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**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
SANJAY KAROL; J., NONGMEIKAPAM KOTISWAR SINGH; J.
SPECIAL LEAVE PETITION (CRIMINAL) NO.16696 of 2025; MAY 22, 2026
*MOHSEEN versus THE STATE OF UTTAR PRADESH & ANR.***

Grant and Cancellation of Bail – Successive Bail Application – Conduct of Accused and Parity - Code of Criminal Procedure, 1973; Section 437/439 (corresponding to Bharatiya Nagarik Suraksha Sanhita, 2023) – Grant of bail by High Court in a successive application after cancellation by the Supreme Court – Sustainability - An order granting bail that fails to engage with the prior bail-cancellation order of the Supreme Court, overlooks the contumacious conduct of the accused in absconding post-cancellation, ignores prima facie incriminating material (such as CCTV footage and recovery of weapons), and blindly applies the principle of parity despite distinct criminal roles, suffers from manifest error of law and perversity.
[Paras 22-34]

Code of Criminal Procedure, 1973; Section 82 – Delay in Surrendering after Bail Cancellation – Effect of Pending Review Petition - The filing of a Review Petition before the Supreme Court does not operate as an automatic stay of a surrender direction - Evading arrest for 42 days, necessitating the issuance of a Non-Bailable Warrant (NBW) and initiation of proclamation proceedings under Section 82 CrPC, constitutes contumacious conduct that heavily weighs against the fresh grant of bail. *[Para 26-27]*

Indian Penal Code, 1860; Section 307 (corresponding to Bharatiya Nyaya Sanhita, 2023) – Attempt to Murder – Absence of Firearm Injury - The mere absence of firearm injuries does not negate a charge under Section 307 IPC - The essential ingredient is the act being done with the requisite intent or knowledge that it could cause death; if the victims escape by chance, the offence is complete - The principle of parity is not an inflexible rule and cannot be mechanically applied by courts when the roles attributed to the accused persons are materially different and distinct.
[Relied on Ajwar v. Waseem & Anr., (2024) 10 SCC 768; Neeru Yadav v. State of U.P., (2014) 16 SCC 508; Sudha Singh v. State of Uttar Pradesh & Anr., (2021) 4 SCC 781; Para 29-32]

For Petitioner(s): Mr. Ansar Ahmad Chaudhary, AOR Mr. Pulkit Aggarwal, Adv. Mr. Md Anas Chaudhary, Adv. Mr. Mohd. Sharyab Ali, Adv. Ms. Shehla Chaudhary, Adv. Ms. Alia Bano Zaidi, Adv.

For Respondent(s): Dr. Vijendra Singh, AOR Mr. Vikesh Bansal, Adv. Ms. Ashwina Lakra, Adv. Dr. Vijendra Singh, AOR Mr. Kartikeya Bhargava, AOR

J U D G M E N T

NONGMEIKAPAM KOTISWAR SINGH, J.

Leave Granted.

2. The present Special Leave Petition has been filed under Article 136 of the Constitution of India at the instance of the Appellant/Informant, challenging the order dated 22.09.2025 passed by the High Court of Judicature at Allahabad in Criminal Misc. Bail Application No. 18594 of 2025, whereby the Single Judge was pleased to enlarge Respondent No. 2/accused Jeeshan on bail, during the pendency of the trial in connection with FIR No. 179/2024, registered at Police Station Partapur, District Meerut, under Sections 147, 148, 149, 323, 324, 452, 504, 506 and 307 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”), and Sections 3, 25 and 27 of the Arms Act, 1959.

RELEVANT FACTS

3. The facts material to the adjudication of this matter, as regards the prosecution case and as emerging from the record, are that the Appellant's brother, one Amir, was murdered by certain accused persons, including Aabaad and Aurangzeb, in connection with which FIR No. 143/2023 was registered at Police Station Partapur, District Meerut, under Sections 147, 148, 149, 302, 307, 323, 341, 352, 504, 506, 34, 452 and 325 IPC. The co-accused Aabaad and Aurangzeb in the murder case are also co-accused persons in the present case. It is pertinent to note that both Aabaad and Aurangzeb were subsequently convicted in the aforesaid murder case on 12.11.2025 and sentenced to life imprisonment on 14.11.2025 in Sessions Trial No. 729/2023, and further convicted on 01.11.2025 under the Gangsters Act in Session Trial No. 270/2024 and sentenced to five years' imprisonment.

4. It is in this background that on 27.02.2024, when the Appellant was attending the proceedings of the aforesaid murder case before the Trial Court at Meerut, he was threatened by the co-accused Aabaad and Aurangzeb within the court premises itself on account of his refusal to compromise in the aforesaid murder case. In connection with this episode of intimidation an FIR bearing No. 67/2024, under Section 506 IPC, was registered at Police Station Civil Lines, District Meerut, against the said coaccused persons.

5. The current proceedings emanate from another incident which took place on 12.05.2024, at approximately 4:30 PM, when the Appellant's uncle Rihan and his cousin Afsar were returning home from a neighbouring village. The accused persons, namely Aurangzeb, Aabaad, Jeeshan (Respondent No. 2), Arbaz and Shahnawaz intercepted them on the road. The accused persons stopped the victims and demanded that they withdraw the murder case by abusing and threatening them. As per the FIR which was registered as FIR No. 179/2024 (supra), and the statements of the injured persons, the accused persons then assaulted the victims with lathi, danda, knife and tamancha (country-made pistol). The victims ran towards their houses to save their lives; the accused followed them and forcibly entered the premises, continuing the assault.

6. In the said incident, the Respondent No. 2/accused Jeeshan was seen in the CCTV footage obtained from the cameras installed near the location, arriving on a motorcycle, entering his house, retrieving a country-made pistol, and thereafter, brandishing it on the road. Subsequently, the CCTV footage revealed the Respondent No. 2 going to the roof of the adjacent house with the pistol, after which the sound of multiple gunshots was recorded. The eyewitnesses including Saheba, Adil, Afsar and the victim Rihan himself have categorically deposed that Jeeshan fired at them with the intent to kill, although the bullets fortunately did not strike them, resulting in no firearm injuries.

7. During the investigation, the Respondent No. 2/accused Jeeshan, in his statement before the Investigating Officer, admitted to having taken a pistol from his house, firing several rounds from the roof of the adjoining house, collecting the empty cartridges thereafter to destroy evidence, and then concealing the pistol and cartridges by hiding them beneath a brick in a ruined building on the road to Saidpur upon learning of the police's arrival.

8. Pursuant thereto, a .315 bore pistol in working condition, along with a live cartridge of .315 bore 8mm KF, both wrapped in foil and concealed in grass behind a wall, were recovered at the instance of Respondent No. 2/accused Jeeshan. Consequently, Sections 3, 25 and 27 of the Arms Act, 1959 were also added against him.

9. The Respondent No. 2/accused Jeeshan filed an Anticipatory Bail application before the High Court of Judicature at Allahabad (Criminal Misc. Anticipatory Bail Application No. 6855 of 2024). The Single Judge vide order dated 11.09.2024 rejected the application, expressly holding that a prima facie case of the offence was made out against the applicant and that no extraordinary circumstances had been demonstrated warranting the protection of liberty.

10. Subsequently, after his arrest the Respondent No. 2 filed a Regular Bail Application (Criminal Misc. Bail Application No. 38998 of 2024) before the High Court, which was allowed by the Single Judge vide order dated 23.10.2024 on the ground that only a "vague and general role" had been assigned to the applicant and that there was no substantive evidence against him.

11. Aggrieved thereby, the Appellant challenged the said order before this Court in SLP (Crl.) No. 18256/2024. This Court, vide a speaking order dated 27.01.2025, found the High Court to have committed a grave error in passing the bail order and set aside the same and directed the Respondent No. 2/accused to surrender forthwith. This Court specifically noted that the High Court had erroneously characterised the role of the Respondent No. 2 as "vague and general" and had failed to consider the findings of the Trial Court in the bail rejection order.

12. Despite the passing of the bail cancellation order dated 27.01.2025 by this Court and service of the show cause notice, the Respondent No. 2 did not surrender before the Trial Court. Thereafter, the Appellant filed an application before the Additional Chief Judicial Magistrate, Meerut for the arrest of the Respondent No.2 in terms of the order of this Court. The ACJM then issued a Non-Bailable Warrant (NBW) vide order dated 10.02.2025, against the Respondent No. 2 for his continued defiance. Despite the issuance of the NBW and raids conducted by the police at his residence and other likely locations, the Respondent No. 2 could not be traced and deliberately evaded the process of law.

13. Thereafter, vide order dated 28.02.2025, the ACJM initiated proceedings under Section 82 of the Code of Criminal Procedure, 1973 (Hereinafter referred to as "CrPC") against the Respondent No. 2. The Respondent No. 2 ultimately surrendered on 10.03.2025, i.e., approximately 42 days after this Court's order dated 27.01.2025 cancelling his bail.

14. After his surrender, the Respondent No. 2 filed a second Regular Bail Application before the Trial Court, which was rejected vide order dated 19.05.2025 noting that no new grounds have been raised and considering the serious nature of the offence, the evidence available on record, there is likelihood of the accused absconding and tampering with evidence if released.

15. The Respondent No. 2 then preferred a Criminal Misc. Bail Application No. 18594 of 2025 before the High Court of Judicature at Allahabad. The Single Judge, vide the impugned order dated 22.09.2025, granted bail primarily on the following grounds:

- (i) there was a delay of seven hours in lodging the FIR;
- (ii) no firearm injury was sustained by the injured persons notwithstanding the allegation of firing;
- (iii) the co-accused Aurangzeb had been enlarged on bail by a coordinate bench.

16. The Appellant, being the informant and an eyewitness in the murder case of his brother who has been allegedly persistently targeted by the accused persons, is before this Court challenging the aforesaid impugned order.

17. For ease of reference, the material portion of the impugned order dated 22.09.2025 passed by the High Court is extracted hereinbelow:

“19. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, nature of offence, severity of punishment and considering the delay of seven hours in lodging the FIR coupled by the fact that there being no medical corroboration of the incident as no firearm injury was sustained by the injured as the applicant was assigned the role of firing and also taking into consideration the fact that the main accused person Aurangzeb has been enlarged on bail, prima facie I find it a fit case to release the applicant on bail. The bail application is allowed.”

18. This Court had, in its earlier order dated 27.01.2025, while cancelling the first bail granted to the Respondent No. 2, observed as follows:

4. We are of the considered view that the High Court committed grave error in allowing the application filed by the Respondent No. 2 herein.

5. The High court ignored the specific role assigned to the accused-Respondent No. 2 in the FIR. the Court erred in recording that a vague and general role has been assigned to the accused Respondent No. 2 (bail-Appellant).

6. ***

7. We have noticed that the High Court in a case of a serious nature had granted bail to the respondent, who was in custody for a period of just one month. The High Court also failed to take notice of the findings returned by the Trial Court, dismissing the bail application.”

19. The learned counsel for the Appellant advanced the following submissions before us:

(i) The High Court while passing the impugned order failed to appreciate the order dated 27.01.2025 passed by this Court in SLP (Cri.) No. 18256/2024.

(ii) The conduct of the Respondent No. 2 after the cancellation of bail by this Court was contumacious. He failed to surrender, compelling the Trial Court to issue an NBW and thereafter to initiate Section 82 CrPC proceedings.

(iii) The CCTV footage of the incident incontrovertibly establishes the presence of the Respondent No. 2 at the scene of occurrence with a country-made pistol in hand.

(iv) The Respondent no. 2 in his own statement to the Investigating Officer, admitted to have fired multiple rounds from the roof and to have taken steps to conceal the weapon and spent cartridges. The recovery of pistol and live cartridge at his instance corroborates his active role.

(v) The motive of accused persons' to intimidate prosecution witnesses in the murder case of Appellant's brother in which both Aabaad and Aurangzeb have since been convicted with life imprisonment, is a crucial circumstance that magnifies the threat posed to the Appellant and his family if the Respondent No. 2 is enlarged on bail and remains at large.

20. The learned counsel for the State of Uttar Pradesh on the other hand submitted that:

(i) The investigation conclusively established the active role of the Respondent No. 2, who accompanied the co-accused, participated in the assault and fired multiple shots with

the intent to kill. His role stands established under Sections 147, 148, 149, 452, 323, 324, 504, 506, 307 IPC read with Sections 3, 25 and 27 of the Arms Act.

(ii) A .315 bore pistol in working condition and a live cartridge, both wrapped in foil and concealed in grass behind a wall, were recovered at the instance of the Respondent No. 2.

(iii) Statements of eye-witnesses along with the CCTV footage consistently and collectively establish the Respondent No. 2's presence and his active involvement.

(iv) The chargesheet has been filed and the Trial Court took cognizance on 10.02.2025. Charges were framed on 10.10.2025. A total of 12 prosecution witnesses have been cited, and the trial is at its commencement stage.

(v) Reliance was placed upon ***Ajwar v. Waseem & Anr.*, (2024) 10 SCC 768**, wherein this Court held that an unreasoned or perverse order of bail is always open to interference and that bail can be revoked if the courts below have ignored relevant materials on record or the gravity of the offence.

21. The learned counsel for the Respondent No. 2 contended as follows:

(i) The Respondent No. 2 was never formally declared a "proclaimed offender". Proceedings under Section 82 CrPC were initiated on 28.02.2025, and the Respondent No. 2 surrendered on 10.03.2025, i.e., within 12 days of the Section 82 order well before the expiry of the 30-day period required for a formal declaration of being a proclaimed offender. The representation by the State that he had been declared a proclaimed offender was factually incorrect.

(ii) The reason for the delay in surrender was that the Respondent No. 2 had preferred a Review Petition against the order dated 27.01.2025, which was ultimately dismissed on 25.03.2025. The filing of a Review Petition evinced his bona fide intention to engage with the process of law.

(iii) The CCTV footage transcript does not show the Respondent No. 2 firing at any person. He appears in the footage approximately 11 minutes after the initial altercation began. The complete CCTV footage from multiple cameras, including that from cameras installed at the house of the Respondent No. 2 himself, does not establish that he opened fire.

(iv) The injuries sustained by the alleged victims Rihan and Saheba are only scratch marks and small bruises consistent with simple injuries from a blunt/hard object, and not incised wounds or firearm injuries. The offence under Section 307 IPC is therefore not made out on the evidence on record.

(v) A cross-FIR was registered after an application under Section 156(3) CrPC, inasmuch as the family members of the Respondent No. 2 (including Shahnawaz, who sustained a gunshot wound, and Arbaz, who sustained an incised wound) were themselves victims of the Appellant's family members, who were the aggressors in the incident.

(vi) The principle of parity operates in favour of the Respondent No. 2. The challenge to the bail of coaccused Aurangzeb (who bore criminal antecedents including Section 302 IPC and Gangsters Act cases) was dismissed as withdrawn by the Appellant himself on 21.11.2025 in SLP (Crl.) No. 16404/2025.

(vii) The Respondent No. 2 had undergone incarceration for approximately 7.5 months, and there is no prospect of an early conclusion of trial given that 12 witnesses remain to be examined.

(viii) The Respondent No. 2 is not an accused in the murder case (FIR No. 143/2023), and the criminal history attributed to him consists of only one additional case (FIR No. 433/2022, under Sections 323, 504, 506 IPC), which is pending at the stage of summoning.

22. Having heard the learned counsel for all parties at length and having perused the record with care, this Court is of the considered view that the impugned order dated 22.09.2025 passed by the Single Judge of the High Court of Judicature at Allahabad suffers from a manifest error of law and fails to apply the well-settled principles governing the grant and cancellation of bail, warranting interference by this Court.

23. The first and most fundamental infirmity in the impugned order is the complete absence of any engagement with the order dated 27.01.2025 passed by this Court in SLP (Crl.) No. 18256/2024, whereunder the first bail of the Respondent No. 2 was cancelled. The impugned order does not advert to the reasons that impelled this Court to cancel bail, nor does it identify any supervening circumstances or changed factual matrix that might justify a departure from the position adopted by this Court in the earlier round.

24. While there is no absolute bar against a High Court granting bail to an accused whose bail was previously cancelled by this Court, the grant of bail must be supported by reasons demonstrating either a change in circumstances or the existence of fresh grounds not considered by this Court at the time of cancellation.

25. The conduct of an accused after the cancellation of bail is another crucial factor in determining whether bail ought to be granted afresh. This Court in **Ajwar (supra)** observed as:

“28. The considerations that weigh with the appellate Court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that may have occurred after granting relief to the accused, the conduct of the accused while on bail...”

26. In the instant case, the Respondent No. 2, despite being directed to surrender forthwith by this Court vide order dated 27.01.2025, failed to comply with the mandate of this Court. He absconded, compelling the Trial Court to issue an NBW on 10.02.2025. Even thereafter, he continued to evade arrest, necessitating initiation of Section 82 CrPC proceedings on 28.02.2025. He ultimately surrendered only on 10.03.2025 i.e., approximately 42 days after this Court's order.

27. The argument advanced by the Respondent No. 2 that his delay in surrendering was occasioned by the pendency of a Review Petition does not commend itself to this Court. The filing of a Review Petition does not operate as an automatic stay upon the original order. This Court by order dated 27.01.2025 directed immediate surrender, and the Respondent No. 2 was bound to comply with the direction forthwith.

28. The CCTV footage, which forms part of the record, was examined by the Investigating Officer. The footage records the Respondent No. 2 arriving on a motorcycle, entering his house, retrieving a country-made pistol, waving it on the road, proceeding to the roof of the adjacent house, and the sound of gunshots being recorded. Multiple eyewitnesses have specifically attributed the act of firing to the Respondent No. 2. The CCTV evidence, the eyewitness accounts, the recovery of the weapon and cartridge at

his instance collectively constitute a prima facie case against the Respondent No.2 which finds no reference in the impugned order passed by the High Court.

29. The argument of the Respondent No. 2 that the CCTV footage does not show him firing is a matter of evaluation in the trial and cannot be considered to be determinative at the bail stage. Equally, the absence of firearm injuries does not negate the charge under Section 307 IPC. This Court has consistently held that what Section 307 IPC requires is the doing of an act with intent or knowledge that it can cause death. If an accused fires a weapon at victim with the intent to kill and or the knowledge that it can kill, but the victims escape by chance, the commission of the offence under Section 307 IPC is made out.

30. The High Court granted bail principally on the ground of parity with co-accused Aurangzeb. This reasoning is manifestly erroneous for the following reasons:

(i) The role attributed to Aurangzeb in the present FIR (No. 179/2024) is primarily that of assault by knife. On the other hand, specific role of firing with the country-made pistol is attributed to the Respondent No. 2. The cases are accordingly not identically placed.

(ii) The recovery of a .315 bore pistol and live cartridge at the instance of the Respondent No. 2, and addition of offences under Sections 3, 25 and 27 of the Arms Act against him further distinguish his case from that of Aurangzeb.

(iii) It is significant that the SLP filed by the Appellant challenging the bail of Aurangzeb (SLP (Cr.) No. 16404/2025) was withdrawn on 21.11.2025 on account of Aurangzeb having been convicted in the murder case (FIR No. 143/2023) and the Gangsters Act case. The dismissal-as-withdrawn of that SLP is not a dismissal on merits and creates no precedent in favour of the Respondent No. 2.

(iv) This Court has held that the principle of parity in bail is not an inflexible rule and cannot be mechanically applied when the roles of the accused persons are materially different. In **Neeru Yadav v. State of U.P., (2014) 16 SCC 508**, this Court held that when an accused is a history sheeter or has a specific and distinct role in the offence, a claim of parity with a co-accused cannot succeed without independent scrutiny.

31. This Court cannot be oblivious to the broader context in which the present crime was committed. As it appears from the record before us, the present offence was not an isolated incident but is said to be a premeditated attempt to terrorise the Appellant and his family members who are eyewitnesses and victims in the murder case of the Appellant's brother and to coerce them into withdrawing or compromising in the said murder case against their will.

32. This Court, in **Sudha Singh v. State of Uttar Pradesh & Anr., (2021) 4 SCC 781**, observed that:

“11. There is no doubt that liberty is important, even that of a person charged with crime but it is important for the courts to recognise the potential threat to the life and liberty of victims/witnesses, if such accused is released on bail.”

33. This Court has repeatedly emphasised that bail orders must be reasoned orders that engage with the material on record. In **Mahipal v. Rajesh Kumar, (2020) 2 SCC 118**, this Court held that bail orders must reveal the factors that weighed with the Court for granting relief, and that a mere recitation of “the facts and circumstances of the case” without more does not constitute a reasoned order. Further, in **Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496** this Court laid down the principles guiding the assessment of correctness of an order granting or rejecting bail:

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

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
- (ii) nature and gravity of the accusation;*
- (iii) severity of the punishment in the event of conviction;*
- (iv) danger of the accused absconding or fleeing, if released on bail;*
- (v) character, behaviour, means, position and standing of the accused;*
- (vi) likelihood of the offence being repeated;*
- (vii) reasonable apprehension of the witnesses being influenced; and*
- (viii) danger, of course, of justice being thwarted by grant of bail.”*

34. In the instant case, the impugned order fails to engage with: (i) the order of this Court dated 27.01.2025 in the first round; (ii) the conduct of the Respondent No. 2 in absconding and threatening witnesses post bail-cancellation; (iii) the CCTV evidence and the recovery of the country-made pistol at the instance of the Respondent No. 2; and (iv) the rejection of the second bail application by the Trial Court. An order that overlooks such crucial and weighty materials on record is perverse and cannot be sustained and is liable to be interfered with, as this Court held in **Ajwar (supra)**:

“27.....an unreasoned or perverse order of bail is always open to interference by the superior Court. If there are serious allegation against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by the same Court that has granted bail. Bail can also be revoked by a superior Court if it transpires that the courts below have ignored the relevant material available on record or not looked into the gravity of the offence or the impact on the society resulting in such an order....”

35. For the foregoing reasons, this Court is of the considered opinion that the impugned order dated 22.09.2025 passed by the High Court of Judicature at Allahabad in Criminal Misc. Bail Application No. 18594 of 2025 granting bail to Respondent No. 2/accused Jeeshan suffers from a manifest error of law and is liable to be set aside.

36. Accordingly, the present appeal is allowed. The impugned order dated 22.09.2025 passed by the High Court of Judicature at Allahabad in Criminal Misc. Bail Application No. 18594 of 2025 is set aside and consequently, the bail granted to Respondent No. 2 is hereby cancelled.

37. The Respondent No. 2 is directed to surrender before the Trial Court forthwith, failing which the Trial Court shall take necessary steps including issuance of NBW to secure his custody.

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