2025 INSC 979

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 3528 - 3534 OF 2025
(Arising from SLP (Crl.) Nos. 516 – 522 of 2025)

STATE OF KARNATAKA ... APPELLANT

VERSUS

SRI DARSHAN ETC. ... RESPONDENTS

J U D G M E N T

R. MAHADEVAN, J.

Leave granted.

2. The appellant herein is the State of Karnataka, which has preferred the present appeals challenging the common order dated 13.12.2024 passed by the High Court of Karnataka at Bengaluru[1] in Criminal Petition No.11096 of 2024 and six connected matters, whereby the respondents / Accused Nos. 1, 2, 6, 7, 11, 12 and 14, were enlarged on bail in connection with Crime No. 250 of 2024 registered at Kamakshipalya Police Station, Bengaluru City, for the offences

[1] Hereinafter referred to as "the High Court"

punishable under Sections 120B, 364, 384, 355, 302, 201, 143, 147, 148, 149 and 34 of the Indian Penal Code, 1860[2].

3. Initially, the case was registered against unknown persons under sections 302 and 201 IPC, on the basis of a complaint dated 09.06.2024 lodged by one Keval Ram Dorji, Security Officer of Satva Anugraha Apartment, Sumanahalli, Bengaluru, after the dead body of an unknown male aged approximately 30 to 35 years bearing visible injuries, was discovered by the roadside near the drainage in front of the said Apartment.

4. During the course of investigation, Accused Nos. 1, 2, 11, 12, and 14 were arrested on 11.06.2024, while Accused Nos. 6 and 7 were arrested on 14.06.2024. All the arrested accused were remanded to judicial custody. Upon completion of investigation, a total of 17 persons were implicated as accused, and a charge sheet along with two supplementary charge sheets was filed before the jurisdictional court.

5. The specific charges framed against the present respondents are summarised below:

[2] For short, "IPC"

Accused No	Name	Sections under IPC
2	DARSHAN @ D.BOSS, ACTOR	302, 34, 120B, 355, 143, 147, 148, 149, 201, 364
11	NAGARAJU R.	149, 201, 302, 34, 120B, 143, 147, 148, 355
7	ANU KUMAR @ ANU, DRIVER	149, 201, 364, 384, 302, 34, 120B, 143,147, 148
12	LAKSHMAN M. DRIVER	149, 201, 302, 34, 120B, 143, 147, 148
1	PAVITRA GOWDA	120B, 355, 143, 147, 148, 149, 201, 364, 302, 34
6	JAGADEESH @ JAGGA, DRIVER	149, 201, 364, 384, 302, 34, 120B, 143, 147, 148
14	PRADOOSH S. RAO @ PRADOOSH	120B, 143, 147, 148, 149, 201, 302, 34

6. In a nutshell, the facts of the case as alleged by the prosecution are as follows:

6.1. A1 was allegedly in a relationship with A2. The deceased, Renukaswamy, a resident of Chitradurga, is said to have sent obscene messages from his Instagram account to the account of A1, since February 2024. Aggrieved by this, A1, A2, A3 (who was working in the house of A1 and A2), and A10 (a friend of

A2) were allegedly conspired, through telephonic communication, to trace the deceased, kidnap him, and murder him.

6.2. As part of this conspiracy, A1 reportedly initiated contact with the deceased via Instagram on 03.06.2024, requesting his phone number. In response, the deceased requested her phone number. Acting on her intent to gather information about the deceased and in furtherance of the plan, A1, portraying it as her own number, sent the mobile number 9535289797 (which actually belonged to A3) to the deceased via Instagram.

6.3. Subsequently, on 05.06.2024 at around 9.00 a.m., the deceased called the mobile number of A3, believing it, belong to A1. Through continued WhatsApp communication, he shared personal information including his location (Chitradurga), workplace (Apollo Pharmacy), and photograph.

6.4. A3 allegedly shared this information with A1, A2 and A10, and the conspiracy was expanded to include fan associates of A2. A2, through his associates including A4, instructed them to abduct the deceased, and bring him to them. Thereafter, they planned to assault and kill him. Subsequently, A3 called A4 and instructed him to find the deceased, abduct him, and bring him to A2's house. A4 conveyed this plan to his friends and A2's fans from Chitradurga – A6 and A7.

6.5. On 07.06.2024, following instructions from A1, A2, and A10, A3 contacted the deceased via WhatsApp and learned that he was near the court. A3

then informed A4, who, along with A6 and A7, went to the court area to search for the deceased. However, they were unsuccessful in locating him.

6.6. On 08.06.2024, A6 traced the residence of the deceased and called A7 and A8 to the location. They waited, preparing to abduct him. After some time, the deceased left his house on a two- wheeler. He was followed by A4, A6, and A7 in A6's auto rickshaw (Reg. No. KA 16 AA 3421). At around 10.00 a.m., they abducted him near Balaji Bar, Chitradurga, and took him to an open area near Bharat Petrol Bunk on the highway outskirts. He was then transferred to an Etios Car (Reg No. KA-11-B-7939) owned by A8, and brought to a shed operated by Intact Auto Packers India Pvt. Ltd., RR Nagar, allegedly under A13's control.

6.7. Thereafter, the accused assembled at Stony Brook restaurant to discuss further steps. Meanwhile, A3 arrived at the shed and began beating the deceased with a stick. A5 also struck him and threw him to the ground, and A4, A6 and A7 assaulted him with branches. A9 struck the deceased on the head and used an electric shock torch (megger) on his chest, back, arms, and legs.

6.8. Around 4.45 p.m., A2 along with A1, A3, A10, A11, and A14, arrived at the shed in two Scorpio vehicles. The deceased was further assaulted by the accused, forming an unlawful assembly. A2 allegedly punched, kicked, and beat the deceased with a tree branch. He was also attacked with a nylon rope and wooden branches. A5 allegedly caused the deceased's head to hit the bumper of

an Ashok Leyland Dost Vehicle, causing head bleeding. A1 slapped him with her chappals and forced him to touch her feet, while inciting the others to kill him.

6.9. A11 allegedly struck him repeatedly with his slipper and nylon rope. A12 made further lethal attacks with his fists. After A1 left, A13 arrived at the shed. A2 told A14 to check the deceased's mobile phone, which showed that he had sent obscene messages to several women. A2 then allegedly punched him in the stomach, pressed his chest with his shoe, and kicked his left ear and head, causing bleeding.

6.10. Further, A2 instructed A3 to remove the deceased's pants and then kicked him in his private parts with his shoe. A3, A4, A5, A6, A7, A10, A11, A12 and A14, allegedly continued to assault the deceased with hands, wooden sticks, batons, nylon ropes, and other objects, causing severe injuries to his back, arms, legs, and chest. The deceased succumbed to the injuries on the spot. A4 and A5 then moved the body to the security room inside the shed.

6.11. Thereafter, A2 allegedly instructed the others to dispose of the body discreetly, promising to bear the expenses. A2 and A10 then left in A2's Wrangler Jeep. Later, A10, A11, A12 and A14 returned to the shed and, following A2's instructions, discussed fabricating a false surrender narrative. A2 is also alleged to have paid Rs.30 lakhs to A14, Rs.10 lakhs to A10, and Rs.5 lakhs to A11 to suppress evidence and avoid implicating himself and A1. A15 and A17 allegedly agreed to surrender in exchange of money.

6.12. In the early hours of 09.06.2024, A10, A11, A12, A13, and A14 with the help of A4, A6, A7, A8, A15 and A17, transported the deceased's body in a Scorpio vehicle brought by A11 and dumped it near a stormwater drain in front of Satva Anugraha Apartment, Sumanahalli, Bengaluru, with the intent to destroy evidence and mislead the investigation. Thereafter, A4, A15, A16 and A17 surrendered at Kamakshipalya Police Station.

7. According to the postmortem report, the deceased sustained 39 injuries, of which, 13 were bleeding injuries and 17 ribs were fractured.

8. The respondents / accused had earlier approached the LVI Additional City Civil and Sessions Judge at Bengaluru (CCH-57) seeking bail by filing Criminal Miscellaneous Petition Nos. 8580/2024, 8770/2024, 9126/2024, 8812/2024, 8799/2024, 8798/2024 and 9120/2024, which were all dismissed.

9. Upon rejection of their bail petitions, the respondents / accused approached the High Court by filing Criminal Petition Nos. 11096/2024, 11176/2024, 11180/2024, 11212/2024, 11282/2024, 11735/2024, and 12912/2024 under Section 439 of the Criminal Procedure Code, 1973[3]. A2 also sought interim bail

[3] For short, "Cr.P.C"

on medical grounds, which was granted on 15.10.2024 for six weeks based on a medical report submitted by the prison authorities.

10. Ultimately, the High Court allowed the criminal petitions and enlarged the respondents / accused on bail, by the impugned order dated 13.12.2024. Aggrieved by the said order, the State has preferred the present appeals.

11. Mr. Sidharth Luthra, learned senior counsel for the appellant – State, at the outset, submitted that the impugned order dated 13.12.2024 passed by the High court is *ex facie* unsustainable as it is contrary to the material evidence on record and suffers from serious non-application of mind to the facts and law involved.

11.1. Insofar as the grant of bail to respondent (A2) on medical grounds is concerned, the learned senior counsel made the following submissions:

(i) The medical opinion dated 24.10.2024 did not disclose the type of surgery, the prospective date of the surgery, its nature, or the post-operative care required. Despite the vagueness and absence of any indication of urgency, the High Court proceeded to enlarge the first respondent on medical bail for a period of six weeks, without even constituting a medical board to assess the genuineness of the claim. This is contrary to the law laid down in ***Sant Shri Asaram Bapu v. State***

of Rajasthan[4] wherein it was held that expert medical opinion is essential before grant of medical bail.

(ii) Subsequently, it was brought to the attention of the High Court that Respondent No. 1 had not undergone any surgery or substantial treatment even at the end of the six-week period. The Court failed to consider this fact and instead observed that there was no reason to disbelieve the version of the accused. The contradictory conduct of the respondent is apparent from the fact that although he claimed surgery was scheduled on 11.12.2024, it was not undertaken on the specious ground that his blood pressure was not stable – a condition that can ordinarily be managed with medication if the surgery were truly urgent.

(iii) The conduct of Respondent No. 1 clearly indicates the lack of any immediate medical necessity. The continued delay and vague justifications point to the falsity of the medical claim. This respondent approached the court with unclean hands, having misrepresented facts regarding the urgency of surgery in order to obtain bail. However, the High Court failed to take into consideration the same.

(iv) Such approach of the High Court is contrary to the settled principle of law that any party who misleads the court is disentitled to discretionary relief, such as

[4] (2015) SCC Online SC 1903

bail. Therefore, the High Court ought to have rejected his criminal petition, instead of granting regular bail to the respondent / A2.

(v) Moreover, the High Court's observation that the trial would be prolonged due to the long list of charge-sheet witnesses is premature and speculative, and cannot by itself be a ground for granting bail in a case involving grave offence punishable under Sections 120B, 302, 364, 384, 201 and other serious provisions of the IPC.

(vi) In light of the foregoing submissions, it was urged that the impugned order of the High Court enlarging the first respondent on medical grounds, is liable to be set aside.

11.2. Continuing further, the learned senior counsel raised the following contentions, assailing the common order passed by the High Court:

(i) The High Court erred in appreciating key legal provisions and crucial material evidence on record. It failed to properly analyse the offence of abduction under Sections 362 and 364 IPC. The act of forcibly confining the deceased in a vehicle and transporting him against his will to Bengaluru clearly falls within the ambit of Section 364. Moreover, the prosecution case demonstrates deceitful means used to lure the deceased from Chitradurga to Bengaluru, which squarely attracts the offence of abduction under Section 362. The learned Judge overlooked his own prior judgment in Criminal Revision Petition No. 56 of 2023

wherein it was categorically held that forcibly keeping a person inside a vehicle by itself satisfies the ingredients of Section 364 IPC. The High Court's omission to even consider Section 362 is a serious legal lapse.

(ii) The High Court further erred in holding that circumstantial evidence cannot be evaluated at the stage of considering bail. Such a proposition is contrary to settled legal principles laid down by this Court, which mandates that strong *prima facie* material, particularly in grave offences like murder, must be duly weighed even at the bail stage. In the present case, the brutality of the act stands out starkly: the postmortem report records 39 external injuries, 17 fractured ribs, testicular trauma, and electric burns consistent with torture by shock. The nature and multiplicity of injuries sustained by the deceased are clearly indicative of an intent to murder.

(iii) The High Court also summarily disregarded vital forensic and scientific evidence without any cogent explanation. DNA of the deceased was found on the shoe worn by Respondent No. 1(A2) recovered pursuant to a Section 27 disclosure made in the presence of two independent witnesses. The serological and DNA reports further show the deceased's blood on various incriminating items, including a nylon rope, lathi, the boot mat of the while Scorpio vehicle (owned by A11) and the bumper of an Ashok Leyland vehicle parked at the scene. Blood was also found on clothing of multiple accused persons. The mud/soil found on some of the accused's shoes matched the soil collected from the crime

scene. These are objective and scientific indicators that corroborate the prosecution version and cannot be brushed aside at this preliminary stage.

(iv) The digital and electronic evidence on record further corroborates the prosecution case. CCTV footage from toll booths and other locations establishes the movement of the accused and the vehicles used for transporting the deceased. A photograph retrieved from the phone of CW.91, a key eyewitness, shows A2 and A6 posing near the deceased post-assault. Call Data Records (CDRs), WhatsApp messages, and mobile location tracking clearly establish planning, the act of abduction, the conduct during the assault, and post-offence cover-up efforts. These digital records are not isolated data points but are interlocking pieces of a broader evidentiary framework pointing toward a criminal conspiracy.

(v) The prosecution relies heavily on the testimonies of two key eyewitnesses – CW. 76 (Kiran) and CW. 91 (Puneet) – who were present at the scene of offence and whose presence is independently corroborated. Both were employed at the crime location, a private parking shed, and were well acquainted with the accused persons. Their accounts, recorded under Sections 161 and 164 Cr.P.C, clearly point out the overt acts of assault, torture, and subsequent disposal of the body. Delay in recording their statements has been credibly explained through verified travel records and other documents. These testimonies are consistent and cogent, yet the High Court has unjustifiably discarded them.

(vi) In Addition to these two direct witnesses, other shed workers – CW.69, CW.77, CW.78 and CW.79 – have confirmed the entry and exit of the accused and their vehicles. Given that these workers operated in shifts across the 5 – 6' acre crime scene, their presence at different locations and their ability to testify only to movement and not the assault is understandable. The High Court erred in discounting their statements on this ground.

(vii) The prosecution also strongly contests the High Court's findings regarding non-compliance with Article 22(1) of the Constitution and Section 50 Cr.P.C. The respondents were informed of the grounds of arrest orally at the time of arrest and served written grounds immediately thereafter. This process is in line with this Court's rulings in ***Ram Kishor Arora v. Directorate of Enforcement***[5] and ***Prabir Purkayastha v. State (NCT of Delhi)***[6]. The arrest memos, checklists, and intimation documents were duly submitted before the Magistrate and counter-signed by persons acquainted with the accused. The requirement under Section 50A Cr.P.C to satisfy the Magistrate about arrest intimation was duly fulfilled. The High Court's insistence that the actual grounds of arrest must be filed in court, finds no support in law.

(viii) In fact, in Criminal Petition No. 9537/2024, the same learned Judge had held that if grounds of arrest are orally conveyed at the time of arrest and written

[5] (2024) 7 SCC 599
[6] (2024) 8 SCC 254

communication is furnished promptly thereafter, the requirement under Article 22(1) stands satisfied. A diametrically opposite view in the present case amounts to judicial inconsistency. Furthermore, the High Court's finding that the grounds served on all accused were identical is untenable. At the time of arrest, the investigation was ongoing and roles were emerging. The grounds of arrest served on the accused were based on material then available and included the basic facts necessary to justify arrest.

(ix) The continued liberty of the accused, particularly Respondent No. 1 (A2) poses a serious threat to the fairness of the trial. A2 is a public figure with a substantial fan base and influence across the State. After being granted medical bail, he was seen socializing with CW.80 (a prosecution witness) and attending public events, despite claiming serious back pain before the court. Such conduct reflects disregard for judicial process and strengthens the apprehension of witness tampering and coercion.

(x) This is not a case of sudden provocation or a spontaneous act of violence. It is a premediated crime motivated by a perceived grievance – that the deceased had allegedly sent obscene messages to A1. A1 and A2 then conspired to eliminate the deceased, using a wide network of associates (A3 to A17). The deceased was abducted under false pretenses, forcibly transported to Bengaluru, confined at a shed, and subjected to brutal torture before being killed. The recovery of torture devices (shock torch, lathi, nylon rope) and photographic

evidence of the crime stored in phones seized from the accused underscore the cold-blooded nature of the crime.

(xi) The High Court has also erred in granting bail on the ground that the trial may be delayed due to the listing of 262 witnesses (as per the charge sheet and first supplementary charge sheet). The case had just been committed to the Sessions Court and had not even reached the stage of charge framing. The High court's assumption of delay at this early stage is speculative and unwarranted. Moreover, in comparable murder cases, the same learned Judge has denied bail when presented with similar prima facie material. This deviation, without sufficient explanation, reveals a lack of consistency in judicial approach.

(xii) In conclusion, the cumulative weight of the evidence – eyewitness testimony, forensic reports, electronic data, and confessions under Section 27 – establishes a strong *prima facie* case against the respondents. The grant of bail in a heinous offence such as murder, particularly when supported by such overwhelming material, undermines the sanctity of judicial process and erodes public confidence in the administration of justice.

(xiii) Therefore, the impugned order granting bail to the respondents, be set aside and the appeals be allowed.

12. On behalf of the respondents / accused, oral and written submissions were made by their respective learned counsel, and the consolidated submissions are as follows:

(i) The FIR was initially registered against unknown persons, and during the investigation, Accused Nos. 1, 2, 11, 12 and 14 were arrested on 11.06.2024, while A6 and A7 were arrested on 14.06.2024. Although, the respondents were produced before the Magistrate within 24 hours of arrest, they were neither informed in writing of the grounds of arrest nor provided timely access to legal counsel. No copy of the remand application was furnished, thereby violating procedural safeguards under the Criminal Procedure Code, 1973, and their fundamental rights under Article 22(1) of the Constitution. Additionally, the arrest and detention process lacked proper documentation such as the arrest memo, intimation of rights, and a statutory checklist. Even the checklist filed by the prosecution is identical and cyclostyled for all accused. The attesting witness's statement (CW. 76) concerning the arrest was recorded later and is silent on the service of written grounds of arrest. Mere oral intimation is insufficient. General averments in the remand application cannot substitute valid reasons for arrest.

(ii) The prosecution's evidence is fraught with material inconsistencies, procedural irregularities, and lacks probative value sufficient to sustain

allegations. These issues will be demonstrated during trial through effective cross-examination of prosecution witnesses and forensic experts.

(iii) The spontaneity and promptness of witness statements are critical to credibility. However, one primary eyewitness, CW. 91, gave his Section 161 Cr.P.C statement, 12 days after the incident (incident on 08.06.2024; statement recorded on 20.06.2024). Such inordinate and unexplained delay undermines reliability and suggests afterthought. Other eyewitness statement is similarly plagued by contradictions and delays.

(iv) The prosecution's claim of bloodstains on clothes recovered from A2 is contradicted by contemporaneous evidence. The clothes were recovered three days after the incident, during which they were washed and found hanging on a terrace. The panchnama at seizure time makes no mention of bloodstains, rendering the forensic claim suspect. Similar inconsistencies extend to recoveries from other co-accused.

(v) CW. 76 and CW. 91's statements, recorded belatedly raise serious doubts about their reliability. No explanation is provided for their initial silence. This aligns with this Court's view in ***Ramesh Harijan v. State of U.P.*** [7] that unexplained delay affects probative value. The High Court's cautious approach to such evidence is justified.

[7] (2012) 5 SCC 777

(vi) Statements of CW. 7 and CW. 8 (parents of the deceased) and CW. 122 contradict the prosecutions' abduction claim, indicating the deceased voluntarily accompanied co-accused to a location and even paid the bill himself. The reliance on CCTV footage and photographs to allege abduction remains a matter for trial.

(vii) There is no direct evidence linking the accused to weapons allegedly used for assault. Statements implicating A2 were recorded only after delay, despite witnesses being available earlier. Further, statements of CW. 69, CW. 77, CW. 78, and CW. 79 do not implicate A2 in the homicidal death of Renukaswamy.

(viii) The autopsy report dated 11.06.2024 does not specify the probable time of death of the deceased. The prosecution's reliance on a sketch prepared by CW. 195 (Head Constable Surendera) is disputed, as it was a Google map printout with pasted photographs.

(ix) The phone call records between A2 and other accused relate to personal staff and friends; no adverse inference can be drawn. CCTV footage only shows A2's entry and exit from his residence and hotel room during a scheduled film shoot.

(x) The prosecution does not allege that Respondent No. 5 (A1) was involved in any manner in the abduction or assault of the deceased, nor is there any telephone link between this respondent and the persons alleged to have committed the offences of kidnapping or murder. The only act attributed to this accused is

that she slapped the deceased with a chappal. Here mere presence at the scene of occurrence, in the absence of any further overt act, cannot attract the rigour of Section 302 IPC.

(xi) Statements regarding assaults by co-accused are uncorroborated by independent or contemporaneous evidence. Allegations of destruction of evidence relate to bailable offences.

(xii) Conflicting statements regarding A12's presence and involvement raise credibility issues. CW. 76 does not mention A12 at the crime scene, while CW.91 alleges assault by A12.

(xiii) Respondent No. 7 (A14) asserts false implication. Allegations that A14 received Rs. 30 lakhs from A2 and conspired to conceal the crime are based solely on co-accused statements. His role is limited to offence under Section 201 IPC (causing disappearance of evidence). No overt acts or substantive allegations are attributable to him.

(xiv) The charge sheet and statements do not establish any conspiracy or involvement of Accused Nos. 6 and 7 in the murder. Their role was limited to transporting the deceased, unaware of any plan to assault or eliminate him.

(xv) Overall, the FIR, chargesheet, and statements fail to establish a *prima facie* case of direct involvement by the respondents. Allegations are omnibus and do not specify overt acts attributable to each accused. No weapons or bloodstained

clothing linked to respondents have been recovered. Serological and DNA reports are inconclusive. As held in ***Mahipal v. Rajesh Kumar***[8], seriousness of offence alone does not justify bail cancellation unless the accused's role is clearly established.

(xvi) The law on cancellation of bail is well settled: interference is warranted only if there are supervening circumstances such as (i)misuse of liberty by the accused (ii)attempt to influence witnesses or tamper with evidence, or (iii)the order granting bail is perverse or ignores material facts. Mere disagreement with the High Court's reasoning is insufficient. [See: ***Dolat Ram v. State of Haryana***[9]].

(xvii) The respondents have not misused their liberty since release. They have cooperated with the investigation and have not attempted to influence witnesses. Allegations of presence at public events or associations do not amount to trial interference.

(xviii) The respondents are entitled to constitutional protections under Article 21. Celebrity status does not warrant different bail standards. Media scrutiny and public outrage cannot replace legal evidence in judicial proceedings.

(xix) Despite the charge sheet being filed and appeal pending since January 2025, no charges have been framed and trial has not commenced. Prolonged pre-

[8] (2020) 2 SCC 118
[9] (1995) 1 SCC 349

trial incarceration without meaningful progress violates constitutional principles against punishment before conviction. There is no apprehension of evidence tampering or witness influence.

(xx) In light of the above, the present appeals are misconceived, untenable in law, and liable to be dismissed at the threshold. The High Court's order dated 13.12.2024 granting regular bail to the respondents after due consideration of facts and binding precedents, warrants no interference by this Court.

13. We have given our thoughtful consideration to the submissions made by the parties and carefully perused the materials placed before us.

14. On 24.01.2025, when the present matters were taken up for consideration, this Court clarified that if any other co-accused were to apply for bail, the Court concerned shall not place reliance on the impugned order. Any such bail application must be decided independently, on its own merits.

15. The statutory framework governing cancellation of bail is well-settled. Section 439(2) of the Criminal Procedure Code, 1973 empowers the High Court or the Court of Sessions to direct the re-arrest of an accused who has been released on bail, if such direction is deemed "necessary". Similarly, Section 437 (5) enables a Magistrate to cancel bail granted under Section 437(1) or (2). These

provisions underscore the legislative intent that the power to grant bail is not absolute but is always subject to judicial reconsideration in light of emerging facts or legal infirmities in the original order.

16. It is equally well established that the considerations for grant of bail and for its cancellation are not identical. While the grant of bail involves a preventive evaluation of the likelihood of misuse of liberty, the cancellation of bail entails a review of the prior decision – either on account of supervening circumstances or because the original order was legally flawed. As laid down in ***State (Delhi Administration) v. Sanjay Gandhi***[10], "*Rejection of bail when bail is applied for, is one thing; cancellation of bail already granted is quite another*". This principle reflects a recognition of the sanctity of liberty once granted, and the requirement of compelling justification for its withdrawal.

17. However, it is equally well recognized that bail granted without due application of mind to relevant factors – such as the gravity of the offence, the strength of the evidence, or the conduct and antecedents of the accused – may be cancelled. Even in the absence of subsequent misconduct, a bail order that is perverse, unjustified, or legally untenable is vulnerable to interference. In ***Dolat Ram v State of Haryana*** (supra), this Court held that "*where a bail order is*

[10] (1978) 2 SCC 411

passed in disregard of material facts or in an arbitrary manner, it can be set aside".

18. Let us now examine the jurisprudence on when bail may be annulled or cancelled. Two distinct categories have emerged in this regard:

(A) Annulment of Bail due to legal infirmity in the order; and

(B) Cancellation of Bail, i.e., revocation of bail due to post-grant misconduct or supervening circumstances.

(A) <u>Annulment of bail orders</u>

18.1. This refers to the appellate or revisional power to set aside a bail order that is perverse, unjustified, or passed in violation of settled legal principles. It is concerned with defects existing at the time the bail was granted, without reference to subsequent conduct.

18.2. In ***Prahlad Singh Bhati v. NCT of Delhi***[11], this court laid down guiding principles:

> *"(a) While granting bail the court has to keep in mind not only the nature of the accusations,* ***but the severity of the punishment, if the accusation entails conviction and the nature of evidence in support of the accusations.***
>
> *(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.*

[11] (2001) 4 SCC 280

(c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the court in support of the charge.

(d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

18.3. In ***Puran v. Rambilas and another***[12], it was held that a bail order can be set aside even in the absence of post-bail misconduct if it is found to be unjustified, illegal, or perverse.

18.4. Similarly, in ***Dr. Narendra K. Amin v. State of Gujarat and another***[13], a three-Judge Bench held that consideration of irrelevant materials renders the bail order vulnerable and liable to be set aside.

18.5. In ***Prasanta Kumar Sarkar v. Ashis Chatterjee***[14], this Court held that where the High Court grants bail mechanically and without application of mind to material factors such as the gravity of the offence or antecedents of the accused, such an order must be set aside.

18.6. In ***Prakash Kadam and others v. Ramprasad Viswanath Gupta and another***[15], this Court distinguished between cancellation of bail by the same court and annulment by an appellate / revisional court. It observed:

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[12] (2001) 6 SCC 338
[13] 2008 (6) SCALE 415
[14] (2010) 14 SCC 496
[15] (2011) 6 SCC 189

> *"18. In considering whether to cancel the bail the court has also to consider the gravity and nature of the offence, prima facie case against the accused, the position and standing of the accused, etc. If there are very serious allegations against the accused his bail may be cancelled even if he has not misused the bail granted to him.* ***Moreover, the above principle applies when the same court which granted bail is approached for cancelling the bail. It will not apply when the order granting bail is appealed against before an appellate/Revisional Court.***
>
> *19….. There are several other factors also which may be seen while deciding to cancel the bail."*

18.7. In ***Neeru Yadav v. State of UP***[16], this court annulled a bail order where the High Court had ignored the criminal antecedents of the accused and relied mechanically on parity. It held that consideration of irrelevant factors and omission of relevant considerations renders the order perverse. As the court noted:

> *"15. …. It is clear as a cloudless sky that the High Court has totally ignored the criminal antecedents of the accused. What has weighed with the High Court is the doctrine of parity. A history-sheeter involved in the nature of crimes which we have reproduced hereinabove, are not minor offences so that he is not to be retained in custody, but the crimes are of heinous nature and such crimes, by no stretch of imagination, can be regarded as jejune. Such cases do create a thunder and lightning having the effect potentiality of torrential rain in an analytical mind.* ***The law expects the judiciary to be alert while admitting these kind of accused persons to be at large and, therefore, the emphasis is on exercise of discretion judiciously and not in a whimsical manner."***

It further clarified:

> *"18. Before parting with the case, we may repeat with profit that it is not an appeal for cancellation of bail as the cancellation is not sought because of supervening circumstances. The annulment of the order passed by the High Court is sought as many relevant factors have not been taken into consideration which*

[16] (2014) 16 SCC 508

includes the criminal antecedents of the accused and that makes the order a deviant one. Therefore, the inevitable result is the lancination of the impugned order."

18.8. In ***Anil Kumar Yadav v. State (NCT of Delhi)***[17], this Court reiterated that while no exhaustive list can be laid down, courts must always consider the totality of circumstances, including the seriousness of the offence, prima facie evidence, and potential for interference with the trial.

18.9. In ***State of Kerala v. Mahesh***[18]**,** it was observed that even under Article 136, where interference with bail orders is rare, this Court will exercise its powers if the bail order is found to be lacking application of mind or based on irrelevant considerations.

(B) Cancellation of bail

18.10. As per Halsbury's Laws of England, the grant of bail does not set the accused at liberty in the absolute sense but merely shifts custody from the State to the sureties. Consequently, cancellation of bail entails an assessment of whether the accused has abused the liberty so conferred.

[17] (2018) 12 SCC 129
[18] AIR 2021 SC 2071

18.11. In ***Dolat Ram v. State of Haryana*** (supra), this Court delineated broad, though not exhaustive, grounds justifying cancellation of bail, including:

- Interference or attempt to interfere with the due course of justice;
- Evasion of justice;
- Abuse of the concession of bail;
- Likelihood of the accused fleeing from justice.

18.12. In ***Abdul Basit v. Abdul Kadir Choudhary***[19], this Court elaborated the circumstances in which bail granted under Section 439(2) Cr.P.C. may be cancelled, including where the accused:

- engages in similar criminal activity post-bail;
- interferes with or obstructs the investigation;
- tampers with evidence or influences witnesses;
- intimidates or threatens witnesses;
- attempts to abscond or evade judicial process;
- becomes unavailable or goes underground;
- violates the conditions imposed or evades the control of sureties.

18.13. In ***Mahipal v. Rajesh Kumar*** (supra), Justice D.Y. Chandrachud explained:

> *"An appellate court is empowered to set aside a bail order if it is found to be based on a misapplication of legal principles or where relevant considerations have been ignored. On the other hand, cancellation of bail typically arises from post-bail conduct or supervening circumstances."*

[19] (2014) 10 SCC 754

18.14. Finally, in ***Deepak Yadav v. State of U.P. and another***[20] , this Court reaffirmed that bail already granted should not be cancelled in a routine or mechanical manner. Only cogent and overwhelming circumstances, which threaten the fairness of the trial or the interest of justice, would warrant such interference.

18.15. Thus, it is clear that while cancellation of bail is a serious matter involving deprivation of personal liberty, the law does permit annulment of a bail order that is unjustified, legally untenable, or passed without due regard to material considerations. The distinction between annulment of bail orders due to perversity and cancellation for post-bail misconduct must be clearly understood and applied, ensuring a careful, calibrated, and constitutionally sound approach to the administration of criminal justice.

19. At this juncture, it is apposite to refer to the decision of this Bench in ***Pinki v. State of Uttar Pradesh and another***[21], wherein, the bail granted to the accused therein was cancelled, after a detailed consideration of the facts and the gravity of the offence, namely, child trafficking as well as the legal principles. The Court underscored that while personal liberty is a cherished constitutional value, it is not absolute. Liberty must yield where it poses a threat to the collective interest

[20] Criminal Appeal No. 861 of 2022 (@ SLP (Crl.) No. 9655 of 2021) dated 20.05.2022
[21] 2025 INSC 482

of society. No individual can claim a liberty that endangers the life or liberty of others, as the rational collective cannot tolerate anti-social or anti-collective conduct. Emphasizing that bail jurisprudence is inherently fact-specific, the Court reiterated that each bail application must be decided on its own merits, in light of the well settled on its own merits, in light of the well-settled parameters governing grant or denial of bail. The following paragraphs from the judgment are particularly relevant in this context:

> ***"i. <u>Broad Principles for Grant of Bail</u>.***
> *53. In Gudikanti Narasimhulu and Others v. Public Prosecutor, High Court of Andhra Pradesh reported in (1978) 1 SCC 240, Krishna Iyer, J., while elaborating on the content of Article 21 of the Constitution of India in the context of personal liberty of a person under trial, has laid down the key factors that should be considered while granting bail, which are extracted as under: -*
>
> *"7. It is thus obvious that the nature of the charge is the vital factor and the nature of the evidence also is pertinent. The punishment to which the party may be liable, if convicted or conviction is confirmed, also bears upon the issue.*
>
> *8. Another relevant factor is as to whether the course of justice would be thwarted by him who seeks the benignant jurisdiction of the Court to be freed for the time being [Patrick Devlin, The Criminal Prosecution in England (Oxford University Press, London 1960) p. 75 — Modern Law Review, Vol. 81, Jan. 1968, p. 54.]*
>
> *9. Thus the legal principles and practice validate the Court considering the likelihood of the applicant interfering with witnesses for the prosecution or otherwise polluting the process of justice. It is not only traditional but rational, in this context, to enquire into the antecedents of a man who is applying for bail to find whether he has a bad record — particularly a record which suggests that he is likely to commit serious offences while on bail. In regard to habituals, it is part of criminological history that a thoughtless bail order has enabled the bailee to exploit the opportunity to inflict further crimes on the members of society. Bail discretion, on the basis of evidence about the criminal record of a defendant, is therefore not an exercise in irrelevance."*
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> *(Emphasis supplied)*

54. In Prahlad Singh Bhati v. NCT, Delhi & Anr. reported in (2001) 4 SCC 280, this Court highlighted various aspects that the courts should keep in mind while dealing with an application seeking bail. The same may be extracted as follows:

> *"8. The jurisdiction to grant bail has to be exercised on the basis of well-settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the Legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the court dealing with the grant of bail can only satisfy it (sic itself) as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. [...]"*
>
> *(Emphasis supplied)*

55. This Court in Ram Govind Upadhyay v. Sudarshan Singh reported in (2002) 3 SCC 598, speaking through Banerjee, J., emphasised that a court exercising discretion in matters of bail, has to undertake the same judiciously. In highlighting that bail should not be granted as a matter of course, bereft of cogent reasoning, this Court observed as follows: -

> *"3. Grant of bail though being a discretionary order — but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter."*
>
> *(Emphasis supplied)*

56. In Kalyan Chandra Sarkar v. Rajesh Ranjan reported in (2004) 7 SCC 528, this Court held that although it is established that a court considering a bail application cannot undertake a detailed examination of evidence and an elaborate

discussion on the merits of the case, yet the court is required to indicate the prima facie reasons justifying the grant of bail.

57. In Prasanta Kumar Sarkar v. Ashis Chatterjee reported in (2010) 14 SCC 496, this Court observed that where a High Court has granted bail mechanically, the said order would suffer from the vice of non-application of mind, rendering it illegal. This Court held as under with regard to the circumstances under which an order granting bail may be set aside. In doing so, the factors which ought to have guided the Court's decision to grant bail have also been detailed as under:

> *"9. [...] 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."*
>
> *(Emphasis supplied)*

58. In Bhoopendra Singh v. State of Rajasthan reported in (2021) 17 SCC 220, this Court made observations with respect to the exercise of appellate power to determine whether bail has been granted for valid reasons as distinguished from an application for cancellation of bail i.e. this Court distinguished between setting aside a perverse order granting bail vis-à vis cancellation of bail on the ground that the accused has misconducted himself or because of some new facts requiring such cancellation. Quoting Mahipal v. Rajesh Kumar reported in (2020) 2 SCC 118, this Court observed as under: -

> *"16. The considerations that guide the power of an appellate court in assessing the correctness of an order granting bail stand on a different footing from an assessment of an application for the cancellation of bail. The correctness of an order granting bail is tested on the anvil of whether there was an improper or arbitrary exercise of the discretion in the grant of bail. The test is whether the order granting bail is perverse, illegal or unjustified. On the other hand, an application for cancellation of bail is generally examined on the anvil of the existence of supervening*

circumstances or violations of the conditions of bail by a person to whom bail has been granted. [...]"

(Emphasis supplied)

59. One of the judgments of this Court on the aspect of application of mind and requirement of judicious exercise of discretion in arriving at an order granting bail to the accused is Brijmani Devi v. Pappu Kumar reported in (2022) 4 SCC 497, wherein a three-Judge Bench of this Court, while setting aside an unreasoned and casual order [Pappu Kumar v. State of Bihar reported in (2021) SCC OnLine Pat 2856 and Pappu Singh v. State of Bihar reported in (2021) SCC OnLine Pat 2857] of the High Court granting bail to the accused, observed as follows: -

"35. While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail courts cannot lose sight of the serious nature of the accusations against an accused and the facts that have a bearing in the case, particularly, when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record so as to enable a court to arrive at a prima facie conclusion. While considering an application for grant of bail a prima facie conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the nature of crime, the criminal antecedents of the accused, if any, and the nature of punishment that would follow a conviction vis-à-vis the offence(s) alleged against an accused."

(Emphasis supplied)

60. In Manoj Kumar Khokhar v. State of Rajasthan and Another reported in (2022) 3 SCC 501, Her Ladyship B.V. Nagarathna, J, speaking for the Bench observed as under:

"37. Ultimately, the court considering an application for bail has to exercise discretion in a judicious manner and in accordance with the settled principles of law having regard to the crime alleged to be committed by the accused on the one hand and ensuring purity of the trial of the case on the other.

38. Thus, while elaborate reasons may not be assigned for grant of bail or an extensive discussion of the merits of the case may not be undertaken by the court considering a bail application, an order dehors reasoning or bereft of the relevant reasons cannot result in grant of bail. In such a case the prosecution or the informant has a right to assail the order before a higher forum. As noted in Gurcharan Singh v. State (Delhi Admn.) [Gurcharan Singh v. State (Delhi Admn.), (1978) 1 SCC 118 : 1978 SCC (Cri) 41 : 1978 Cri LJ 129], when bail has been granted to an accused, the State may, if new circumstances have arisen following the grant of such bail, approach the High Court seeking cancellation of bail under Section 439(2) CrPC. However, if no new circumstances have cropped up since

the grant of bail, the State may prefer an appeal against the order granting bail, on the ground that the same is perverse or illegal or has been arrived at by ignoring material aspects which establish a prima facie case against the accused."

(Emphasis supplied)

61. We have referred to the above authorities solely for the purpose of reiterating two conceptual principles, namely, factors that are to be taken into consideration while exercising power of admitting an accused to bail when offences are of serious nature, and the distinction between cancellation of bail because of supervening circumstances and exercise of jurisdiction in nullifying an order granting bail in an appeal when the bail order is assailed on the ground that the same is perverse or based on irrelevant considerations or founded on non-consideration of the factors which are relevant.

62. We are absolutely conscious that liberty of a person should not be lightly dealt with, for deprivation of liberty of a person has immense impact on the mind of a person. Incarceration creates a concavity in the personality of an individual. Sometimes it causes a sense of vacuum. Needless to emphasise, the sacrosanctity of liberty is paramount in a civilised society. However, in a democratic body polity which is wedded to the rule of law an individual is expected to grow within the social restrictions sanctioned by law. The individual liberty is restricted by larger social interest and its deprivation must have due sanction of law. In an orderly society an individual is expected to live with dignity having respect for law and also giving due respect to others' rights. It is a well-accepted principle that the concept of liberty is not in the realm of absolutism but is a restricted one. The cry of the collective for justice, its desire for peace and harmony and its necessity for security cannot be allowed to be trivialised. The life of an individual living in a society governed by the rule of law has to be regulated and such regulations which are the source in law subserve the social balance and function as a significant instrument for protection of human rights and security of the collective. This is because, fundamentally, laws are made for their obedience so that every member of the society lives peacefully in a society to achieve his individual as well as social interest. That is why Edmond Burke while discussing about liberty opined, "it is regulated freedom".

63. It is also to be kept in mind that individual liberty cannot be accentuated to such an extent or elevated to such a high pedestal which would bring in anarchy or disorder in the society. The prospect of greater justice requires that law and order should prevail in a civilised milieu. True it is, there can be no arithmetical formula for fixing the parameters in precise exactitude but the adjudication should express not only application of mind but also exercise of jurisdiction on accepted and established norms. Law and order in a society protect the established precepts and see to it that contagious crimes do not become epidemic.

In an organised society the concept of liberty basically requires citizens to be responsible and not to disturb the tranquility and safety which every well-meaning person desires. Not for nothing J. Oerter stated: "Personal liberty is the right to act without interference within the limits of the law."

64. Thus analysed, it is clear that though liberty is a greatly cherished value in the life of an individual, it is a controlled and restricted one and no element in the society can act in a manner by consequence of which the life or liberty of others is jeopardised, for the rational collective does not countenance an anti-social or anti-collective act. [See: Ash Mohammad v. Shiv Raj Singh, reported in (2012) 9 SCC 446].

H. CONCLUSION

67. Considering the serious nature of the crime and the modus operandi adopted by the accused persons we are of the view that the High Court should not have exercised its discretion in favour of the accused persons. We are sorry to say but the High Court dealt with all the bail applications in a very callous manner. The outcome of this callous approach on the part of the High Court has ultimately paved way for many accused persons to abscond and thereby put the trial in jeopardy. ...

...

72. Modern political scientist and philosopher, also favours certain limitation on liberty, for safeguarding the societal interest and professes the proportionality between the liberty and restriction, thus laying down exception for the personal liberty, in following words:

> *"Men are qualified for civil liberty in exact proportion to their disposition to put moral chains upon their own appetites, in proportion as their love to justice is above their rapacity, in proportion as their soundness and sobriety of understanding is above their vanity and presumption, in proportion as they are more disposed to listen to the counsels of the wise and good, in preference to the flattery of knaves. Society cannot exist, unless a controlling power upon will and appetite be placed somewhere; and the less of it there is within, the more there must be without. It is ordained in the eternal constitution of things, that men of intemperate minds cannot be free. Their passions forge their fetters."*
>
> *(Emphasis supplied)*

73. Thus, certain restrictions or limitations, on the exercise of personal liberty, by the State or other such human agency, are necessary elements, in the interest of liberty of a well-ordered society or societal interest.

74. This Court has also held that unlimited and unqualified liberty cannot be said to be in favour of societal interest. In Kartar Singh v. State of Punjab reported in (1994) 3 SCC 569, this Court observed:

> *"Liberty cannot stand alone but must be paired with companion virtue i.e. virtue and morality, liberty and law, liberty and justice, liberty and common good, liberty and responsibility which are concomitants for orderly progress and social stability. Man being a rationale individual has to live in harmony with equal rights of others and more differently for the attainment of antithetic desires. This intertwined network is difficult to delineate within defined spheres of conduct within which freedom of action may be confined. Therefore, liberty would not always be an absolute licence but must arm itself within the confines of law. In other words, there can be no liberty without social restraint. Liberty, therefore, as a social conception is a right to be assured to all members of a society. Unless restraint is enforced on and accepted by all members of the society, the liberty of some must involve the oppression of others. If liberty be regarded a social order, the problem of establishing liberty must be a problem of organising restraint which society controls over the individual. Therefore, liberty of each citizen is borne of and must be subordinated to the liberty of the greatest number, in other words common happiness as an end of the society, lest lawlessness and anarchy will tamper social weal and harmony and powerful courses or forces would be at work to undermine social welfare and order. Thus the essence of civil liberty is to keep alive the freedom of the individual subject to the limitation of social control which could be adjusted according to the needs of the dynamic social evolution."*
>
> *(Emphasis supplied)*

75. In Gudikanti Narasimhulu (supra) this Court observed thus: -

> *"After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of 'procedure established by law'. The last four words of Art. 21 are the life of that human right. The doctrine of Police Power constitutionally validates punitive processes for the maintenance of public order, security of the State, national integrity and the interest of the public generally. Even so, having regard to the solemn issue involved, deprivation of personal freedom, ephemeral or enduring, must be founded on the most serious considerations relevant to the welfare objectives of society, specified in the Constitution."*
>
> *(Emphasis supplied)*

76. In no circumstances, the High Court could have released Santosh Sao, Jagveer Baranwal & Manish Jain respectively on bail.

77. In such circumstances referred to above, we are of the view that we should set aside all the orders passed by the High Court granting bail to the accused persons and they should be asked to surrender before the trial court.

> *78. The final word: The true test to ascertain whether discretion has been judiciously exercised or not is to see whether the court has been able to strike a balance between the personal liberty of the accused and the interest of the State, in other words, the societal interests. Each bail application should be decided in the facts and circumstances of the case having regard to the various factors germane to the well settled principles of grant or refusal of bail. In the words of Philip Stanhope, "Judgment is not upon all occasions required, but discretion always is".*
>
> *79. In the result all these appeals succeed and are allowed. The impugned orders of bail passed by the High Court are hereby set aside."*

20. In the present case, the High Court, by the impugned order, enlarged the respondents on bail, primarily relying on a set of factual and legal findings. However, a closer examination of these findings reveals serious infirmities that warranting interference. We shall discuss the same in detail.

20.1. Delay in furnishing the grounds of arrest cannot, by itself, constitute a valid ground for grant of bail.

20.1.1. The learned counsel for the respondents – accused contended that the arrest was illegal as the grounds of arrest were not furnished immediately in writing, thereby violating Article 22 (1) of the Constitution and Section 50 Cr.P.C (now Section 47 of the Bharatiya Nagarik Suraksha Sanhita). This submission, however, is devoid of merit.

20.1.2. Article 22(1) of the Constitution mandates that *"no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult, and to*

be defended by, a legal practitioner of his choice". Similarly, Section 50 (1) Cr.P.C. requires that "e*very police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.*

20.1.3. The constitutional and statutory framework thus mandates that the arrested person must be informed of the grounds of arrest – but neither provision prescribes a specific form or insists upon written communication in every case. Judicial precedents have clarified that substantial compliance with these requirements is sufficient, unless demonstrable prejudice is shown.

20.1.4. In ***Vihaan Kumar v. State of Haryana***[22]**,** it was reiterated that Article 22(1) is satisfied if the accused is made aware of the arrest grounds in substance, even if not conveyed in writing. Similarly, in ***Kasireddy Upender Reddy v. State of Andhra Pradesh***[23], it was observed that when arrest is made pursuant a warrant, reading out the warrant amounts to sufficient compliance. Both these post- *Pankaj Bansal* decisions clarify that written, individualised grounds are not an inflexible requirement in all circumstances.

[22] 2025 SCC Online SC 456
[23] 2025 INSC 768

20.1.5. While Section 50 Cr.P.C is mandatory, the consistent judicial approach has been to adopt a prejudice-oriented test when examining alleged procedural lapses. The mere absence of written grounds does not ipso facto render the arrest illegal, unless it results in demonstrable prejudice or denial of a fair opportunity to defend.

20.1.6. The High Court, however, relied heavily on the alleged procedural lapse as a determinative factor while overlooking the gravity of the offence under Section 302 IPC and the existence of a *prima facie* case. It noted, *inter alia,* that there was no mention in the remand orders about service of memo of grounds of arrest (para 45); the arrest memos were allegedly template-based and not personalised (para 50); and eyewitnesses had not stated that they were present at the time of arrest or had signed the memos (para 48). Relying on ***Pankaj Bansal v. Union of India***[24] and ***Prabir Purkayastha v. State (NCT of Delhi)*** (supra), it concluded (paras 43, 49 – 50) that from 03.10.2023 onwards, failure to serve detailed, written, and individualised grounds of arrest immediately after arrest was a violation entitling the accused to bail.

20.1.7. In the present case, the arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally

[24] (2024) 7 SCC 576

represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the accusations. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a *prima facie* case. Its reliance on *Pankaj Bansal* and *Prabir Purkayastha* is misplaced, as those decisions turned on materially different facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not *ipso facto* render custody illegal or entitle the accused to bail.

20.2. Courts are not expected to render findings on the merits of the case at the bail stage.

20.2.1. It is a settled principle that at the bail stage, courts are precluded from undertaking a detailed examination of evidence or rendering findings that touch upon the merits of the case. Only a prima facie assessment of the material is warranted. The court cannot conduct a mini-trial or record conclusions that could influence the outcome of the trial.

20.2.2. In ***Niranjan Singh v. Prabhakar Rajaram Kharote***[25], this Court held as under:

> "*Detailed examination of the evidence and elaborate documentation of the merits should be avoided while passing orders on bail applications. To be satisfied about a prima facie case is needed but it is not the same as an exhaustive exploration of the merits in the order itself".*

20.2.3. In ***Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav***[26], the Court reiterated that while detailed evaluation is not required, some reasoning must support the grant of bail, especially when the offence is grave. However, even in such cases, the reasoning must be confined to prima facie satisfaction, not merit-based findings.

20.2.4. By the impugned order, the High Court proceeded to grant bail to the accused by delving into the merits of the case and recording findings that fall within the exclusive domain of the trial Court. For instances, in para 24, the High Court observed that the nature of weapons used did not suggest premeditation to assault and murder the deceased, and concluded that the intention to commit murder would have to be determined during trial. In the same paragraph, it further held that since the deceased had voluntarily accompanied certain accused to Bengaluru and had even stopped at a bar en route, the question whether he was abducted or kidnapped also required full-fledged trial consideration. In para 29,

[25] (1980) 2 SCC 559
[26] (2004) 7 SCC 528

the High Court noted that there was no *prima facie* material revealing conspiracy as no witness statements supported the prosecution's theory of a pre-planned murder. In para 32, the High Court discounted the evidentiary value of the recovery of weapons merely because they were seized from an open place. With regard to medical evidence, in para 31 the Court found that a further opinion of the doctor issued later (stating that 13 of 39 injuries were blood-oozing) was contrary to the post-mortem report, and held that this discrepancy ought to be evaluated at trial. These are indicative of a premature judicial evaluation of guilt or innocence, which is impermissible at the bail stage.

20.2.5. Further, such an approach of the High Court is contrary to the judicial precedents of this court, including ***Satish Jaggi v. State of Chhattisgarh***[27] , ***Kanwar Singh Meena v. State of Rajasthan***[28], wherein, it was held that courts, while considering bail, should not assess the credibility of witnesses, as this function squarely lies within the domain of the trial Court. Thus, the impugned order of the High Court violates this principle by commenting on the delay in the witness statements and imputing lack of credibility at this stage.

20.2.6. In ***Brijmani Devi v. Pappu Kumar***[29], the Court cautioned that there cannot be elaborate details recorded to give an impression that the case is one that

[27] (2007) 11 SCC 195
[28] (2012) 12 SCC 180
[29] SLP (Crl.) Nos. 6335 and 7916 of 2021 dated 17.12.2021

would result in a conviction or, by contrast, in an acquittal while passing an order on an application for grant of bail. The following paragraphs are pertinent:

> "*25.While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail Courts cannot lose sight of the serious nature of the accusations against an accused and the facts that have a bearing in the case, particularly, when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record so as to enable a Court to arrive at a prima facie conclusion. While considering an application for grant of bail a prima facie conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the nature of crime, the criminal antecedents of the accused, if any, and the nature of punishment that would follow a conviction vis-à-vis the offence/s alleged against an accused.*
>
> *26. We have extracted the relevant portions of the impugned orders above. At the outset, we observe that the extracted portions are the only portions forming part of the "reasoning" of the High court while granting bail. As noted from the aforecited judgments, it is not necessary for a Court to give elaborate reasons while granting bail particularly when the case is at the initial stage and the allegations of the offences by the accused would not have been crystalised as such.* ***There cannot be elaborate details recorded to give an impression that the case is one that would result in a conviction or, by contrast, in an acquittal while passing an order on an application for grant of bail****. At the same time, a balance would have to be struck between the nature of the allegations made against the accused; severity of the punishment if the allegations are proved beyond reasonable doubt and would result in a conviction; reasonable apprehension of the witnesses being influenced by the accused; tampering of the evidence; the frivolity in the case of the prosecution; criminal antecedents of the accused; and a prima facie satisfaction of the Court in support of the charge against the accused."*

20.2.7. In the present case, the reading of the High Court's order gives an unmistakable impression that it has pre-judged the outcome of the trial, thereby setting the stage for discharge or acquittal, which, according to this court, is contrary to law.

20.2.8. In ***Dinesh M.N. (SP) v. State of Gujarat***[30], the court clarified:

> *"Even though the re-appreciation of the evidence as done by the court granting bail is to be avoided, the court dealing with an application for cancellation of bail under section 439(2) can consider whether irrelevant materials were taken into consideration. That is so because it is not known as to what extent the irrelevant materials weighed with the court for accepting the prayer for bail."*

20.2.9. Thus, this Court has made it clear that the findings of the High Court, while deciding bail, are to be treated as expressions of opinion only for that purpose and should not, in any manner, prejudice the trial or other proceedings. In the present case, however, the High Court has relied upon irrelevant and premature assessments, and entered into questions best left for the trial, thereby committing a grave jurisdictional error.

20.3. Appreciation of evidence at the bail stage is impermissible.

20.3.1. In ***State of Orissa v. Mahimananda Mishra***[31]**,** this Court observed:

> "*11. It is common knowledge that generally direct evidence may not be available to prove conspiracy, inasmuch as the act of conspiracy takes place secretly. Only the conspirators would be knowing about the conspiracy. However, the Court, while evaluating the material, may rely upon other material which suggests conspiracy. Such material will be on record during the course of trial. However, at this stage, prima facie, the Court needs to take into consideration the overall material while considering the prayer for bail.*
>
> *12. Though this Court may not ordinarily interfere with the orders of the High Court granting or rejecting bail to the accused, it is open for this Court to set aside the order of the High Court, where it is apparent that the High Court has not exercised its discretion judiciously and in accordance with the basic*

[30] AIR 2008 SC 2318
[31] Criminal Appeal No. 1175 of 2018 dated 18.09.2018

principles governing the grant of bail. It is by now well settled that at the time of considering an application for bail, the Court must take into account certain factors such as the existence of a prima facie case against the accused, the gravity of the allegations, position and status of the accused, the likelihood of the accused fleeing from justice and repeating the offence, the possibility of tampering with the witnesses and obstructing the Courts as well as the criminal antecedents of the accused. It is also well settled that the Court must not go into deep into merits of the matter while considering an application for bail. All that needs to be established from the record is the existence of a prima facie case against the accused."

20.3.2. In ***Naresh Kumar Mangla v. Anita Agarwal***[32]**,** this court cancelled the anticipatory bail granted to the accused on perusal of the chargesheet and material evidence found prima facie adverse to the accused. The court also clarified that examination of evidence at the bail stage shall not influence the trial.

20.3.3. In ***Ishwarji Nagaji Mali v. State of Gujarat and another***[33], the Court examined the chargesheet evidence to hold that prima facie there was sufficient material, which was ignored by the High Court while granting bail, and accordingly set aside the bail order. (This case is discussed below in dept for another proposition).

20.3.4. In ***Imran v. Mohammed Bhava***[34], a three- Judge Bench held as follows:

"32. This court in Neeru Yadav Vs. State of U.P. & Anr., has reiterated that it is the duty of the Court to take into consideration certain factors and they basically are, (i) the nature of accusation and the severity of punishment in cases of conviction and the nature of supporting evidence, (ii) reasonable apprehension of tampering with the witnesses for apprehension of threat to the complainant, and (iii) Prima facie satisfaction of the court in support of the charge."
33. Applying the ratio of the decisions of this court referred to above to the facts of the case in hand, we have no hesitation in observing that the High Court erred

[32] AIR 2021 SC 277
[33] Criminal Appeal No. 70 of 2022 dated 18.01.2022
[34] Criminal Appeal Nos. 658 and 659 of 2022 (@ SLP (Crl) Nos. 27 and 1242 of 2022) dated 22.04.2022

in not considering the basic principles for grant of bail, well established by various judicial pronouncements. The High Court lost sight of the fact that there exists sufficient material against the accused Respondents herein, so as to establish a prima facie case against them."

20.3.5. In ***Prakash Kadam v. Ramprasad Vishwanath Gupta*** (supra), this Court held that even without misuse, bail can be cancelled for grave allegations if the lower court ignored material.

20.3.6. In the present case, the High Court also proceeded to analyse and discount the credibility of certain prosecution witnesses and forensic material. It observed contradictions in the eyewitness statements concerning the overt acts of the accused (para 26). It expressed doubts about the prosecution's explanation for the delay in recording the statements of CW. 76 and CW. 91 (para 27). It questioned the timing of the doctor's supplementary opinion and weighed its evidentiary worth (para 31). As already pointed out, the credibility or reliability of witnesses is a matter for the trial Court to determine after full-fledged cross examination. It is a trite law that statements recorded under section 161 Cr.P.C are not substantive, and their evidentiary value can only be determined after cross examination during trial. Any opinion rendered at the bail stage risks prejudging the outcome of the trial and must be avoided. Thus, the court's assessment of these aspects amounts to a premature appreciation of the probative value of prosecution evidence.

20.4. Filing of charge sheet or lengthy list of witnesses does not justify grant of bail.

20.4.1. It is well settled that the mere filing of a charge-sheet does not confer an indefeasible right to bail. Likewise, the mere prospect of a prolonged trial cannot, by itself, outweigh the gravity of the offence, the incriminating material gathered during investigation, or the likelihood of tampering with witnesses.

20.4.2. In ***Kalyan Chandra Sarkar vs. Rajesh Ranjan*** (supra), this Court categorically held that:

> *"The High Court could not have allowed the bail application o**n the sole ground of delay in the conclusion of the trial without taking into consideration the allegation made by the prosecution in regard to the existence of prima facie case, gravity of offence, and the allegation of tampering with the witness by threat and inducement when on bail. .**.. non-consideration of the same and grant of bail solely on the ground of long incarceration vitiated the order..."*

20.4.3. In ***Brijmani Devi v. Pappu Kumar*** (supra), this Court held that the possibility of the accused absconding or threatening witnesses had a direct bearing on the fairness of the trial. In serious offences, such apprehensions – when reasonably supported by record – must weigh against the grant of bail.

20.4.4. Similarly, in ***Ishwarji Nagaji Mali v. State of Gujarat*** (supra), this Court reiterated that the fact that the prosecution case rests on circumstantial evidence is not a valid ground to release the accused on bail, especially where a complete

chain of circumstances has been prima facie established during investigation. The Court cancelled the bail granted by the High Court in that case holding that:

> *"6. …. the High Court has not at all adverted to the material collected during the course of the investigation. The High Court has not at all considered the material/evidence collected during the course of the investigation even prima facie and has directed to release respondent no.2 in such a serious offence of hatching conspiracy to kill his wife, by simply observing that as it is a case of circumstantial evidence, which is a weak piece of evidence, it is not legal and proper to deny bail to respondent no.2.* ***Merely because the prosecution case rests on circumstantial evidence cannot be a ground to release the accused on bail, if during the course of the investigation the evidence/material has been collected and prima facie the complete chain of events is established.*** *As observed hereinabove, while releasing respondent no.2 on bail, the learned Single Judge of the High Court has not at all adverted to and/or considered any of the material/evidence collected during the course of the investigation, which is a part of the charge-sheet.*
>
> *7. One another reason given by the High Court to release respondent no.2 on bail is that the accused has deep root in the society and no apprehension as to flee away or escape trial or tampering with the evidence/witnesses is expressed. In a case of committing the offence under Section 302 read with 120B IPC and in a case of hatching conspiracy to kill his wife and looking to the seriousness of the offence, the aforesaid can hardly be a ground to release the accused on bail."*

20.4.5. In ***Rahul Gupta v. State of Rajasthan***[35], this Court further emphasized that once the accused has been charge-sheeted after investigation, the High Court must consider the material collected during investigation to determine whether a prima facie case exists and whether bail is justified. The Court quashed the bail order, directing the accused to surrender and remanding the matter to the High Court for fresh consideration, after examining the evidence on record.

[35] *Criminal Appeal Nos. 1343-44 of 2023 dated 04.05.2023*

20.4.6. In the present case, the High Court failed to engage with the incriminating material collected during investigation, despite the seriousness of the offence under Section 302 IPC and the allegation of conspiracy. The mere filing of the charge-sheet, the existence of a long list of witnesses, or the possibility of delay in trial, cannot, by themselves, constitute valid reasons to dilute the gravity of the offence or to disregard the case put forth by the prosecution. As repeatedly held by this Court, such factors are not standalone grounds for the grant of bail in heinous offences involving murder. The reasoning adopted by the High Court to justify the grant of bail is, therefore, contrary to settled legal principles.

20.5. Post-bail good conduct of the accused, while relevant to the question of continuation of bail, cannot retrospectively validate an otherwise unsustainable order.

20.5.1. The fact that the accused were in custody for more than 140 days, or exhibited good conduct post-release, does not *ipso facto* render the order of bail sustainable, if it suffers from non-consideration of material factors at the stage of grant.

20.5.2. In ***State through CBI v. Amaramani Tripathi***[36]**,** this Court reaffirmed that "*...the mere fact that the accused has undergone certain period of*

[36] 2005 (8) SCC 21

incarceration... by itself would not entitle the accused to being enlarged on bail... when the gravity of the offence alleged is severe..."

20.5.3. In ***Kalyan Chandra Sarkar v. Rajesh Ranjan*** (supra), this Court held:

> *"....the High Court has given the period of incarceration already undergone by the accused and* ***the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty.*** *In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail."*

It was further held that

> *"While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused."*

20.5.4. In ***Ash Mohammad v. Shiv Raj Singh @ Lalla Bahu & Anr.***[37], the Court reiterated that the period of custody, while relevant, must be weighted against the totality of circumstances, including the nature of the crime and criminal antecedents. It was held that:

> *"31. Be it noted, a stage has come that in certain States abduction and kidnapping have been regarded as heroism. A particular crime changes its colour with efflux of time. The concept of crime in the contextual sense of kidnapping has really undergone a sea change and has really shattered the spine of the orderly society. It is almost nauseating to read almost every day about the criminal activities*

[37] (2012) 9 SCC 446

relating to kidnapping and particularly by people who call themselves experts in the said nature of crime.

32. We may usefully state that when the citizens are scared to lead a peaceful life and this kind of offences usher in an impediment in establishment of orderly society, the duty of the court becomes more pronounced and the burden is heavy. There should have been proper analysis of the criminal antecedents. Needless to say, imposition of conditions is subsequent to the order admitting an accused to bail. The question should be posed whether the accused deserves to be enlarged on bail or not and only thereafter issue of imposing conditions would arise. We do not deny for a moment that period of custody is a relevant factor but simultaneously the totality of circumstances and the criminal antecedents are also to be weighed. They are to be weighed in the scale of collective cry and desire. The societal concern has to be kept in view in juxtaposition of individual liberty. Regard being had to the said parameter we are inclined to think that the social concern in the case at hand deserves to be given priority over lifting the restriction of liberty of the accused.

33. In the present context the period of custody of seven months, in our considered opinion, melts into insignificance. We repeat at the cost of repetition that granting of bail is a matter of discretion for the High Court and this Court is slow to interfere with such orders. But regard being had to the antecedents of the accused which is also a factor to be taken into consideration as per the pronouncements of this Court and the nature of the crime committed and the confinement of the victim for eight days, we are disposed to interfere with the order impugned.

34. We may note with profit that it is not an appeal for cancellation of bail as cancellation is not sought because of supervening circumstances. ***The present one is basically an appeal challenging grant of bail where the High Court has failed to take into consideration the relevant material factors which make the order perverse."***

Accordingly, the bail order was set aside and the accused was directed to surrender.

20.5.5. More recently, in ***Ajwar v. Waseem***[38]**,** this Court set aside four bail orders granted by the Allahabad High Court in a murder case involving double homicide under Sections 147, 148, 149, 302, 307, 352, and 504 IPC, despite the fact that

[38] (2024) 10 SCC 768

the accused had remained in custody for over two years and eight months. The Court found that the bail was granted without proper consideration of material facts. Accordingly, the accused were directed to surrender within two weeks. The following paragraph is relevant:

> *"33. Furthermore and most importantly, the High Court has overlooked the period of custody of the respondents-accused for such a grave offence alleged to have been committed by them. As per the submission made by learned counsel for the State of UP, before being released on bail,* ***the accused-Waseem had undergone custody for a period of about two years four months, the accused-Nazim for a period of two years eight months, the accused-Aslam for a period of about two years nine months and the accused Abubakar, for a period of two years ten months****. In other words, all the accused-respondents have remained in custody for less than three years for such a serious offence of a double murder for which they have been charged."*

20.5.6. In conclusion, while post-bail good conduct or the period of incarceration may be relevant considerations at the stage of continuing bail, they cannot cure the fundamental defects in an order granting bail which is otherwise perverse, legally untenable, or passed without due consideration of material factors such as the gravity of the offence, prima facie involvement, and the likelihood of influencing witnesses or tampering with evidence. An unsustainable bail order does not become valid with the mere passage of time or the subsequent behaviour of the accused. Judicial scrutiny must focus on whether the discretion to grant bail was exercised judiciously, and in accordance with established principles, at the time of the grant, and not mechanically or on technicalities. Therefore, the

order of the High Court granting bail to the respondents / accused, deserves to be set aside.

21. The learned senior counsel for the appellant – State mainly challenged the bail granted to A2, by emphasizing his status, the influence he wields, and his role in obstructing the investigation. It was submitted that A2 has actively mobilized widespread media support and shaped the public narrative in his favour, thereby creating an atmosphere capable of prejudicing the ongoing investigation and undermining the fairness of the trial. It was further contended that A2 was not a passive onlooker but an active conspirator who played a pivotal role in the planning and executing the crime. However, the High Court failed to consider these vital aspects while granting bail, raising serious concerns about the legality and propriety of the impugned order.

22. We now turn to a detailed examination of the above contentions.

(a) <u>Nature and Gravity of the offence</u>

22.1. The seriousness and heinous nature of the alleged offence is a significant factor for consideration, while evaluating a plea for cancellation of bail.

22.1.1. In ***Ram Govind Upadhyay v. Sudarshan Singh***[39], this Court held that "the nature of the offence is one of the basic considerations for the grant of bail – the more heinous the crime, the greater the chance of refusal of bail, though the exercise of judicial discretion in such matters cannot be exhaustively defined."

22.1.2. Similarly, in ***Panchanan Mishra v. Digambar Mishra***[40], the Court observed that "the object underlying the cancellation of bail is to protect the fair trial and secure justice being done to the society by preventing the accused who is set at liberty from tampering with the evidence in heinous crimes."

22.1.3. In the present case, the accused along with the co-accused, is charged under Sections 120B, 302, 201 and 204 IPC, which relate to conspiracy, murder, destruction of evidence, and causing disappearance of evidence. The allegation is of a brutal and custodial murder of a young man, who was allegedly kidnapped, tortured, and beaten to death by the accused for sending objectionable messages to A2. The victim was a 26-year-old daily wage earner, and the crime was allegedly committed to protect the reputation of A1, the partner of A2, a celebrity.

22.1.4. This is not a case of sudden provocation or emotional outburst. The evidence indicates a pre-meditated and orchestrated crime, where the accused not only allegedly took the law into his own hands, but also engaged in systematic destruction of evidence, including: deleting CCTV footage, bribing co-accused

[39] (2002) 3 SCC 598
[40] (2005) 3 SCC 143

to falsely surrender, and using police and local influence to derail the investigation.

22.1.5. As this Court warned in ***Jagan Kishore v. State of A.P.***[41], the grant of bail in cases involving custodial torture and extra-judicial execution of an alleged offender erodes public confidence in the rule of law. Thus, the very gravity of the offence justifies cancellation of bail, especially when the liberty granted to A2 is likely to subvert the integrity of the trial process.

(b) <u>Likelihood of tampering with evidence and influencing witnesses</u>

22.2. The record reveals concrete acts of interference with the investigation including:

- A2's role in orchestrating false surrenders by co-accused (A10, A14);
- Payments made to cover up the crime (as per co-accused statements);
- Connections with police officials who delayed and diluted the FIR and postmortem procedures;
- Deletion of CCTV evidence from A1's residence;
- Continued influence over prosecution witnesses, as seen from public appearances after bail.

[41] 2003 Crl. LJ 1919

22.2.1. In ***Puran v. Rambilas***[42], this Court categorically held that "Cancellation of bail is permissible where the order granting bail was perverse, or if the accused tampers with evidence or attempts to influence witnesses."

22.2.2. In ***State v. Amarmani Tripathi*** (supra), this Court stated that "the Court must examine the likelihood of the accused tampering with prosecution witnesses or attempting to subvert justice. Bail should not be granted if the accused is likely to interfere with the trial process."

22.2.3. Further, it was held that "even the likelihood of the accused influencing witnesses or tampering with evidence is sufficient to deny bail." In ***Deepak Yadav v. State of UP***[43], bail was cancelled owing to apprehension of tampering with witnesses.

22.2.4. In ***P v. State of M.P.***[44], the Court held that bail can be cancelled if the accused:

- attempts to tamper with evidence;
- influences witnesses;
- induces others to make false statements;
- or even if there is a genuine apprehension of miscarriage of justice.

[42] (2001) 6 SCC 338
[43] (2022) 8 SCC 559
[44] (2022) 15 SCC 211

22.2.5. The appellant alleged that A2 is not merely misusing liberty post-bail but is the mastermind of efforts to derail the investigation. In such circumstances, the preponderance of probabilities test applies (as per ***Sanjay Gandhi v. Delhi Administration*** case) and the prosecution need not prove guilt beyond reasonable doubt at this stage.

(c) <u>Bail obtained on misrepresentation of medical grounds</u>

22.3. The bail order dated 13.12.2024 passed by the High Court, was granted primarily on the basis of the alleged urgent medical condition of the 1st respondent / A2. However, a bare perusal of the medical records and subsequent conduct of the accused reveals that the medical plea was misleading, vague, and grossly exaggerated.

22.3.1. This Court has consistently held that bail granted on medical grounds must be based on credible, specific, and urgent need, not on general or future apprehensions. [Refer: ***State of U.P. v. Amarmani Tripathi*** and ***Dinesh M.N. v. State of Gujarat***, (supra)].

22.3.2. The discharge summary dated 28.11.2024 issued by the hospital, mentions that A2 is a patient with a history of diabetes, hypertension, and prior cardiac issues, and that he may require a CABG surgery in the future. However, the report does not indicate: any current emergency or need for immediate medical intervention; any life-threatening condition warranting urgent release;

and any inability of the prison medical system to manage his current state. Thus, there is no compelling medical necessity for grant of bail.

22.3.3. In ***Puran v. Rambilas*** (supra), this Court held that "if it is shown that a party obtained bail by misrepresentation or fraud, or by suppressing material facts, such bail is liable to be cancelled on that ground alone". Similarly, in ***State of U.P. v. Narendra Nath Sinha***[45], it was observed that "bail obtained by concealing facts or misleading the court vitiates the order, as it defeats the interest of justice".

22.3.4. Contrary to the impression created before the High Court, A2 has made multiple public appearances, including participation in high-profile social events, was seen in fine health and mobility, and did not undergo any surgery or serious medical procedure post-release. This establishes that he abused the liberty of bail, which was obtained on a false and misleading premise.

22.3.5. In ***Kalyan Chandra Sarkar v. Rajesh Ranjan*** (supra), this Court cautioned that "bail on medical grounds can be granted only in exceptional cases where the medical condition is serious, cannot be treated in custody, and necessary facilities are not available in jail". The burden to prove such necessity lies on the accused.

[45] (2019) 10 SCC 528

22.3.6. In the present case, A2 failed to demonstrate that the jail hospital was incapable of managing his condition or that adequate treatment could not be given in judicial custody. Instead, the High Court proceeded to grant bail without recording a definitive finding on the urgency, seriousness, or inadequacy of treatment in custody. This results in a perverse and legally unsustainable bail order, liable to be cancelled as per the principles laid down in ***Puran and Samarendra Nath Bhattacharjee v. State of West Bengal***[46].

(d) <u>Non-consideration of material facts by the High Court</u>

22.4. An order that overlooks material evidence or proceeds on an erroneous premise is perverse, and such perversity forms a valid ground for cancellation or setting aside of bail.

22.4.1. In ***Mahipal v. Rajesh Kumar*** (supra), this Court laid down that "where the order granting bail is founded on irrelevant considerations, or non-consideration of material facts, the same is rendered perverse and is liable to be set aside." Similarly, in ***State of U.P. v. Amarmani Tripathi*** (supra) the Court held that "bail orders must be founded on a careful and judicious application of mind to the facts of the case and the seriousness of the offence. Non-consideration of relevant material renders the order vulnerable to challenge."

[46] (2004) 11 SCC 165

22.4.2. In the present case, the High Court failed to properly evaluate the nature of allegations, involving premeditated murder and conspiracy, attracting Section 302 IPC read with section 120B IPC; the chain of circumstantial evidence, including CCTV footage, call records, and the forensic report showing deliberate attempt to destroy evidence (e.g., disposal of blood-stained clothes and vehicle cleaning); and the incriminating role of A2, who was in constant touch with A1 and other co-accused before and after the incident, and who facilitated the conspiracy and cover-up. On the other hand, it simply recorded that A2 had "no direct role" and there was "no prima facie case", without discussing or analysing the incriminating material on record. This amounts to non-application of mind, and renders the order unsustainable in law.

22.4.3. In ***Neeru Yadav v. State of U.P.*** (supra), this Court reversed the grant of bail observing that "Where the High Court ignores vital circumstances and material facts, the order becomes indefensible".

22.4.4. In the present case, the High Court, while granting bail, recorded that A2 was not present at the crime scene, but at the same time, accepted that he was in telephonic contact with other accused at crucial times. Similarly, it noted that there was no strong motive, while also acknowledging post hostility and prior enmity with the deceased. These contradictory findings neutralize the basis for bail and indicate that the order was passed without a coherent or legally consistent rationale.

22.4.5. In offences punishable with life imprisonment or death, the bail court must be especially cautious. In ***Ash Mohammed v. Shiv Raj Singh*** (supra), this Court emphasized that in serious offences, "the gravity of the offence and its impact on society must weigh heavily with the court, and such cases must be considered with greater care and circumspection". However, in the present case, the High Court's order fails to reflect any such higher scrutiny or cautious approach, despite the seriousness of the charge and the wider societal impact of the case.

23. The Constitution of India enshrines equality before law under Article 14, and mandates that no individual – however wealthy, influential, or famous – can claim exemption from the rigours of law. A celebrity status does not elevate an accused above the law, nor entitle him to preferential treatment in matters like grant of bail.

23.1. In ***State of Maharashtra v. Dhanendra Shriram Bhurle***[47], it was observed that "grant of bail in serious offences involving public confidence must be handled with great caution, especially where the accused enjoys influence".

23.2. In ***Prakash Kadam v. Ramprasad Vishwanath Gupta***[48], this Court held that "the position and standing of the accused in society are relevant. If the

[47] (2009) 11 SCC 541
[48] (2011) 6 SCC 189

accused is so influential that his very presence at large may intimidate witnesses or subvert justice, bail can be denied or cancelled."

23.3. In ***Y.S. Jagan Mohan Reddy v. CBI***[49], this Court cautioned that "the position or status of the accused in society, if likely to affect the investigation or trial, is a valid consideration in rejecting bail".

23.4. Similarly, in ***Rana Kapoor v. Directorate of Enforcement***[50], this Court reaffirmed that "influential persons are more capable of tampering with evidence or influencing witnesses. This factor must be carefully weighed in bail matters".

23.5. Popularity cannot be a shield for impunity. As this Court held, influence, resources and social status cannot form a basis for granting bail where there is a genuine risk of prejudice to the investigation or trial.

23.6. In the present case, by treating A2's stature as a mitigating factor, the High Court committed a manifest perversity in the exercise of its discretion, thereby warranting cancellation of bail. As demonstrated earlier, A2 is not a common undertrial. He enjoys celebrity status, mass following, political clout, and financial muscle. His conduct inside the jail – including recorded instances of VIP treatment, violations of jail rules, and registered FIRs for misuse of facilities – reflects his capacity to defy the system even while in custody. If a person can subvert the prison system, the risk of interference with evidence, threatening or

[49] (2013) 7 SCC 439
[50] (2022) 8 SCC 1

influencing witnesses, and tampering with the course of justice is both real and imminent.

23.7. Moreover, A2's immediate return to social events, sharing a stage with prosecution witnesses, and continued influence over police witnesses, despite being on bail, establish that his liberty is a threat to the integrity of the proceedings.

23.8. Notably, celebrities serve as social role models – accountability is greater, not lesser. They, by virtue of their fame and public presence, wield substantial influence on public behaviour and social values. Granting leniency to such persons despite grave charges of conspiracy and murder, sends wrong message to society and undermines public confidence in the justice system.

23.9. Accordingly, A2's antecedents, influence, jail misconduct, and the seriousness of the charges against him make him unfit for bail, and the order granting bail to him, is based on non-application of mind, perverse, and hence, legally unsustainable.

24. On a cumulative analysis, it is evident that the order of the High Court suffers from serious legal infirmities. The order fails to record any special or cogent reasons for granting bail in a case involving charges under Sections 302, 120B, and 34 IPC. Instead, it reflects a mechanical exercise of discretion, marked by significant omissions of legally relevant facts. Moreover, the High Court

undertook an extensive examination of witness statements at the pre-trial stage, highlighting alleged contradictions and delays – issues that are inherently matters for the trial Court to assess through cross-examination. The trial Court alone is the appropriate forum to evaluate the credibility and reliability of witnesses. Granting bail in such a serious case, without adequate consideration of the nature and gravity of the offence, the accused's role, and the tangible risk of interference with the trial, amounts to a perverse and wholly unwarranted exercise of discretion. The well-founded allegations of witness intimidation, coupled with compelling forensic and circumstantial evidence, further reinforce the necessity for cancellation of bail. Consequently, the liberty granted under the impugned order poses a real and imminent threat to the fair administration of justice and risks derailing the trial process. In light of these circumstances, this Court is satisfied that the present case calls for the exercise of its extraordinary jurisdiction under Section 439(2) Cr.P.C.

25. In a democracy governed by the rule of law, no individual is exempt from legal accountability by virtue of status or social capital. Article 14 of the Constitution guarantees equality before the law and prohibits arbitrariness. It mandates that all persons – regardless of their popularity, power, or privilege – are equally subject to the law.

26. In view of the foregoing, all these appeals are allowed. The order dated 13.12.2024 passed by the High Court is set aside. The bail granted to the respondents / accused persons is hereby cancelled. The concerned authorities are directed to take the accused into custody forthwith. Given the gravity of the offence, the trial shall be conducted expeditiously, and a judgment rendered on merits, in accordance with law. It is made clear that the observations made herein are strictly confined to the issue of bail and shall not influence the trial on merits.

27. Pending application(s), if any, stand disposed of.

……J.
[J.B. Pardiwala]

....……J.
[R. Mahadevan]

NEW DELHI
AUGUST 14, 2025.

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.3528-3534 OF 2025

(Arising from SLP(Crl.) Nos.516-522 of 2025

STATE OF KARNATAKA ...APPELLANT

VERSUS

SRI DARSHAN ETC. ...RESPONDENTS

O R D E R

J.B. PARDIWALA,J.

1. My esteemed brother Justice R. Mahadevan has just pronounced a very erudite judgment. All that I can say in one sentence is that the judgment penned by my esteemed brother is ineffable. The judgment conveys a very strong message that whoever the accused may be, howsoever big or small the accused may be, he or she is not above the law. This judgment contains a very strong message that the justice delivery system at any level should ensure at any cost that the Rule of Law is maintained. No man is above the law and no man is below it; nor de we ask any man's permission when we ask him to obey it. Obedience to the law is demanded as a right; not asked a favor. The need of the hour is to maintain the rule of law at all times.

2. The day we come to know that the accused persons are provided with some special or five-star treatment within the jail premises,

the first step in the process will be to place the jail superintendent under suspension including all other officials involved in such misconduct.

3. The Registry is directed to circulate one copy each of this Judgment to all the High Courts and all the Jail Superintendents across the country through their respective State Governments.

.....J

(J.B. PARDIWALA)

NEW DELHI;

14TH AUGUST, 2025.