



HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 24260 of 2025

Ajay Singh Alias Ajay Mardah

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s) : Suraj Kumar Singh
Counsel for Opposite Party(s) : G.A., Upendra Upadhyay

Court No. - 66

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Heard Sri Manish Tiwary, learned Senior Counsel assisted by Sri Suraj Kumar Singh, learned counsel for the applicant and Sri Upendra Upadhyay, learned counsel for the informant as well as Sri Abhishek Mishra, learned A.G.A. for the State and also perused the material placed on record.
3. This is the second bail application filed on behalf of the applicant seeking bail in **Session Trial No. 81** of 2018 arising out of **Case Crime No. 378** of 2015, **under Sections 147, 148, 149, 302, 120-B** of IPC, **Police Station- Chaubeypur, District - Varanasi**, during the pendency of trial.
4. The first bail application of the applicant was rejected by this Court vide order dated 07.05.2024 passed in Criminal Misc. Bail Application No. 5694 of 2024.

PROSECUTION STORY:

5. On 04.12.2015 at about 7:15 A.M., the father of the informant, Ram Bihari Chaubey, was reading a newspaper in his shanty (marai). In the meantime, two youths entered the gate and inquired from the children who were playing nearby about the father of the informant. The children pointed towards him. Thereafter, the said two unknown youths fired multiple shots at the father of the informant.

6. Upon hearing the gunshots, the informant came out of the house and noticed the said two boys leaving the premises, while two-three other boys were standing at the gate. All the said persons fled away on two motorcycles.

7. The informant then rushed towards the shanty and found his father lying in a pool of blood. In the meantime, the servant Sandeep, along with cousin Pramod and Pawan Kumar, also reached the spot and all of them immediately rushed the injured to Medical College, Varanasi. The doctors there advised that the injured be taken to the Trauma Centre, Banaras Hindu University (BHU). The informant thereafter took his father to the said Trauma Centre, where the doctors declared him dead.

ARGUMENTS ON BEHALF OF APPLICANT:

8. The bail application of the applicant was initially allowed by the learned Sessions Judge, Varanasi, vide order dated 23.10.2017. The State of Uttar Pradesh thereafter filed an application for cancellation of bail before the Sessions Judge, which came to be rejected by the learned Additional Sessions Judge, Court No. 8, Varanasi, vide order dated 25.07.2018.

9. Subsequently, the informant approached this Court seeking cancellation of bail and this Court, vide order dated 10.12.2019, set aside the order dated 23.10.2017 and cancelled the bail granted to the applicant in Bail Cancellation Application No. 44030 of 2017.

10. The applicant thereafter challenged the said order before the Supreme Court by filing Special Leave Petition (Criminal) No. 1322 of 2020, which came to be dismissed vide order dated 17.02.2020, with liberty to the applicant to file an application for regular bail before the concerned trial court after the commencement of trial. It was further directed that if such application is filed, the same shall be considered in accordance with law.

11. Thereafter, the applicant filed a fresh bail application before the learned Sessions Judge, Varanasi, which was rejected vide order dated 21.03.2023. The applicant subsequently approached this Court by filing Criminal Misc. Bail Application No. 5694 of 2024, which was rejected by a Coordinate Bench of this Court vide order dated 07.05.2024 and the following order was passed:-

“1. Heard Sri Manish Tiwary, learned Senior Advocate, assisted by Sri Suraj Kumar Singh, learned counsel for the applicant, Sri Upendra Upadhyay, learned counsel for the informant and learned A.G.A. for the State.

2. The present bail application has been filed on behalf of the applicant in S.T. No. 81 of 2018, case crime No. 378 of 2015, under Section 147, 148, 149, 302, 120-B IPC, police station Chaubeypur, District Varanasi with the prayer to enlarge the applicant on bail.

3. The informant has lodged the first information report against 4-5 unknown persons, alleging that on 04.12.2015 at 07:15 AM while his father Ram Bihari Chaubey was reading newspaper in his shanty (Madai), two boys trespassed into the house and fired bullets at Ram Bihari Chaubey. After hearing sound of firing, informant came there and saw that two boys were going towards the gate and three more boys were standing at the gate and they all ran away on two motorcycles. Ram Bihari Chaubey was taken to the hospital, where he was declared dead.

4. It appears that during investigation, involvement of applicant and co-accused persons was revealed. The applicant applied for bail and he was granted bail vide order dated 23.10.2017 passed by the learned Sessions Judge, Varanasi. The State of U.P. has filed an application for cancellation of bail but that application was rejected vide order dated 25.07.2018 passed by the learned Additional Sessions Judge, Court No. 8, Varanasi. The informant has filed an application for cancellation of bail before this Court, wherein by order dated 10.12.2019 the bail order dated 23.10.2017 was set aside and bail granted to the applicant was cancelled. The applicant has challenged the order dated 10.12.2019 before the Hon'ble Apex Court by filing SLP (Criminal) No. 1322 of 2020, wherein by order dated 17.02.2020 the said SLP was dismissed, however, petitioner (applicant herein) was granted

liberty to file an application for regular bail before the concerned trial court after trial begins. It was further directed that if such an application is filed by the petitioner-applicant, the trial court shall consider the same in accordance with law. Thereafter applicant has filed a fresh bail application in the court of Sessions Judge, Varanasi, which was dismissed vide order dated 21.03.2023. Thereafter, the instant bail application has been filed before this Court.

5. It has been argued by learned senior Advocate appearing for the applicant that the applicant-accused is innocent and he has been falsely implicated in this case. Applicant is well known to the informant since long and if applicant might have involved in the incident, he might have been nominated in the first information report but applicant was not named therein. The applicant was not named by the informant in his statement under section 161 CrPC. During investigation, on 24.12.2015 the second statement of informant and his brother was recorded but they have not named the applicant. On 15.03.2016 the Investigating Officer recorded the statement of Amar Nath Chaubey / son of deceased for second time and he has stated that at the time of incident he was in Gurugram. By 10.08.2016 the complicity of any of the accused has not come into light. Later on investigation was transferred to Crime Branch. During investigation it has transpired that deceased was looking after the work of Brijesh Singh and said Brijesh Singh was having enmity with one BKD, so BKD can commit murder of deceased. Statement of eye witness Mohan Lal Sonkar was recorded but he has not disclosed complicity of the applicant. It was further submitted that during investigation, 7th statement of informant and his brother was recorded, wherein for the first time they have disclosed the complicity of the applicant in the commission of crime after 16 months of the incident. These witnesses have also stated that Sushil Singh, MLA has hatched a conspiracy with applicant and other co-accused persons and murder of deceased was committed in pursuance of the said conspiracy. The prosecution version that the photographs of applicant and co-accused Sunny Singh were shown to Guddu Rajbhar and Smt. Renuka Chaubey and they have identified them, is wholly false. On 16.04.2017 the test identification parade was conducted, wherein eye witness Mohan Sonkar has allegedly identified the co-accused but no reliance can be placed upon such identification, which was conducted after 16 months of the incident. It was submitted that there is no credible evidence to show the involvement of applicant but the Investigating Officer has submitted charge-sheet. Further, similarly placed co-accused Ashutosh Singh @ Sunny Singh has already been granted bail by Co-ordinate Bench of this Court, copy of which is available on record.

6. It was further submitted that meanwhile brother of first informant, namely, Amar Nath Chaubey has filed a writ petition before this Court for investigation of the case by CBI, which was disposed of vide order dated 17.05.2018 and it was directed that investigation be concluded expeditiously and report will be submitted before the competent court within a period of eight weeks. Against the order dated 17.05.2018, the brother of informant has filed an SLP vide No. 6951 of 2018 before the Hon'ble Apex Court, wherein vide order dated 14.12.2020 a special investigation team was constituted for investigation of the present case in respect of non-charge-sheeted accused persons. As the proceedings of the case had been stayed by the Hon'ble Apex

Court, an impleadment application was filed by the applicant before the Hon'ble Apex Court in the above-referred SLP, wherein by order dated 28.11.2022 it was observed by the Hon'ble Apex Court that the order dated 17.02.2020 shall not stand in the way of trial court while considering the application for bail, which may be filed by the applicant. The applicant has filed a bail application before the Sessions Judge, Varanasi, which was rejected.

7. Referring to the facts of the matter, it was submitted that there is no credible evidence against the applicant and in fact he has been made an escape goat. Before grant of bail, applicant has undergone detention of about seven and a half months and after cancellation of bail applicant is in jail since 06.01.2020. Criminal history shown against the applicant has duly been explained in the bail application. Referring to the facts of the matter, it was submitted that in view of the aforesaid facts, applicant deserves to be enlarged on bail and that in case applicant is enlarged on bail, the applicant will not misuse the liberty of bail.

8. Learned A.G.A. and learned counsel for the informant have opposed the prayer for bail and argued that incident in question is quite heinous. The father of informant was murdered at his house by making indiscriminate firing. There is criminal history of 21 cases against the applicant and in one of the case he has been convicted under Section 148, 302/149 IPC. The bail earlier granted to the applicant by the Sessions Judge, Varanasi was cancelled by this Court vide order dated 10.12.2019 and against the order dated 10.12.2019, an SLP was filed, which was also dismissed. While dismissing the SLP, the Hon'ble Apex Court has observed that applicant is granted liberty to file an application for regular bail before the concerned trial court after trial begins but trial has not yet been started and thus, at this stage applicant is not entitled to be released on bail. It was submitted that it was a political murder and the applicant is a contract killer and he was hired by Sushil Singh for committing murder of deceased. Smt. Renuka Chaubey, wife of informant, has identified the applicant as one of the assailant. The applicant is a notorious criminal, who has enjoyed clout of the politicians and in case he is granted bail, he may threaten the informant and witnesses of the case and he may flee from justice.

9. I have considered the rival submissions and perused the record.

10. Before proceeding further it may be observed that in case of State through C.B.I vs. Amaramani Tripathi- [(2005) 8 SCC 21], the Apex Court held that a Court granting bail to an accused, must apply its mind and go into the merits and evidence on record and determine whether a prima-facie case was established against the accused. It was held that the seriousness and gravity of the crime was also a relevant consideration. The Hon'ble Apex Court has, in a catena of judgments, outlined the considerations on the basis of which discretion under Section 439 CrPC has to be exercised while granting bail. In landmark judgment of Gurcharan Singh v. State (Delhi Administration) (1978) 1 SCC 118, the Apex Court has laid down various parameters which must be considered while granting bail. The Court held as follows:

"24. ...Even so, the High Court or the Court of Session will have to exercise its judicial discretion in considering the question of granting of bail under Section 439(1) CrPC of the new Code. The overriding considerations in granting bail to which we adverted to earlier and which are common both in the case of Section 437(1) and Section 439(1) CrPC of the new Code are the nature and gravity of the circumstances in which the offence is committed; the position and the status of the accused with reference to the victim and the witnesses; the likelihood, of the accused fleeing from justice; of repeating the offence; of jeopardising his own life being faced with a grim prospect of possible conviction in the case; of tampering with witnesses; the history of the case as well as of its investigation and other relevant grounds which, in view of so many valuable factors, cannot be exhaustively set out."

11. The above factors do not constitute an exhaustive list. The grant of bail requires the consideration of various factors which ultimately depends upon the specific facts and circumstances of the case before the Court. There is no strait jacket formula which can ever be prescribed as to what the relevant factors could be. However, certain important factors that are always considered, inter-alia, relate to prima facie involvement of the accused, nature and gravity of the charge, severity of the punishment, and the character, position and standing of the accused [see *State of U.P. v. Amarmani Tripathi*, (2005) 8 SCC 21].

12. It is also to be kept in view that at the stage of granting bail, the Court is not required to enter into a detailed analysis of the evidence in the case. Such an exercise may be undertaken at the stage of trial. In case of *Prasanta Kumar Sarkar v. Ashis Chatterjee*, (2010) 14 SCC 496, the Court held as under:

"9. We are of the opinion that the impugned order is clearly unsustainable. It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

(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.

xxx xxx xxx

10. It is manifest that if the High Court does not advert to these relevant considerations and mechanically grants bail, the said order would suffer from the vice of non-application of mind, rendering it to be illegal....." ..

13. In Mahipal v. Rajesh Kumar, (2020) 2 SCC 118, the court followed the observations made in Prasanta Kumar Sarkar (supra) and held as follows:

"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"

14. A three Judges' Bench of the Apex Court in Jagjeet Singh & Ors. V. Ashish Mishra @ Monu & Anr, Criminal Appeal No. 632 of 2022, has reiterated the factors that the Court must consider at the time of granting bail under Section 439 CrPC, as well as highlighted the circumstances where this Court may interfere when bail has been granted in violation of the requirements under the above-mentioned section. The Court observed as follows:

"28. We may, at the outset, clarify that power to grant bail under Section 439 of CrPC, is one of wide amplitude. A High Court or a Sessions Court, as the case may be, are bestowed with considerable discretion while deciding an application for bail. But, as has been held by this Court on multiple occasions, this discretion is not unfettered. On the contrary, the High Court of the Sessions Court must grant bail after the application of a judicial mind, following well established principles, and not in a cryptic or mechanical manner."

15. In case of Kalyan Chandra Sarkar V Rajesh Ranjan alias Pappu Yadav & Anr. - [(2004) 7 SCC 528], the Court held that although it is established that a Court considering a bail application cannot undertake a detailed examination of the evidence and make an elaborate discussion on the merits of the case, the Court is required to indicate the prima facie reasons justifying the grant of bail.

16. Keeping the aforesaid legal position in view, in the instant case it may be observed that applicant is not named in the first information report and he was also not named in the earlier statements of informant and his other family members but in subsequent statements, the name of applicant has figured as one of the assailant of the deceased. In the alleged incident, deceased was murdered at his house by firing several rounds of bullets. As per prosecution version that the murder of deceased has been committed due to political rivalry and applicant is a shooter and contract killer. Earlier bail

was granted to the applicant but same was cancelled by this Court. During investigation, applicant was identified by the wife of informant, who has seen the applicant at the spot. Applicant has criminal history of 21 cases, including several heinous offences. While disposing the above-referred SLP, the Hon'ble Apex Court has given liberty to the applicant to file an application for regular bail before the concerned trial court after trial begins. It has been shown that charges have been framed against the applicant but no witness has been examined so far. Co-accused Ashutosh Singh @ Sunny Singh has been granted bail by the Co-ordinate Bench of this Court but it appears from his bail order that he has no criminal antecedents, whereas long criminal history has been shown against the applicant and he is previous convict of a murder case. The second bail application of co-accused Nagendra Singh @ Raju Singh has already been rejected bail by Co-ordinate Bench of this Court.

17. Considering submissions of learned counsel for the parties, nature of accusations, and all attending facts and circumstances of the matter, without expressing any opinion on the merits of the case, at this stage, no case for grant of bail is made out.

18. Accordingly, the instant bail application filed on behalf of applicant Ajay Singh @ Ajay Mardah is rejected.

19. However if no substantial progress is made in the trial within a period of one year from today, the applicant would be at liberty to file a fresh bail application in accordance with law.”

12. However, while rejecting the said bail application, this Court observed in paragraph 19 of the order dated 07.05.2024 that if no substantial progress is made in the trial within a period of one year, the applicant would be at liberty to file a fresh bail application in accordance with law.

13. It is submitted that the said period of one year has already elapsed and accordingly the applicant has filed the present bail application on 10.07.2025.

14. The applicant is entitled for bail even otherwise on several grounds:-

(i) The applicant is not named in the FIR, which was lodged against unknown persons and that too after a delay of about four hours, for which no satisfactory explanation has been furnished.

(ii) No other person except the deceased sustained any injury in the alleged incident and, therefore, there is no direct eyewitness account of the occurrence.

(iii) The name of the applicant surfaced for the first time after a delay of about 16 months from the date of the incident, when the first informant along with his brother Amarnath Chaubey reached Police Station Chaubeypur and stated that after making personal inquiries, they had come to know that MLA Sushil Singh had hatched a conspiracy along with Ajay Singh alias Ajay Mardah (the present applicant), Nagendra alias Raju Bihari, and Ashutosh Singh @ Sunny Singh, who thereafter committed the murder of the informant's father on the fateful day.

(iv) The name of the applicant surfaced for the first time only in Case Diary No. 60, which indicates that the police was initially groping in the dark regarding the identity of the assailants.

(v) The name of the applicant has surfaced in the VIIth statement of first informant recorded by the Investigating Officer.

(vi) The applicant along with co-accused Nagendra alias Raju Bihari and Ashutosh Singh @ Sunny Singh was arrested on 06.04.2017, and their photographs were published in local newspapers on 07.04.2017.

(vii) It is vehemently argued that the Investigating Officer had allegedly shown the photographs of the applicant and co-accused Ashutosh Singh @ Sunny Singh to the so-called eyewitnesses Guddu Rajbhar and Smt. Renuka Chaubey on 08.07.2017, who thereafter identified the applicant and the co-accused after seeing the said photographs.

(viii) No incriminating article has been recovered from the possession of the applicant, except the alleged identification based

on photographs, which is impermissible under Section 9 of the Indian Evidence Act.

(ix) Similarly placed co-accused Ashutosh Singh alias Sunny Singh has already been granted bail by a coordinate Bench of this Court vide order dated 20.09.2017 passed in Criminal Misc. Bail Application No. 35726 of 2017, and as such, the applicant is also entitled to bail on the ground of parity.

(x) The son of the deceased had earlier filed Criminal Misc. Writ Petition No. 18872 of 2017 before this Court seeking investigation of the case by the Central Bureau of Investigation (CBI). The said writ petition was disposed of vide order dated 17.05.2018, directing that the investigation be concluded expeditiously, preferably within a period of eight weeks, and further directing that the investigation be conducted by a competent officer not below the rank of Deputy Superintendent of Police.

(xi) The co-accused MLA Sushil Singh, who was alleged to have hatched the conspiracy, was exonerated by the police after investigation, and the charge sheet was submitted under Sections 147, 148, 149, 302 & 120-B IPC against the present applicant and other co-accused persons.

(xii) The learned Chief Judicial Magistrate, after taking cognizance, committed the case to the Court of Sessions, where the trial commenced as Sessions Trial No. 81 of 2018.

(xiii) After the rejection of bail by the Supreme Court, the son of the deceased Amarnath Chaubey filed SLP (Criminal) No. 6951 of 2018 before the Supreme Court seeking investigation by an independent agency.

(xiv) On 14.10.2020, the Supreme Court constituted a Special Investigation Team (SIT) to investigate the matter.

(xv) The SIT, after conducting a thorough investigation, submitted a closure report in favour of co-accused MLA Sushil Singh. Consequently, the aforesaid SLP was finally disposed of by the Supreme Court vide order dated 23.01.2023, whereby the stay order operating against the other co-accused persons was vacated and certain directions were issued in respect of the said MLA.

(xvi) The informant has concocted a story after a delay of 16 months by alleging that the deceased had contested elections against MLA Sushil Singh and that the latter harboured ill-will against him. However, it is submitted that the deceased had secured third position in the said election, and therefore there was no plausible reason for the said MLA to bear any animosity towards him and get him eliminated.

(xvii) The informant filed a protest petition against the closure report submitted by the SIT, which too came to be dismissed by the learned trial court vide order dated 20.05.2025.

(xviii) Although the prosecution initially cited 36 witnesses, only 21 witnesses have been proposed for examination, out of which only one prosecution witness has been examined so far.

(xix) The applicant has already undergone incarceration of about six years and ten months, and there is no likelihood of early conclusion of the trial. It is also submitted that the applicant is not responsible for the delay in trial.

(xx) With regard to criminal antecedents, it is submitted that the applicant had clear criminal antecedents between 2005 and 2015. Subsequent to this period, only a single case has been registered against him under the U.P. Gangsters Act, which is based solely on the filing of a instant FIR.

(xxi) The applicant has been acquitted in all cases except the alleged five criminal matters, including the present case, which are pending.

(xxii) The earlier bail application of the applicant was rejected by a Coordinate Bench of this Court primarily on the ground of alleged criminal antecedents, though no substantive evidence exists against him in the present case.

(xxiii) The applicant had earlier remained in custody for about 16 months and thereafter surrendered before the trial court. After the rejection of his bail, the applicant continues to remain in custody and the total period of incarceration now stands at about six years and ten months.

(xxiv) It is finally contended that it is a case of persecution of the applicant, as the prosecution has made every endeavour to keep him incarcerated for no fault of his. The applicant has been falsely implicated and made a scapegoat by the police, allegedly to avoid public criticism arising out of the failure to solve a daylight murder case.

(xxv) The malice of the informant is but visible from the fact that he has also filed bail cancellation application against the grant of bail to the applicant under U.P. Gangsters Act.

15. The applicant is languishing in jail since 06.01.2020, and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

16. The custody certificate filed by learned Senior Counsel indicates that the period of incarceration is more than six years and nine months.

ARGUMENTS ON BEHALF OF INFORMANT:

17. The prayer for bail has vehemently been opposed and submitted that the applicant has been specifically identified by the eyewitnesses Guddu Rajbhar and Smt. Renuka Chaubey.

18. The statement of PW-1 recorded before the trial court categorically indicates the involvement of the applicant, and the witness has categorically stated that the applicant committed the murder after taking a contract for the same from co-accused MLA Sushil Singh.

19. The co-accused Nagendra alias Raju Bihari has been identified in a Test Identification Parade conducted in jail by the witness Guddu Rajbhar, which lends support to the prosecution case.

20. It is argued that the accused persons are deliberately delaying the trial by seeking repeated adjournments and conducting cross-examination in a piecemeal manner.

21. It is pointed out that the cross-examination of the informant was undertaken on 01.07.2025 and 11.07.2025 but the same was deferred again and again on the basis of adjournment applications filed on behalf of the accused.

22. The case was adjourned on behalf of informant only on 23.07.2025. The witness was present in court on 08.08.2025, but the case was again deferred to 25.08.2025 on the basis of an adjournment application filed on behalf of the accused.

23. On 25.08.2025, only about three pages of cross-examination were conducted and the matter was adjourned again. On 15.09.2025, none appeared on behalf of the accused persons for cross-examination, despite which the cross was deferred for 08.10.2025.

24. On 06.11.2025, about four pages of cross-examination were conducted and the matter was deferred again for 02.12.2025.

25. It is argued that the counsel for the applicant are not cooperating in trial and two witnesses have already been examined by the trial court.

26. Another aspect is that an application u/s 311 Cr.P.C. was moved by the prosecution for examining Chhabiraj Pandey and the same was opposed by counsels for the applicant. Under their clout, the said application was dismissed by the trial court. The said order was challenged by the informant before this Court by filing an Application u/s 528 BNSS No. 12930 of 2026 and the said application was allowed by a coordinate Bench of this Court vide order dated 7.4.2026.

27. The delay, if any, cannot be attributed to the counsel for the applicant as during the intervening period of three years, the proceedings were stayed by the Supreme Court. The applicant has criminal antecedents and has committed the said offence.

28. Much reliance has been placed upon the judgement of Supreme Court passed in *X vs. State of Rajasthan & Anr.* reported in **2024 INSC 909**, wherein it has been held that once the trial has commenced, it should be allowed to reach to its final conclusion, which may either result in conviction or acquittal of the accused. The bail should not be normally granted to the accused after the charge has been framed. It should also not be granted by looking into the discrepancies here or there in the deposition.

CONCLUSION:

29. This Court had called for a report regarding the status of the trial, and in compliance thereof, a report has been submitted by the concerned Trial Court on 31.03.2026. As per the said report, only one witness has been examined to date. The prosecution has sought two adjournments, while counsel for the accused has sought three adjournments. On two occasions, the matter was adjourned on account of the non-availability of the statement u/s 164 Cr.P.C. and due to network connectivity issues.

30. Granting the bail to the accused in ***Javed Gulam Nabi Shaikh Vs. State of Maharashtra and Another 2024 INSC 645***, the Supreme Court has observed:

"7. Having heard the learned counsel appearing for the parties and having gone through the materials on record, we are inclined to exercise our discretion in favour of the appellant herein keeping in mind the following aspects:

- (i) The appellant is in jail as an under-trial prisoner past four years;*
- (ii) Till this date, the trial court has not been able to even proceed to frame charge; and*
- (iii) As pointed out by the counsel appearing for the State as well as NIA, the prosecution intends to examine not less than eighty witnesses.*

8. Having regard to the aforesaid, we wonder by what period of time, the trial will ultimately conclude. Howsoever serious a crime may be, an accused has a right to speedy trial as enshrined under the Constitution of India.

9. Over a period of time, the trial courts and the High Courts have forgotten a very well settled principle of law that bail is not to be withheld as a punishment.

*10. In the aforesaid context, we may remind the trial courts and the High Courts of what came to be observed by this Court in ***Gudikanti Narasimhulu & Ors. v. Public Prosecutor, High Court*** reported in ***(1978) 1 SCC 240***. We quote:*

"What is often forgotten, and therefore warrants reminder, is the object to keep a person in judicial custody pending trial or disposal of an appeal. Lord Russel, C.J., said [R v. Rose, (1898) 18 Cox]:

"I observe that in this case bail was refused for the prisoner. It cannot be too strongly impressed on the, magistracy of the country that bail is not to be withheld as a punishment, but that the requirements as to bail are merely to secure the attendance of the prisoner at trial."

31. The same principle was reiterated by the Supreme Court in *Gurbaksh Singh Sibba v. State of Punjab* reported in *(1980) 2 SCC 565*; *Hussainara Khatoon v. Home Secy., State of Bihar* *(1980) 1 SCC 81*; *Kadra Pahadiya & Ors. v. State of Bihar* *(1981) 3 SCC 671* and *Abdul*

Rehman Antulay v. R.S. Nayak (1992) 1 SCC 225; *Mohd Muslim @ Hussain v. State (NCT of Delhi)* 2023 INSC 311; *A Convict Prisoner v. State* 1993 Cri LJ 3242; *Union of India v. K.A. Najeeb* (2021) 3 SCC 713; *Indrani Pratim Mukerjea v. CBI*, 2022 SCC OnLine SC 695.

32. In the money laundering case of **V. Senthil Balaji V. The Deputy Director, Directorate of Enforcement 2024 INSC 739**, the accused was incarcerated for more than 15 months as such the Supreme Court declared "*inordinate delay in the conclusion of the trial and the higher threshold for the grant of bail cannot go together*".

33. In **Satender Kumar Antil v. Central Bureau of Investigation** reported in (2022) 10 SCC 51, prolonged incarceration and inordinate delay engaged the attention of the court, which considered the correct approach towards bail, with respect to several enactments, including Section 37 NDPS Act.

34. The Supreme Court in its latest judgement passed in SLP (Crl.) Nos.10455-10456/2025 **Ramnath Mishra @ Ramanath Mishra v. Central Bureau of Investigation** reiterated that issues of personal liberty must be addressed with utmost speed by Courts. The accused had already been incarcerated for more than three and a half years, in the instant and connected matters. Releasing accused on bail due to excessive delays by the High Court in deciding his application also took into account lengthy pre-trial confinement, emphasizing speedy decision-making for matters of personal liberty.

35. Considering the facts and circumstances of the case, the rival submissions advanced by learned counsel for the parties, and the settled law laid down by the Supreme Court, this Court is of the view that the applicant was not named in the FIR; his name surfaced only about one and a half years after the incident; and he has been incarcerated for more than six years and nine months. Further, during the trial, only two witnesses have been examined, indicating the slow pace of the proceedings. The criminal history attributed to the applicant stands

explained, and the majority of cases against him were instituted prior to 2005.

36. In view of the aforesaid, this Court *prima facie* finds it to be a fit case for granting bail to the applicant.

37. Accordingly, the bail application is **allowed**.

38. Let the applicant- **Ajay Singh Alias Ajay Mardah**, be released on bail on furnishing a personal bond and two sureties to the satisfaction of the court concerned, subject to verification of sureties, with the conditions that he shall not tamper with evidence or intimidate witnesses and shall appear before the trial court as required.

39. Breach of any condition shall entail cancellation of bail. The observations herein shall not affect the trial on merits.

(Krishan Pahal,J.)

April 15, 2026

Siddhant