



Jose

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION (MAIN) NO.11 OF 2026

THE STATE OF GOA
 Through Police Inspector,
 Anjuna Police Station, Goa.

... Applicant.

Versus

Mr. Saurabh Luthra
 Son of Shri. Vijay Luthra,
 About 40 years of age, Indian Citizen,
 Businessman, having residence
 at 1523, Outram Lane, Kingsway Camp
 New Delhi - 110009.

... Respondent.

Ms. Swati Kamat Wagh, Additional Public Prosecutor for Applicant-State.
 Dr. Abhinav Chandrachud with Mr Vaibhav Suri, Mr S. Khan and Mr J.
 Jain, Advocates for the Respondent.

CORAM:**DR. NEELA GOKHALE, J.****RESERVED ON:****5th August 2026****PRONOUNCED ON:****18th August 2026****JUDGMENT:**

1. By this application, the Applicant-State seeks to quash and set aside the order dated 1st April 2026, passed by the learned Additional Sessions Judge-I, North Goa, Mapusa, in Bail Application No. 65/2026 in connection with C.R. No. 154 of 2025, dated 7th December 2025, registered with Anjuna Police Station, for offences punishable under Sections 105, 125, 125(a), 125(b), 287 read with Section 3(5) of the Bharatiya Nyaya Sanhita 2023 ('BNS'), under which the Respondent was enlarged on bail subject to certain conditions. The charge-sheet No. 12/2026 was filed on 26th February 2026. Offences

punishable under Sections 338, 336(3), 340(2), 61(2), 238, 241, 3(7) read with Section 3(5) of the BNS were added.

2. In brief, the facts of the case are that 'Birch by Romeo Lane', a restaurant-cum-club ('**the restaurant**') at Arpora Village, Bardez, Goa, was owned and operated by 'Being GS Hospitality LLP' ('**the firm**'). The Respondent is a partner in the firm, along with his brother, Mr Gaurav Luthra, and Mr Ajay Gupta. The restaurant is situated in the middle of a salt pan and comprises a ground floor and a deck floor. The restaurant itself is on the deck floor, while the kitchen is on the ground floor. It commenced operations in February 2024. The restaurant is stated to be bereft of sufficient ventilation, and the entry and exit comprised one narrow opening. The place was congested

3. On 6th December 2025, at about 23.45 hrs, a dance event was in progress at the restaurant. It is alleged that cold pyro fireworks were being operated inside the premises near the DJ console. Sparks from the fireworks touched the roof and deck floor, and the interiors, made of combustible materials such as wood, plastic, and dry grass, caught fire. Consequently, the fire spread rapidly throughout the restaurant. The premises had no fire safety or firefighting equipment. There was no emergency exit; there was only one narrow entry and exit, and one ground-floor door was found locked. Neither the ground floor nor the deck floor had sufficient ventilation. Twenty-two men and three women, comprising guests and staff of the restaurant, were

unable to escape and perished. Several others were injured. Two of the bodies were found on the staircase leading down to the kitchen, and twenty-three were found in the kitchen itself on the ground floor.

4. On 7th December 2025, at 09.36 hrs, on the complaint of Mr Navneet Goltekar, Police Sub-Inspector, Anjuna Police Station, FIR No.154/2025 was registered at Anjuna Police Station for offences punishable under Sections 105, 125, 125(a), 125(b) and 287 read with Section 3(5) of the BNS. Sections 338, 336(3), 340(2), 238, 241, 3(7) and 61(2) of the BNS were added during the course of the investigation. The gravamen of the complaint is that the owners, partners and managing staff of the restaurant organised a fire show in the restaurant, which had a roof made of combustible material, without care and caution, without fire safety equipment and without an emergency exit. The restaurant was allegedly operating without requisite permissions and licences of the competent authorities.

5. The investigation further disclosed that the restaurant was operating on the basis of forged and manipulated documents. A No Objection Certificate ('NOC'), purportedly issued by the Health Officer, Primary Health Centre, Candolim, bearing the printed digital signature of that officer, was forged and submitted to the Excise Department to obtain the excise licence. A separate FIR No. 154/2025, dated 17th December 2025, was registered at Mapusa Police Station.

6. The Respondent filed Bail Application No. 6 of 2026 before the

Additional Sessions Judge-I, North Goa, Mapusa. By Order dated 12th February 2026, the Additional Sessions Judge-I rejected the bail application on the following grounds:

- i. The Investigating Officer's findings revealed multiple violations: the club, located in a salt pan, was built illegally and operated without valid permits, licences, or NOC's, including from the Directorate of Fire and Emergency Services.
- ii. The Investigation papers showed staff lacked fire emergency training, drills, and safety equipment. Witness statements supported this. The investigation *prima facie* suggested an offence was committed.
- iii. Management regularly hosted belly dance performances with indoor fireworks every Friday and Saturday, despite the risk from combustible roofing, inflammable décor, overcrowding, and lack of safety measures. This created a clearly hazardous environment, risking fire and loss of life.
- iv. *Prima facie*, there was material indicating that Fire Safety Norms were violated.
- v. The Respondent allowed a dance event with pyrotechnic fireworks inside the club, despite knowing the roof was combustible, that it lacked fire safety measures, and that it had no emergency exits.

Evidence suggests the Respondent was aware and consented to this danger.

- vi. The Respondent's role differs from that of his subordinate staff. The Court granted bail to the Gate Manager and Bar Manager but denied it to the General Manager and Corporate General Manager because of their supervisory roles. The Court considered the Respondent's owner status as placing him in the supervisory category.
- vii. *Prima facie*, the material indicates that the Respondent is liable, as he, along with his partners, permitted and facilitated the use of pyrotechnic fireworks inside the premises without safety norms.
- viii. Whether the Respondent, having appointed Operational Managers to run the day-to-day work of the restaurant, was innocent, is to be decided during the trial.
- ix. The Court rejected the Respondent's plea that he was not physically present at the nightclub as misconceived. The Court held that the Respondent and his partners consciously permitted the use of pyrotechnic fireworks inside the club premises as per the agreement with the event management person.
- x. *Prima facie*, a causal connection exists between the permission granted and the fatal incident. The deaths were not the result of an

unforeseen accident, but a natural foreseeable consequence of allowing inherently dangerous activity in an unsafe and confined environment.

- xi.** The Court held that the offence was grave and that the *prima facie* case for knowledge was made out. It further held that the callous disregard for public safety left no scope for exercising jurisdiction in the Respondent's favour.
- xii.** The Respondent's submission that he had not permitted the use of pyrotechnic fireworks was not accepted, as the material indicated that the Respondent and his partners were aware of it. His own visits to the club were sufficient to infer knowledge.
- xiii.** The application of the principle in the *Sushil Ansal v. State through CBI*¹ case regarding causa causans was rejected.
- xiv.** The material on record, *prima facie*, disclosed that the deceased persons succumbed to death due to asphyxiation from dense smoke inhalation.
- xv.** The placement of the décor and the enclosed spaces left no alternative means of egress. There was only one access to and from the basement, via a narrow staircase. The catastrophe was, *prima facie*, not a mere accident but a foreseeable consequence of the Respondent's failure to install essential fire safety measures

1 (2014) 6 SCC 173.

mandated by law. There was reckless disregard for the safety of patrons and staff, which strongly militates against the grant of bail.

xvi. Most of the material witnesses were staff members and employees of the Respondent, and there is a reasonable apprehension that the Respondent will influence them.

xvii. The instrument of licence was also forged. The allegations of forgery strengthened the *prima facie* case against the Respondent and others.

xviii. *Prima facie* material shows that the Respondent and his brother travelled to Phuket soon after the fire, despite having knowledge that it had occurred. This conduct demonstrates a complete disregard for the lives of his own employees and patrons.

xix. The Respondent's reliance on decisions of the Supreme Court in the matter of *P. Chidambaram v. CBI*², *Sanjay Chandra v. CBI*³, etc., was held not applicable.

7. On these grounds, amongst others, the Additional Sessions Judge-I rejected the bail application by Order dated 12th February 2026. Thereafter, a charge sheet was filed on 26th February 2026, after which the Respondent immediately filed the second bail application. By the impugned order dated 1st April 2026, the Court, on the basis that filing of the charge sheet is a changed

2 (2020) 13 SCC 337.

3 (2012) 1 SCC 40.

circumstance, sufficient to grant bail to the Respondent, enlarged the Respondent and others on bail. It is this Order which is impugned by the Applicant.

8. Ms Swati Kamat Wagh, learned Additional Public Prosecutor, appeared for the State, and Dr Abhinav Chandrachud, learned counsel, represented the Respondent.

9. The grounds of challenge by the State are as under: -

- i. The Sessions Court failed to appreciate the enormity and gravity of the offence, in which 25 innocent persons lost their lives due to gross criminal negligence, reckless conduct and deliberate violation of statutory safety norms on the part of the Respondent and his partners.
- ii. This being a second bail application, the Sessions Court failed to notice the grounds on which the first application was rejected only two months ago. The Court failed to record reasons for granting bail despite the findings in the earlier rejection order.
- iii. The finding that the Respondent is not a flight risk is factually incorrect. The Respondent left the country on the very day the FIR was registered, was declared absconding, was the subject of a non-bailable warrant, proclamation proceedings, a Look Out Circular, and a Blue Corner Notice, and was returned only by deportation.

- iv. The Sessions Court failed to appreciate that the filing of a charge sheet does not dilute the seriousness of the allegations nor confer any infeasible right to bail, and erred in treating the charge sheet's volume and the length of the anticipated trial as grounds for release.
- v. The Sessions Court failed to appreciate that the material prosecution witnesses are employees and staff of the restaurant run by the Respondent and are therefore susceptible to influence.
- vi. The Sessions Court applied the principle of parity with the co-accused Ajay Gupta without independently evaluating the conduct and role of the Respondent. At the time of applying the parity doctrine, the order granting bail to Ajay Gupta was itself under challenge before this Court. This fact was brought to the notice of the Sessions Court.
- vii. Ms Kamat relied on the following decisions:
 - a. *Kalyan Chandra Sarkar v. Rajesh Ranjan*⁴,
 - b. *Mahipal v. Rajesh Kumar*⁵,
 - c. *Deepak Yadav v. State of U.P.*⁶,
 - d. *State of Karnataka v. Sri Darshan*⁷,
 - e. *Prasanta Kumar Sarkar v. Ashis Chatterjee*⁸,

4 (2004) 7 SCC 528.

5 (2020) 2 SCC 118.

6 (2022) 8 SCC 521.

7 2025 INSC 979 : 2025 SCC OnLine SC 1702.

8 (2010) 14 SCC 496.

- f. *Kushal Singh v. State of Himachal Pradesh*⁹
- g. *Yug Kaushal Pathak v. Senior Inspector of Police*¹⁰
- h. *Ramesh Bhavan Rathod v. Vishanbhai Harabhai Bambhania*¹¹
- i. *Ram Naresh v. State of U.P.*¹²
- j. *Virupakshappa Gouda v. State of Karnataka*¹³
- k. *N. Basurangan v. State of Kerala*¹⁴

viii. She submitted that the impugned order is perverse and prayed that the bail granted be cancelled.

10. Dr Chandrachud, learned counsel appearing for the Respondent, defended the bail order and submitted as follows:

- i. The Sessions Court enlarged the Respondent on bail since the charge sheet was filed and hence custodial interrogation was not required. The investigation is complete.
- ii. He submitted that the exact cause of the fire remains unknown to date, even after the filing of a charge sheet running into thousands of pages.
- iii. He further submitted that the Investigating Officer has reported no supervening circumstances indicating a breach of the bail order.
- iv. Dr Chandrachud submitted that the Respondent is not a flight risk because his passport stands suspended and he has deep roots in society

9 2026 SCC OnLine HP 964.

10 2018 SCC OnLine Bom 18093.

11 (2017) 5 SCC 609.

12 (2024) 1 SCC 443.

13 (2017) 5 SCC 406.

14 (2022) 6 SCC 609.

and an established business in India.

- v. He submitted that the earlier rejection of bail was on the ground that the investigation was then pending, and now the ground no longer exists.
- vi. An order granting bail is not to be interfered with, as the settled threshold is a serious infirmity. He submitted that there is no serious infirmity in the bail order.
- vii. He submitted that the handling and use of cold pyro were wholly under the control of the owner and employees of K-Dance and Event Company.
- viii. The prosecution has not arrested the individuals who are directly responsible for the use of cold pyro, which is alleged to have caused the fire.
- ix. He drew my attention to some of the statements of witnesses recorded by the police, stating that the Respondent was not responsible for the incident, howsoever unfortunate the same was.
- x. Dr Chandrachud placed reliance on the following decisions:

a. *Sanjay Chandra v. CBI*¹⁵,

b. *P. Chidambaram v. CBI*¹⁶,

15 (supra at pg. no. 7).

16 (supra at pg. no. 7).

- c. *Arvind Kejriwal v. CBI*¹⁷,
- d. *Prabhakar Tewari v. State of Uttar Pradesh*¹⁸,
- e. *Maulvi Syed Shad Kazmi v. State of Uttar Pradesh*¹⁹,
- f. *Chetan Kisan Patil v. State of Maharashtra*²⁰,
- g. *Puran v. Rambilas*²¹
- h. *Kurban Hussein Mohamedalli Rangawalla v. State of Maharashtra*²²
- i. *State v. Rakesh Goel*²³
- j. *Sushil Ansal v. State*²⁴

11. Heard both counsel for their respective parties and have perused the record with their assistance.

ANALYSIS

12. Before delving into the merits of the case, it is necessary to discuss the law governing the reversal of bail. A distinction must be drawn between an application to cancel bail on account of supervening circumstances, such as misuse of the liberty granted, and a challenge to the legality and propriety of the order granting bail. In *Shobha Namdev Sonavane v. Samadhan Bajirao Sonvane and Others*²⁵, the Supreme Court observed:

“20. We make it clear that there is a clear distinction between cancellation of bail on the considerations provided under Section 439(2) CrPC (corresponding Section 483(3) BNSS) and reversal of

17 2024 SCC OnLine SC 2550.

18 (2020) 11 SCC 648.

19 SLP (Crl) No. 1059 of 2025.

20 2025 SCC OnLine Bom 2403.

21 (2001) 6 SCC 338.

22 1964 SCC OnLine SC 162.

23 Crl. M.C. 3850/2019.

24 (2014) 6 SCC 173.

25 2026 SCC OnLine SC 291; 2026 INSC 181.

an order of bail by the superior Court. While cancellation should only be resorted to in cases where the accused misuses the liberty of bail granted to him or tempers with the evidence. On the other hand, the order granting bail can be interfered with by the superior Court considering the nature and gravity of the offences; if the order granting bail ignores the relevant material available on record or that the same is based on extraneous considerations. The present is a case in the second category.

21. This court in the case of **Shabeen Ahmad v. State of Uttar Pradesh & Anr.**²⁶, relying upon an earlier judgment in the case of **Ajwar v. Waseem**²⁷, observed as follows:

“18. A superficial application of bail parameters not only undermines the gravity of the offence itself but also risks weakening public faith in the judiciary's resolve to combat the menace of dowry deaths. It is this very perception of justice, both within and outside the courtroom, that courts must safeguard, lest we risk normalising a crime that continues to claim numerous innocent lives. These observations regarding grant of bail in grievous crimes were thoroughly dealt with by this Court in Ajwar v. Waseem [Ajwar v. Waseem, (2024) 10 SCC 768 : (2025) 1 SCC (Cri) 320] in the following paras : (SCC pp. 783-84, paras 26-28)

“26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. [Refer : Chaman Lal v. State of U.P. [Chaman Lal v. State of U.P., (2004) 7 SCC 525 : 2004 SCC (Cri) 1974]; Kalyan Chandra Sarkar v. Rajesh Ranjan [Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528 :

26 (2025) 4 SCC 172.

27 (2024) 10 SCC 768.

2004 SCC (Cri) 1977] ; Masroor v. State of U.P [Masroor v. State of U.P, (2009) 14 SCC 286 : (2010) 1 SCC (Cri) 1368] ; Prasanta Kumar Sarkar v. Ashis Chatterjee [Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765] ; Neeru Yadav v. State of U.P [Neeru Yadav v. State of U.P, (2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527] ; Anil Kumar Yadav v. State (NCT of Delhi) [Anil Kumar Yadav v. State (NCT of Delhi), (2018) 12 SCC 129 : (2018) 3 SCC (Cri) 425] ; Mahipal v. Rajesh Kumar [Mahipal v. Rajesh Kumar, (2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558] .]

27. It is equally well settled that bail once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse order of bail is always open to interference by the superior court. If there are serious allegations 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 the 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.....”

[Emphasis supplied]”

13. The Supreme Court in the case of **Victim ‘X’ v. State of Bihar & Anr.**²⁸, while setting aside the order of granting bail to a person accused of committing grave offences, inter alia, under the SC & ST (Prevention of Atrocities) Act 1989, observed as under:

“24. It is trite that bail once granted should not be cancelled ordinarily, but where the facts are so grave that they shake the conscience of the Court; and where the release of the accused on bail would have an adverse impact on the society, the Courts are not powerless and are expected to exercise jurisdiction conferred by law to cancel such bail orders so as to subserve the ends of justice. The present one is precisely a case of such nature.”

28 2025 INSC 877.

14. The test to be applied was also stated in ***Mahipal v. Rajesh Kumar***²⁹: -

“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.”

15. Applying the aforesaid settled principles to the facts of the present case, I now proceed to examine whether the reasons assigned by the Sessions Court for grant of bail can withstand judicial scrutiny.

16. The learned Sessions Court has assigned the following reasons for granting bail to the Respondent/Accused, as under:

- i. The Sessions Court relied on the principle that ‘bail is the rule and jail is the exception’ to hold that, since the charge sheet is filed, continued incarceration is not required. The Court relied on the decision in ***Sanjay Chandra***³⁰ to justify the grant of bail. The Court held that, in the absence of any material indicating that the Respondent is attempting to influence witnesses not to depose against him, bail cannot be refused. The Court also relied on the Supreme Court’s decision in ***P. Chidambaram***³¹.

- ii. Similarly, citing the decision of the Supreme Court in ***Maulvi Syed Shad Kazmi v. State of Uttar Pradesh***³², the Sessions Court held that

29 (supra at pg. no. 9).

30 (supra at pg. no. 7).

31 (supra at pg. no. 7).

32 (supra at pg. no. 12).

considering the alleged offence is not that serious or grave like murder, dacoity, rape, etc., the Court is loath to deny bail to the Respondent. Thus, the Sessions Court held that the alleged offence is not grave and, in the absence of the possibility of the Respondent absconding or tampering with the evidence, the interest of justice would be served by enlarging the Respondent on bail.

- iii. The Sessions Court took the view that since Section 105(II) and Section 338 of BNS do not provide for a minimum sentence, the offence alleged to have been committed by the Respondent does not fall in the category of a heinous offence.
- iv. Finally, the Sessions Court considers that, in view of the prevailing docket explosion and the charge sheet being voluminous and running into more than 4000 pages, with as many as 306 witnesses and 13 accused arrayed in the trial, it is not likely to conclude the trial in the near future. On these grounds, the Sessions Court enlarged the Respondent on bail.

17. Admittedly, the Sessions Court, while rejecting the first bail which was filed before the charge sheet, had considered the case in detail and had recorded a finding that the case is heinous; the Respondent and his partners were involved in manipulating documents to portray that they had a licence to operate the restaurant; there was no NOC from the fire department; there were no fire extinguishers in the restaurant, the exit and entry was only one

narrow passage; the basement was congested; there was no proper ventilation.

18. The Court had specifically found the restaurant to be a manifestly hazardous environment, exposing both patrons and staff to a foreseeable risk of fire and loss of life. The Court also relied on material showing that the Respondent and his partners were well aware of the dangers of operating cold pyro technic during belly dance performances, especially noting that the material used in the construction of the roof was easily combustible. While granting bail to the Respondent and his partners, the Sessions Court has merely held the filing of the charge sheet as a changed circumstance, without advertent to any substantial material in the charge sheet to justify the change of stance, earlier taken by it.

19. It is important to note that merely holding the charge sheet as a changed circumstance is not sufficient ground for the grant of bail. The passages from the *Sanjay Chandra*³³ case cited by the Sessions Court have their relevance, but the same cannot be made applicable in every case for grant of bail. The Supreme Court in *Virupakshappa Gouda*³⁴ has held exactly this. In *Sanjay Chandra*³⁵, the accused was facing trial for offences under Section 120-B, 420, 468, 471, and 109 of the IPC, and Section 13(2) and 13(1)(d) of the Prevention of Corruption Act. The factual matrix is quite different. The nature of the crime and the manner in which it is committed

33 (supra at pg. no. 7).

34 (supra at pg. no. 10).

35 (supra at pg. no. 7).

are to be seen. In ***Virupakshappa Gouda***³⁶, the Supreme Court held as follows:

“13. On a perusal of the order passed by the learned trial Judge, we find that he has been swayed by the factum that when a charge-sheet is filed it amounts to change of circumstance. Needless to say, filing of the charge-sheet does not in any manner lessen the allegations made by the prosecution. On the contrary, filing of the charge-sheet establishes that after due investigation the investigating agency, having found materials, has placed the charge-sheet for trial of the accused persons.”

20. The material on record includes statements of various witnesses recorded by the Police. The statement of electrician Mohammed Ansari indicates that there was only one rear exit door at the restaurant, which was always locked. The soundproof glass was installed at the Respondent's and his partners' instructions, which prevented smoke from escaping. The staff was never provided with any training to handle fire incidents, and there was no fire extinguisher equipment in the restaurant. There was also no emergency exit to the kitchen. M. D. Juvel Ali, Food and Beverage Manager, Rahul Verma, Captain in the restaurant, and other staff also said the same thing. Brian Martins, the Artist in K-Dance events, and Mikhail Bukin stated that there was no fire extinguisher nor any fire safety plan in the restaurant; the sparkler machines were used during the belly dance performances, as per the directions of the Respondent and his partners. Mr Judah D'Souza, a musician, also stated that the narrow concrete bridge connecting the restaurant's deck floor from the west side was blocked during the restaurant's operation by locking the metal gate. As a result, customers could not exit during the fire. Gavin Lobo, Bhavna Joshi, a tourist from U.P., and the other 49 tourists who

36 (supra at pg. no. 10).

gave statements stated the same thing. It was repeatedly stated that there were no fire extinguishers on the premises.

21. Shailesh Gawade, Station Fire Officer at the Fire Headquarters, confirmed that the restaurant did not possess a valid NOC from the Fire Department. Prathamesh Shankardas, Block Development Officer, stated that the appropriate procedure was not followed in obtaining the trade licence and other licences. Dharmendra Govekar, Panchayat Secretary, stated that the structure itself was illegal, as it could not be allotted a house number because it was in the middle of a salt pan. Pradeep Amonkar, a vendor of the premises, stated that co-accused Mr Surendra Khosla, the owner of the premises, prepared a forged letter stating that the vendors had handed over possession of the entire resort to him; that Mr Khosla thereafter raised an illegal structure from which the night club was run. This fact was known to the Respondent and his partners. Sanjay Metre also confirmed that the Respondent and his brother used to visit the restaurant and direct Ravi Verma, the supervisor, to carry out interior work. Akhtar Ali, Interior Designer, also confirmed that the Respondent made no fire safety provisions. Mohd Amir Raza, the Carpenter, affirmed that the ceiling was constructed with bamboo-mat-like material as per the design given to them by Mr Ravi and his team, and that he was not directed to install a fire extinguisher or fire safety systems.

22. Most importantly, Akash Sethi, the sound and light provider, stated that he had informed the Respondent and his brother to remove the tin sheets

from the roof and install two-inch-thick puff panels. However, they had refused. He also said that water was seeping from the walls and that there was four inches of stagnant water on the floor. Other witnesses also stated that the Respondent and his other partners were aware of all this.

23. Dinesh Khera, Manager, stated that he received the authority letter from Respondent and his brother on WhatsApp. Forged documents were also found at Mr Khera's hotel premises. Material on record also indicates that the structure was unauthorised, which fact was known to the Respondent and his partners. They operated the restaurant knowing full well the risks of conducting fire displays inside the restaurant without adequate safety measures. This led to the incident of fire leading to the death of 25 innocent persons, as most of them were unable to exit because of the structure. Many others were injured.

24. The Sessions Court's finding is that although Section 105, Part II may apply, no minimum sentence is prescribed for the offence; hence, the offence is not heinous; therefore, the Respondent is entitled to be released on bail. From the material on record, it is clear that, on account of the acts attributed to the Respondent and his partners, there was a fire in the restaurant, and, on account of the absence of fire extinguishers and other safety installations, 25 people died. The restaurant was operating without licences. The Respondent and his partners could not procure licences because the structure itself was unauthorised. Had they procured valid licences to operate the restaurant, the

Respondent and his partners would have been bound to install safety measures and adhere to regulations. This deliberate omission led to the incident, which cost 25 people their lives and left many more injured. The Sessions Court, in its previous Order rejecting bail, considered this and, while allowing the second application, failed to record any changed circumstances that came to light after the filing of the charge sheet. The Sessions Court has not recorded any finding contrary to its earlier finding while rejecting bail, except that the charge sheet was filed. Hence, this observation of the Sessions Court is not tenable.

25. In ***Kushal Singh***³⁷, the Supreme Court discussed what constitutes a change and observed that a change must be substantial, have a direct impact on the earlier decision, and not be merely cosmetic changes of little or no consequence. Between the two orders, there was a gap of only two months, and it is nobody's case that drastic changes took place during these months necessitating the release of the Respondent on bail. Further, in ***Kalyan Chandra***³⁸, the Supreme Court held that where an earlier bail application is rejected, the Court must consider the rejection and then consider why the subsequent bail application should be allowed. It was held as under:

“12. In regard to cases where earlier bail applications have been rejected there is a further onus on the court to consider the subsequent application for grant of bail by noticing the grounds on which earlier bail applications have been rejected and after such consideration if the court is of the opinion that bail has to be granted then the said court will have to give specific reasons why in spite of such earlier rejection the subsequent

37 (supra at pg. no.10).

38 (supra at pg. No 9).

application for bail should be granted.”

26. The decision in ***Kalyan Chandra***³⁹ is equally relevant on two grounds on which the impugned order rests, namely the period of custody undergone and the prospect of a long trial: -

“14. ... the mere fact that the accused has undergone certain period of incarceration 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...”

27. Thus, the Sessions Court, without referring to its earlier findings, has proceeded on the simplistic premise that since the chargesheet is submitted, no useful purpose will be served by taking the accused into custody, particularly since the trial Court had remanded the Respondent to judicial custody. Such reasoning, in my view, is untenable, inasmuch as it glossed over the conduct of the Respondent indicating his complicity in the offence. The Sessions Court ought to have taken note of and/or considered the material collected during the investigation even to find out whether there is any material collected during the investigation involving the Respondent for the serious offence as alleged and whether it is a fit case to enlarge him on bail or not.

28. The Supreme Court has repeatedly held that while considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the

³⁹ (supra at pg. no. 9).

accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail.

29. In *Yug Kaushal Pathak*⁴⁰, the Bombay High Court, in a similar case of fire, holding that when the material on record clearly indicates that the incident resulting in several deaths was caused on account of lapses of the accused, including unauthorised construction, absence of permissions, no firefighting systems, no emergency exit routes, etc., had rejected bail to the accused therein. The offence alleged against the Respondent and his partners in the present case is similar and serious. The Sessions Court was not justified in observing that the offence is not as heinous as murder or dacoity.

30. Another ground for grant of bail to the Respondent and his partners was the voluminous charge sheet, 306 potential witnesses and 13 accused in all, which made it unlikely that the trial will conclude in the near future. This finding also cannot be sustained. In *Sri Darshan*⁴¹, the Supreme Court held as under:

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

40 (supra at pg. no. 10)

41 (supra at pg. no. 9)

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.

20.4.6. 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.”

31. The finding upon flight risk is contrary to the record. The Respondent had fled to Phuket, Thailand, and was apprehended only after the issuance of a non-bailable warrant, proclamation, and Blue Corner Notice, and was later deported to India. None of these matters is addressed in the reasons.

32. The Sessions Court held that, since co-accused Ajay Gupta was granted bail, the Respondent herein also deserves to be enlarged on bail on the basis of parity. The Sessions Court failed to appreciate that Ajay Gupta's bail order was also under challenge before this Court. The Sessions Court has not recorded any finding regarding the roles attributed to Ajay Gupta and the present Respondent. There is a clear non-application of mind.

33. A plain reading of the impugned order reveals not a word on the enormity of the offence. The gravity of the offence must not be undermined. The Respondent and his partners, *prima facie*, deliberately ignored all safety

norms while operating the restaurant and authorising the conduct of cold-pyro fireworks, knowing fully well the combustible material used in the roof of the restaurant. House number was distorted to procure a trade license, which in turn was used to forge the health NOC, and all this for the purpose of procuring the Excise license. The material on record is sufficient to prima facie point the arrow of intent towards the Respondent and his partners. Each partner shrugged off his individual responsibility and indulged only in a blame game. The Respondent's arguments were based on delegated authority: he had engaged individuals to run the restaurant, as he was operating as many as twenty restaurants in the country, making it impossible for him to personally oversee the Birch restaurant. After the incident, the act of taking flight to Phuket, Thailand, also displays the shrugging off of any responsibility for the incident that resulted in twenty-five deaths of innocent people. To look at the offence as 'not that heinous' indicates simplicity on the part of the Sessions Court.

34. The Sessions Court also relied on the submission on behalf of the Respondent that the cause of fire is not yet crystallised. The Sessions Court overlooked the report of the Directorate of Fire and Emergency Services, Government of Goa dated 5th February 2026, which clearly records that the findings of the demonstration seen alongside the video of the fire incident may have been triggered by fire sparklers used in the club, although the final FSL report is awaited.

35. The Supreme Court in *M/s Netsity Systems Pvt. Ltd. v. The State Govt. of NCT of Delhi*⁴² has held that denial of bail does not mean whittling down pro-liberty principles, but the Courts must be cognisant of applying settled principles of law to the facts of specific cases. No precedent operates in a vacuum and must be correlated to the extant facts.

36. In view of the aforesaid discussion, the preceding analysis demonstrates that the case at hand requires deeper scrutiny beyond the conventional principles governing the subject. The order granting bail to the Respondent indicates an improper exercise of discretion by the Sessions Court. There is no application of mind in enlarging the Respondent on bail. Surprisingly, the Sessions Court has not even directed periodic attendance before the Investigating Officer; nor has it directed the Respondent to seek the trial Court's permission to travel within India.

37. In these circumstances, the impugned Judgment and Order dated 1st April 2026, passed by the learned Additional Sessions Judge-I, North Goa, Mapusa, releasing the Respondent on bail, deserves to be quashed and set aside, and it is accordingly quashed and set aside.

38. The Respondent shall surrender before the Sessions Court within a period of two weeks from the date of uploading the present order. The application is allowed.

39. It is made clear that the observations made in the present order are

42 2025 INSC 1181 : 2025 SCC OnLine SC 2079.

prima facie and confined to the correctness of the impugned Order and shall not affect the trial.

40. It is made clear that after the surrender, the Respondent is at liberty to move an appropriate application for bail before the trial Court afresh and the trial Court may consider it on its own merits and in accordance with law and after taking into consideration the relevant material collected during the course of investigation which is part of the charge sheet.

(DR. NEELA GOKHALE, J.)

Andreza ereira Digitally signed by Andreza ereira
Date: 2026.08.18 19:22:29 +05'30'