



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO.541 OF 2026
[ARISING OUT OF S.L.P. (CRIMINAL) NO.4713 OF 2025]**

USMAN ALI

...APPELLANT(S)

VERSUS

STATE OF UTTAR PRADESH AND ANOTHER

...RESPONDENT(S)

JUDGMENT

PRASHANT KUMAR MISHRA, J.

- 1.** Leave granted.
- 2.** This Appeal calls in question the order dated 22.1.2025 passed by the High Court of Judicature at Allahabad directing release of respondent No.2/Rinku Bhardwaj @ Prakash Rajbhar on bail who is an accused in First Information Report/Case Crime No.238 of 2018 registered at Police Station – Chopan, District – Sonbhadra under Sections 147, 148, 149, 302, 120B and 34 of the Indian Penal Code, 1860¹ and Section 7 of the Criminal Law (Amendment) Act.
- 3.** *Vide* order dated 19.05.2025, this Court has appointed Shri Abhishek Mohan Goel, learned counsel, as *Amicus Curiae* (Pro Bono) to assist the Court.

¹ For short, “the IPC”

4. We have heard the learned counsel appearing for the parties as well as the learned *Amicus Curiae*.

5. The learned counsel appearing for the appellant argued that respondent No.2 is a dreaded criminal with huge local influence and is involved in the murder of a *panchayat* Chairman in a broad daylight using prohibited automatic weapons which was carried out at the behest of respondent No.2. It is further argued that respondent No.2 hired Kashmir Paswan for the assassination of the deceased victim. Respondent No.2 was absconding after the incident and could be arrested after a joint operation of the Special Task Force, Uttar Pradesh and the Anti-Terror Squad (STF), Kolkata, West Bengal. It is further argued that respondent No.2 has a long criminal history which has been ignored by the High Court while directing his release on bail. It is argued that there is a strong apprehension of threat to life of the appellant/informant. It is further argued that correct facts were not placed before the High Court which has led to incorrect observations in the impugned order and particularly the criminal history and conduct of respondent No.2 have not been considered.

6. According to the learned *Amicus Curiae*, the present is not a case where this Court is considering a prayer for grant of bail, but the prayer is for cancellation of bail. Referring to ***Mahipal vs. Rajesh Kumar alias Polia and Another*², *Dolat Ram and Others vs. State of Haryana*³,**

² (2020) 2 SCC 118

³ (1995) 1 SCC 349

Ram Govind Upadhyay vs. Sudarshan Singh and Others⁴ and Manjit Prakash and Others vs. Shobha Devi and Another⁵, it is argued by the learned *Amicus Curiae* that the contours of cancellation of bail are strict and a bail can only be cancelled in exceptional circumstances where the situation demands passing of such an order. In the present case, the facts are not as such which warrants cancellation of bail. Therefore, according to the learned *Amicus Curiae*, the Appeal deserves to be dismissed.

7. The incident occurred at about 6:00 a.m. on 25.10.2018 when the deceased had gone for his daily exercise to Kasba Preetnagar, Chopan, where he was fatally shot by unknown people. He was taken to the hospital where he was declared dead. It is the case of the prosecution that while on his way to the hospital, the deceased made a statement that he was attacked by one Rakesh Jaiswal and one Ravi Jalan in connivance with many others. An FIR was registered against Rakesh Jaiswal, Ravi Jalan and four unknown attackers. The alleged assailant – Kashmir Paswan was arrested by Police and on his disclosure statement, respondent No.2 was subsequently arrested on 27.12.2018. It is stated that witnesses – Suresh Kumar Tau and Vineet Sharma, also stated in their case diary statements that the deceased, before his death, made a statement that respondent No.2 is also involved in the incident.

⁴ (2002) 3 SCC 598

⁵ (2009) 13 SCC 785

8. It is borne out from the record that co-accused - Dharamendra Kumar and Arvind Kesari, have already been released on bail by the High Court.

9. In the impugned order, it is recorded that the prosecution proposes to examine 55 witnesses. However, only 13 witnesses including material witnesses have been examined. The High Court has noted the arguments raised on behalf of respondent No.2 that considering the congruency in role, respondent No.2 sought parity with the relief granted to co-accused Ravi Kumar Gupta who had been granted bail by the High Court on 16.07.2024. The High Court has also noted the arguments of respondent No.2 explaining his criminal history.

10. Be it noted that respondent No.2 was not named in the FIR, but was made an accused on the basis of the oral dying declaration of the deceased and disclosure statement of the co-accused and that he has suffered incarceration for a period of six and a half years in jail when the impugned order was passed by the High Court. It is also to be noted that co-accused in the same FIR has been granted bail by the High Court.

11. In ***Mahipal*** (supra), this Court held thus:

“14. The provision for an accused to be released on bail touches upon the liberty of an individual. It is for this reason that this Court does not ordinarily interfere with an order of the High Court granting bail. However, where the discretion of the High Court to grant bail has been exercised without the due application of mind or in contravention of the directions of this Court, such an order granting bail is liable to be set aside. The Court is required to factor, amongst other things, a *prima facie* view that the accused had committed the offence, the nature and gravity of the offence and the likelihood of the accused obstructing the proceedings of the trial in any manner or evading the course of justice. The provision for being released on bail draws an appropriate balance between public interest in the administration of justice and the protection of

individual liberty pending adjudication of the case. However, the grant of bail is to be secured within the bounds of the law and in compliance with the conditions laid down by this Court. It is for this reason that a court must balance numerous factors that guide the exercise of the discretionary power to grant bail on a case-by-case basis. Inherent in this determination is whether, on an analysis of the record, it appears that there is a *prima facie* or reasonable cause to believe that the accused had committed the crime. It is not relevant at this stage for the court to examine in detail the evidence on record to come to a conclusive finding.”

In **Dolat Ram** (supra), this Court opined thus:

“**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.”

12. Considering the matter on the anvil of law laid down by this Court in **Mahipal** (supra) and **Dolat Ram** (supra), it is significant to mention that respondent No.2 was not named in the FIR and was arrested subsequently on the basis of the oral dying declaration of the deceased and disclosure statement of the co-accused. He has suffered incarceration for about six and a half years when the impugned order was passed by the High Court. The High Court passed the impugned order on

22.01.2025 i.e., more than a year ago and there is no allegation that, during this period, respondent No.2 has misused the liberty granted to him. Thus, considering long pre-trial incarceration of respondent No.2 and the evidence against him, this Court is of the considered opinion that the present is not a case where the discretion of grant of bail exercised by the High Court in favour of respondent No.2 should be interfered. Therefore, the Appeal deserves to be dismissed and the same is hereby dismissed.

.....J.
(SANJAY KAROL)

.....J.
(PRASHANT KUMAR MISHRA)

NEW DELHI;
JANUARY 30, 2026.