.

4. that despite the aforesaid order, the applicant could not be released till date due to his inability to arrange sureties because of his poor financial condition.

5. that the applicant is willing to comply with the conditions imposed by this Hon'ble Court but prays that a minimum bail amount may kindly be fixed considering his financial hardship.

14. After admission of the learned Counsel for the revisionist & after going through the contents of the application, it would not be out of place to mention here that the evidence with regard to socio-economic condition of the applicant is not placed before the court with the application. Only bald

averments are mentioned therein. So far as time lapsed in arrangement of sureties is concern, it is again reiterated on the cost of repetition that the time of more than 2 and a half month is wasted by the revisionist himself. After passing the order in question, again he is involved by his learned Counsel in futile exercise of this revision.

15. Taking into consideration the aforesaid direction issued in the case of **In Re Policy Strategy for grant of Bail**, which is endorsed by the Hon'ble High Court in the case of **Smt. Bacchi Devi (Supra)** the proceedings of release of revisionist would be drawn by the Court. If the amount of Rs. 80,000/- is fixed by the Magistrate on 02.02.2026 and the accused is not released within the period of 07 days from the date of this order, the Superintendent of Jail would certainly inform the Secretary DLSA. On this information the Secretary DLSA would depute legal volunteer or Jail Visiting Advocate to interact with the prisoner and assist the prisoner in all ways possible for release.
16. The Secretary DLSA would find out the economic condition of the accused with the help of Probation Officer or Para legal Volunteers and prepare the report with regard to it. On the basis of said report the Court concerned may relax the conditions of Bail/ Surety.
17. If the revisionist would have requested to furnish bail bond or sureties once released, then Court would certainly consider this request taking into consideration the circumstances of the cases in totality.
18. As per direction if the revisionist would not be able to furnish the bonds within one month from the date of order in question, the concerned Court under aforesaid direction is bound to take up the matter Suo-moto and consider whether the conditions of the bail require modification and relaxation. Thus court is duty bound to take care of release of the accused within the reasonable time.

19. It is further relevant to mention here that the Courts are reducing the surety value in compliance of the aforesaid law. The matters are referred to the Secretary D.L.S.A for submitting report with regard to socio-economic condition of the accused, if he is not released within the period specified in the aforesaid direction.
20. The revisionist instead of following the aforesaid procedure moved the present revision on 20.02.2026 i.e after about 18 days and wasted valuable time. Instead of moving revision, the application to reduce the surety value may be made before the court. It would not be out of place to mention here that the applicant/ revisionist is not legally assisted properly.
21. The learned Counsel for revisionist further cited law as laid down in **Ramchandra Thangappan Aachari Vs. State of Maharashtra 2024 SCC Online SC 2629** and highlighted para 6 of the judgment which reads as follows:-

“6. It would be a travesty of justice if the petitioner is unable to secure the benefit of bail order for his inability to furnish local surety. This will infringe the rights guaranteed under Article 21 of the Constitution for the person, who continues to be detained despite a bail order in his favour.”

22. It is necessary to code here that the aforesaid view was expressed where the accused was in custody for more than seven years and he was not able to secure the benefits of bail. But in the case in-hand the revisionist could not avail the fruits of bail due to lapse either in his own part or on the part of their negligent counsels.
23. Under the aforesaid circumstances this Court is not inclined to intervene in the order passed by the Court of Magistrate. Moreover the revisionist is free to move the application in accordance with law before the Court either for reducing the surety value or for release the applicant on interim bail to manage the surety.
24. The learned Trial Court is certainly bound to follow the aforesaid directions, keeping in mind the directions issued by the Hon’ble High Court in the order dated 28.10.2025

ORDER

25. Therefore, the revision preferred against the order dated 02.02.2026 passed by the learned Additional Chief Judicial Magistrate, Court No. 3, Bareilly is hereby rejected with liberty to the revisionist to move the learned Trial Court for seeking appropriate relief in compliance of directions highlighted in this order.
26. Moreover the Secretary DLSA, Bareilly is also directed to look into the matter and take necessary steps to get the socio-economic status of the revisionist in accordance with settled procedure and also provide him appropriate legal aid.
27. Office is directed to send the copy of order to the court concerned and Secretary DLSA, Bareilly for compliance.
28. Consign the record as per rules.

Dated: 07.03.2026

**(Pradeep Kumar Singh-II)
Sessions Judge,
Bareilly**

Judgment signed, dated and pronounced by me in open Court today.

Dated: 07.03.2026

**(Pradeep Kumar Singh-II)
Sessions Judge,
Bareilly**