

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

**CRIMINAL APPEAL Nos.2168-2169/2026  
[Arising out of SLP (CRL) No. 3961-3962 OF 2026]**

**SACHIN YADAV**

**...APPELLANT**

**VERSUS**

**STATE (NCT of DELHI) & ANR.**

**...RESPONDENTS**

**ORDER**

**1.** The High Court of Delhi by a common impugned judgment and order dated 02<sup>nd</sup> May, 2026 disposed of Bail Application No.1345/2025 & CrI. M.A. No.13482/2025. A part of the said order is under challenge in these appeals at the instance of the appellant-accused.

**2.** While granting the appellant's prayer for release on bail with certain conditions, the High Court imposed the following condition:

“22. ...

d. The applicant shall not reside in the same building as the complainant. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/SHO.

...”.

This condition is challenged by the appellant as violative of his rights guaranteed by Articles 21 and 19 of the Constitution.

- 3.** Appellant figures as an accused in FIR No. 109 dated 18<sup>th</sup> February, 2025 registered at Police Station Hauz Khas. The FIR, registered at the instance of the complainant/respondent no. 2/Savita Yadav<sup>1</sup>, accuses the appellant and the co-accused of offences under Sections 110(3) and 3(5) of the Bharatiya Nyaya Sanhita, 2023<sup>2</sup> (corresponding to Sections 308 and 34 of the Indian Penal Code, 1860, respectively).
- 4.** Appellant was arrested on 18<sup>th</sup> February 2025 and enlarged on bail by the aforesaid order dated 2<sup>nd</sup> May, 2025.
- 5.** It is not in dispute that the complainant and the appellant are relatives. They are residing in the same building. An alleged violent altercation resulted in registration of the FIR. The High Court, while granting bail to the appellant has imposed several conditions apart from the condition that restricts his right of residence during the pendency of the trial, noted above. Furthermore, the appellant is also restricted from changing his address without informing the concerned Investigating Officer/Station House Officer. This condition has left the appellant aggrieved.

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1 Complainant  
2 BNS

- 6.** It has been argued by learned counsel on behalf of the appellant that such a condition amounts to his eviction from his own home without following due process and also adversely affects his income considering that he is running a shop, located in the same building. It has been almost a year that the appellant has been forced to reside elsewhere and not run his shop at the said building; and, since termination of the trial is nowhere in sight, the impugned condition ought to be set aside by this Court.
- 7.** *Per contra*, it is the pleaded case of the State in its counter affidavit that the condition restraining the appellant from residing in the same building is preventive and situational. The condition, not amounting to displacement, is a reasonable restriction imposed in view of the long-standing history of violent altercations between the related parties who are residing in the same building to prevent breach of peace, ensure safety of the complainant and facilitate a fair trial.
- 8.** Learned counsel on behalf of the complainant has supported the impugned condition. According to him, the impugned condition has resulted in peace in the locality. There have been no altercations between the family members of the complainant and the appellant ever since he has been forced to reside elsewhere and declining interference with such condition would be in the best interests of the society.

- 9.** We have heard learned counsel appearing for the parties and considered the materials on record.
- 10.** Upon completion of investigation, charge-sheet has been filed under Section 193 of the Bharatiya Nagarik Suraksha Sanhita, 2023<sup>3</sup> on 18<sup>th</sup> April 2025. Appellant, as well as the co-accused, is alleged to have committed offence punishable under Sections 110 and 3(5), BNS. Prosecution proposes to examine 10 (ten) witnesses to drive home the charges against the appellant. However, despite lapse of more than a year, the charges are yet to be framed; thus, trial is yet to begin. The counter affidavit of the State reveals that a supplementary chargesheet is also proposed to be filed, since the weapon of offence is yet to be recovered.
- 11.** It appears from the medical reports, which are on record, that the injuries suffered by the complainant and her son are simple in nature. Despite the chargesheet having been filed on 18<sup>th</sup> April 2025, the same has not been placed on record for our perusal. It is only general allegations that are levelled in the FIR of the appellant having been part of the altercations. Curiously, it is seen that the appellant's mother and sister, who are alleged to have dealt severe blows on the complainant and her son,

have already been granted the concession of pre-arrest bail by the Trial Court.

**12.** Furthermore, it is pertinent to note that a cross FIR bearing FIR 110 dated 18<sup>th</sup> February, 2025 under Sections 110 and 3(5), BNS has also been registered at the instance of the appellant's mother in respect of the same incident. As per the allegations in the cross-FIR, *prima facie*, it seems that the complainant and her family members as well as tenants had inflicted much more severe injuries to the appellant and his family members using weapons such as baseball bats, axes and knives.

**13.** Be that as it may, more than a year has passed since the appellant was arrested. The charges are yet to be framed; obviously, conclusion of the trial is nowhere in sight.

**14.** Thus, we need to test the impugned condition imposed by the High Court bearing in mind the above facts and circumstances.

**15.** Grant of bail to an accused, with conditions, is a discretionary relief. The impugned condition, which the High Court imposed in the exercise of its discretionary jurisdiction, seems to be preventive in nature which came to be imposed considering the situational aspect of multiple FIRs and cross FIR having been registered against the appellant as well as the members of the complainant's family, respectively, arising out of long-standing

property disputes. It is not uncommon that courts do impose conditions which impinge on the fundamental rights of the accused (of right of locomotion within the country, right of residence, right to travel abroad, etc.).

- 16.** However, it needs no emphasis that only in exceptional cases should such a condition be imposed. It is trite that a condition like the one under challenge takes in its train serious curtailment of rights guaranteed by Article 21 of the Constitution and must, therefore, satisfy the tests of reasonableness, proportionality and necessity. The objects for imposing conditions to enjoy the concession of bail need no elucidation; but a condition that amounts to effective ouster from residence could be susceptible to an invalidation unless there is clear and cogent material to show that a lesser restrictive measure would not suffice. In the absence of such satisfaction, the condition would become punitive rather than preventive.
- 17.** Section 168 of the BNSS (corresponding to Section 149 of the Code of Criminal Procedure, 1973<sup>4</sup>) assumes importance in the factual milieu. It reads:

**168.** Police to prevent cognizable offences.  
Every police officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence.

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4 Cr. PC

- 18.** A plain reading of the aforesaid provision makes it evident that the duty to prevent the commission of offences rests squarely upon the police, and by extension, the State. This position is reinforced in ***State of NCT of Delhi vs. Sanjay***<sup>5</sup>.
- 19.** Section 168, BNSS (earlier Section 149, Cr. PC) casts a vital duty on the police to prevent the commission of cognisable offence and empowers them to take preventive action. Courts ought to remind the police of this statutory obligation and ensure that it is duly performed. A condition of bail such as the one imposed here, however, shifts the burden to the accused and thereby weakens the State's obligation to prevent crime. This is not to suggest that an accused on bail is free to commit offences. He remains bound by the conditions of bail and by the law. Yet, any condition that curtails fundamental rights must be justified by circumstances that necessitate such restriction.
- 20.** In light of Section 168, BNSS, the High Court ought to have impressed upon the police of discharging the duty to ensure that none breaches peace and takes the law in his/her own hands, and remind them of the duty to appropriately deal with the wrongdoer. The order dated 2<sup>nd</sup> May, 2025 appears to be silent in this regard.

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5 (2014) 9 SCC 772

- 21.** There is one other aspect which needs to be touched upon; that is, delay in commencement of the trial, not to speak of conclusion, having its own consequences. While fairness of the trial remains the overriding consideration, a speedy trial is a facet of Article 21. If the right to speedy trial is breached, a simultaneous restriction on the right to residence becomes unjustified.
- 22.** Although learned counsel for the complainant would urge that altercations at the instance of the appellant and his family members are a regular feature and that the complainant was at the receiving end upon one of such altercations between the parties having turned violent, we *prima facie* view them as mere skirmishes. Indeed, the number of skirmishes between the appellant and the complainant and their family members were, perhaps, thought to be too many by the High Court to be ignored.
- 23.** In any event, it cannot be overlooked that although the charge-sheet alleges attempt to commit culpable homicide by the appellant and his family members, the medical reports describe the injuries as 'simple'. We say no more on this to avoid any prejudice to the trial, except to recall the adage "*it takes two to make a quarrel*". Even if the High Court felt compelled to impose the condition in question, it was equally necessary for the

judicial system to ensure that the trial proceeds with reasonable expedition, if not an early conclusion, having regard to the direction that the appellant has to stay away from his own home. Since a speedy trial in this case appears to be a mirage having regard to the progress made till date, a restraint on residence becomes disproportionately harsh.

- 24.** Without doubt, the impugned condition to keep the appellant out of his own home till the conclusion of the trial amounts to an ouster and is, therefore, unreasonable and uncalled for.
- 25.** Taking an overall view of the matter, we are of the considered opinion that the condition of restricting the appellant's right to reside in the same building as the complainant pending trial ought to be interdicted; and, since the appeals deserve acceptance, the appellant may be allowed the concession of bail without being required to abide by the aforesaid condition.
- 26.** Accordingly, we set aside the impugned condition extracted above in paragraph 2.
- 27.** Appellant, it is needless to observe, shall continue to abide by such other terms and conditions as have been imposed by the High Court by the judgment and order dated 2<sup>nd</sup> May, 2025.

- 28.** Apart from the conditions imposed by the High Court, we also deem it fit that the appellant gives an undertaking to the trial court that while on bail, he would maintain peace and good behaviour. Ordered accordingly.
- 29.** In the event there is any breach of the terms and conditions for grant of bail, the trial court shall be at liberty to cancel the bail of the appellant.
- 30.** We clarify that the observations made in this order will not be treated as findings on the merits of the case.
- 31.** The appeals are, accordingly, allowed on the aforesaid terms.
- 32.** Pending application(s), if any, shall stand disposed of.

.....J.  
**(DIPANKAR DATTA)**

.....J.  
**(SATISH CHANDRA SHARMA)**

**New Delhi;  
April 29, 2026.**

ITEM NO.117

COURT NO.8

SECTION II-D

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Criminal Appeal No(s).2168-2169/2026

SACHIN YADAV

Appellant

VERSUS

STATE (NCT OF DELHI) & ANR.

RespondentS

I.A. No.105394/2026-INTERVENTION/IMPLEADMENT

Date : 29-04-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPANKAR DATTA  
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

For Appellant(s) : Mr. Ameet Siingh, Adv.  
Mr. Ankit Ambasta, AOR  
Ms. Ritu Bala Puri, Adv.  
Ms. Simran Vinayak, Adv.  
Ms. Niti Tiwari, Adv.  
Ms. Deepinder Singh Bhari, Adv.

For Respondent(s) :Mr. Davinder Pal Singh, A.S.G.  
Mr. Nachiketa Joshi, Sr. Adv.  
Mr. Mukesh Kumar Maroria, AOR  
Mr. Amit Sharma-b, Adv.  
Mr. Praneet Parnav, Adv.  
Mr. Rajan Kumar Chourasia, Adv.

Mr. R R Bag, Adv.  
Mr. Alok Singh, Adv.  
Mr. Rajbeer, Adv.  
Mr. Venkate Md Muppna, Adv.  
Mr. Shailendra Kumar, Adv.  
Mr. Ankit Borker, Adv.  
Ms. Shivangi Singh, Adv.  
Mr. Raj Shekhar Sharma, Adv.  
Ms. Alpana Sharma, AOR

**UPON hearing the counsel the Court made the following**

**O R D E R**

1. The appeals are allowed in terms of the signed order.
2. Pending application(s), if any, shall stand disposed of.

**(RASHMI DHYANI PANT)**  
**ASST. REGISTRAR-CUM-PS**

**(signed order is placed on the file)**

**(SUDHIR KUMAR SHARMA)**  
**COURT MASTER (NSH)**