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

SANJAY KUMAR; J., K. VINOD CHANDRAN; J.

Special Leave to Appeal (Crl.) No. 19708 of 2025; February 17, 2026

Rakesh Mittal versus Ajay Pal Gupta @ Sonu Chaudhary and another

Criminal Law — Grant of Bail — Cancellation/Setting aside of bail order — Factors to be considered — Criminal Antecedents and Conduct — The Supreme Court set aside the Allahabad High Court's order granting bail to the first respondent, a "habitual offender" and "career criminal" involved in large-scale cheating and forgery - held that while liberty is a cardinal value, it is not absolute and must be balanced against the potential threat to society and the economic well-being of its members.

Bail — Doctrine of Parity — Non-application to History-sheeters — Noted that the High Court erred in blindly extending the principle of parity to the respondent based on the bail granted to co-accused without considering his specific and distinctive features, including his use of 8 to 10 aliases, forged Aadhaar cards, and a history of absconding – Noted that when there is a likelihood of offences being repeated or justice being thwarted, discretion must be exercised cautiously.

Jurisdiction — Magistrate's Power to Commit — Sections 209 and 323 of CrPC — Noted that High Court's assumption that the case was triable by a Magistrate was premature. Even if a case is initially before a Magistrate, it can be committed to the Court of Sessions under Section 209 or Section 323 of the CrPC if the offences (such as Section 409 or 467 IPC, which carry sentences up to life imprisonment) warrant such a trial – Appeal allowed. [Relied on *Dolat Ram and others vs. State of Haryana* (1995) 1 SCC 349; *Neeru Yadav vs. State of Uttar Pradesh and another* (2014) 16 SCC 508; *Sudha Singh vs. State of Uttar Pradesh and another* (2021) 4 SCC 781; Paras 15-21]

For Petitioner(s): Mr. Manish Goswami, Sr. Adv. Mr. Rongon Choudhary, Adv. Mr. Gaurav Shukla, Adv. Mr. Deshmukh Adith Satish, AOR

For Respondent(s): Mr. Siddhartha Dave, Sr. Adv. Mr. Ankit Dhawan, AOR Mr. Rupraj Banerjee, Adv. Mr. Mohit Miglani, Adv. Mr. Namit Saxena, AOR

J U D G M E N T

SANJAY KUMAR, J

1. Leave granted.
2. The appellant is the complainant in FIR No. 0568 dated 29.12.2023, registered under Sections 406, 419, 420, 467, 468, 471 and 506 of the Indian Penal Code, 1860¹, on the file of P.S. Risiya, District Bahraich, Uttar Pradesh. He is aggrieved by the grant of bail to an accused therein., viz., Ajay Pal Gupta @ Sonu Chaudhary, respondent No.1, vide order dated 12.11.2025 passed in Criminal Misc. Bail Application No. 9871 of 2025 by a learned Judge of the Allahabad High Court, Lucknow Bench.
3. The case of the complainant was that he had supplied foodgrains to the four named accused in the FIR, including respondent No.1, but he was paid only ₹5,02,57,000/- out of the total sum due and payable to him, i.e., ₹11,52,38,156/-. He claimed that cheques were issued but when those cheques were presented, they were dishonoured for want of

¹ For short, 'IPC'

funds. He further claimed that his inquiries had revealed that the accused conspired with each other, prepared forged documents with false and fabricated addresses, including Aadhaar Cards, and had cheated him. Documents were filed in proof of respondent No.1 showing his own name and his father's name differently on separate occasions.

4. When notice was ordered in this matter on 24.11.2025, this Court was informed that respondent No. 1 had not yet been released from prison pursuant to the impugned bail order. Noting the same, this Court directed that, if that be so, the impugned order should not be given effect to. In consequence, respondent No.1 still remains incarcerated.

5. We may note that respondent No.1, being accused No.1 in the FIR, was arrested only on 08.08.2025 after absconding for over one and a half years. The learned Sessions Judge, Bahraich, rejected his plea for grant of bail, *vide* order dated 29.08.2025 in Bail Application No. 2512 of 2025. Therein, the learned Sessions Judge, apart from noting various other aspects, found that respondent No.1 had deliberately made a false statement before the Court by suppressing the fact that there were three other FIRs registered against him in Uttar Pradesh and Delhi.

6. Respondent No.1 then approached the High Court by way of the subject application on 03.09.2025. By the impugned order, the learned Judge noted his plea that he was entitled to parity, as his co-accused, viz., Devender Pal Singh was granted bail on 07.11.2025 and another co-accused, Uma Shankar Mishra, had been granted anticipatory bail even earlier on 18.08.2025. The learned Judge held that, in the light of the co-accused's bail orders; the period that respondent No.1 had remained in prison; the fact that the chargesheet had been filed; and as the offence was triable by a Magistrate, respondent No.1 was entitled to grant of bail, subject to conditions. This order is the cause for grievance presently.

7. Notably, Criminal Misc. Writ Petition No. 644 of 2024 filed by respondent No.1 before the Allahabad High Court, Lucknow Bench, seeking quashing of the subject FIR No. 0568 of 2023 was dismissed as withdrawn on 30.01.2024.

8. The State of Uttar Pradesh, respondent No.2 herein, filed a counter affidavit. Therein, it stated that after the registration of the FIR on 29.12.2023, after investigation and upon discovery of the ingredients of criminal breach of trust, Section 409 IPC was also added. Notices were stated to have been issued to all the four accused but respondent No.1 and his co-accused, Vijay Pal Gupta, could not be found as the furnished addresses were incorrect and fictitious. The investigation was then transferred to the Crime Branch, Bahraich, from P.S. Risiya, pursuant to the order dated 31.07.2024 of the Senior Superintendent of Police, as the offence involved cross jurisdictional operations resulting in loss of ₹6.5 crores to the complainant. According to the State, respondent No.1 used the following names/aliases – Ajay Pal Gupta, Sonu Chaudhary, Gautam Agrawal, Shubham Gupta, Shivam Agarwal, Kamla Kant Tiwari, Shaurya Dudulani and Sonu Seth. He was finally arrested on 08.08.2025 and three Aadhaar cards, two showing his name as Sonu Chaudhary s/o Sobharam, with different addresses in Delhi, and one showing his name as Gautam Agarwal s/o Bhagwan Das Agarwal, with an address in Ghaziabad, Uttar Pradesh, along with a PAN card in the name of Gautam Agarwal s/o Bhagwan Das Agarwal, were recovered from his possession apart from other incriminating documents. All the fake IDs had his picture and even his father's name was changed from Sobharam to Bhagwan Das Agarwal. The chargesheet was filed against him on 23.10.2025.

9. The State pointed out that respondent No.1 had remained a fugitive for more than 20 months since registration of the FIR and despite a picture publication and raids

conducted across Delhi and Uttar Pradesh, he remained untraceable until 08.08.2025. It was stated that respondent No.1 was apprehended only after declaration and payment of a reward of ₹51,000/- to facilitate his capture. The State referred to the three known criminal antecedents of respondent No.1 in Uttar Pradesh and Delhi. It stated that, insofar as FIR No. 229 of 2017 registered in Delhi was concerned, respondent No.1 had secured bail and did not co-operate thereafter during the trial. Even the address of the surety furnished by him was found to be fictitious. His co-accused, Vijay Pal Gupta @ Jivan Saini, whose real name was found to be Jivan Kaushik, was also arrested on 12.11.2025. According to the State, respondent No.1 had been operating under different names, as he had as many as 8 to 10 aliases with forged Aadhaar cards and PAN card, making it difficult to track and verify his criminal antecedents comprehensively against multiple jurisdictions. The investigation conclusively established that respondent No.1 was the principal offender and the master-mind behind the offence. The State asserted that the High Court had failed to take a holistic view of the matter while directing his release on bail. It was pointed out that even the surety furnished by him in this case was not found at the given address.

10. In the affidavit filed in support of his application to vacate the stay granted on 24.11.2025, respondent No.1 stated that his name was correctly recorded as Sonu Chaudhary in FIR No.229 of 2017. He further stated that his father's name was correctly mentioned in his Aadhaar card, PAN card, Passport and Vehicle Registration Certificate as Sh. Shobha Ram. In a separate counter affidavit filed on his behalf, it was stated that there were only 2 FIRs registered against respondent No.1, i.e., FIR No.229 of 2020 [*sic* 2017] registered under Sections 420, 467, 468, 471, 506, 120B and 34 IPC on the file of P.S. Geeta Colony, District Shahdara, Delhi, and the subject FIR No. 0568 of 2023 under Sections 406, 419, 420, 467, 468, 471 and 501 IPC on the file of P.S. Risiya, District Bahraich, Uttar Pradesh. According to the deponent, when the subject FIR was registered, the details of the accused were provided by the complainant or were procured by the Investigating Officer and respondent No.1, therefore, had no control on how his father's name was shown. Respondent No.1 was stated to have been arrested on 26.05.2017 in connection with FIR No.229 of 2017. He was granted bail on 10.08.2017, but as he failed to appear before the Trial Court, a non-bailable warrant was stated to have been issued against him on 26.04.2025.

11. Though the counter affidavit filed on behalf of respondent No.1 spoke of only 2 FIRs being registered against him, including the subject FIR, the order dated 29.08.2025 passed by the learned Sessions Judge, rejecting the bail application of respondent No.1, indicates that, apart from FIR No. 229 of 2017 and the subject FIR No. 0568 of 2023, FIR No.254 of 2022 and FIR No.31 of 2020 were also registered against respondent No.1. FIR No. 31 of 2020 was registered on the file of P.S. Secunderabad, District Bulandshahr, under Sections 420 and 406 IPC, while FIR No.254 of 2022 was registered on the file of P.S. Commissionerate, Gautam Budh Nagar, Uttar Pradesh, under Sections 406, 420 and 120B IPC. We may also note that FIR No. 229 of 2017 is still dragging on and it appears that charges have not even been framed in that case till date.

12. At this stage, we may note that one of the grounds that weighed with the High Court was that the offences against respondent No.1 were triable by a Magistrate. However, the High Court overlooked the fact that the offences now alleged against respondent No.1 include offences under Section 409 IPC and Section 467 IPC also. Significantly, the punishment for offences under these provisions can extend to imprisonment for life or imprisonment for a term up to ten years. Similarly, some of the other offences for which

respondent No.1 has been hauled up for entail a possible sentence of imprisonment over three years.

13. Under Section 29 of the Code of Criminal Procedure, 1973², a Magistrate of First Class can pass a sentence of imprisonment for a term not exceeding three years, while a Chief Judicial Magistrate may pass a sentence of imprisonment, excepting imprisonment for a term exceeding seven years or a sentence of death or imprisonment for life. A Metropolitan Magistrate has the same powers as a Magistrate of First Class while a Chief Metropolitan Magistrate is equivalent to a Chief Judicial Magistrate.

14. In that view of the matter, it would always be open to a Magistrate, if he is of the opinion that any of the offences in the case are exclusively triable by a Court of Sessions, to commit the case to a Court of Sessions under Section 209 CrPC or Section 323 CrPC. It may be noted that under Section 323 CrPC, such power can be exercised by the Magistrate even during the course of the trial. Therefore, the assumption of the High Court that the case on hand is triable by a Magistrate is premature.

15. We are also conscious of the fact that this is not a case of cancellation of bail but a challenge to the validity of an order granting bail. Even in cases of cancellation of bail, the power to do so is not just limited to occurrence of supervening circumstances as the Court has the inherent power and discretion to cancel the bail of an accused even in the absence of supervening circumstances (See **Dolat Ram and others vs. State of Haryana**³). One of the grounds enumerated therein, as relevant for exercise of such power, is where the past criminal record and the conduct of the accused are completely ignored while granting bail.

16. **Neeru Yadav vs. State of Uttar Pradesh and another**⁴ was a case where bail had been granted to a history-sheeter, charge-sheeted for a number of heinous offences, on the ground of parity. Observing that liberty is a priceless treasure for a human being and is a cardinal value on which civilization rests, this Court cautioned that liberty of an individual would however not be absolute as society, by its collective wisdom and through the process of law, can withdraw liberty that has been sanctioned to an individual when such an individual becomes a danger to the collective and to the societal order. It was further observed that the High Court must exercise its discretion cautiously and when there is likelihood of offences being repeated or there is a danger of justice being thwarted by grant of bail, these are factors which should be taken into consideration while dealing with an application for bail. It was further observed that cancellation of bail if the accused misconducted himself or due to some intervening circumstances is in a different compartment altogether from examination of an order granting bail which was unjustified, illegal or perverse. It was held that, if in a case, the relevant factors which should have been taken into consideration while dealing with the application for bail have not been taken note of or it is founded on irrelevant considerations; indisputably, the superior court can set aside such a bail order. *Per* this Court, such a case would belong to a different category and in a separate realm, as it delves into the justifiability and soundness of the order passed by the Court.

17. Again, in **Neeru Yadav vs. State of UP and another**⁵, this Court observed that a crime, though committed against an individual, may not retain an individual character as

² For short 'CrPC'

³(1995) 1 SCC 349

⁴(2014) 16 SCC 508

⁵(2016) 15 SCC 422

the victim may be an individual but, in the ultimate eventuate, it is the society which is the victim. Further, observing that a crime, as is understood, creates a dent in the law-and-order situation and disturbs orderliness, this Court held that an individual can enjoy his liberty which is definitely of paramount value but he cannot be a law unto himself and he cannot cause harm to others. It was held that an individual cannot be a nuisance to the collective or a terror to the society. Reference was made to the observations of E. Barrett Prettyman, Chief Judge of the US Court of Appeals (Retired), which read thus: -

“In an ordered society of mankind there is no such thing as unrestricted liberty, either of nations or of individuals. Liberty itself is the product of restraints; it is inherently a composite of restraints; it dies when restraints are withdrawn. Freedom, I say, is not an absence of restraints; it is a composite of restraints. There is no liberty without order. There is no order without systematised restraint. Restraints are the substance without which liberty does not exist. They are the essence of liberty. The great problem of the democratic process is not to strip men of restraints merely because they are restraints. The great problem is to design a system of restraints which will nurture the maximum development of man's capabilities, not in a massive globe of faceless animations but as a perfect realisation, of each separate human mind, soul and body; not in mute, motionless meditation but in flashing, thrashing activity.”

Noting that the High Court, in that case, had totally ignored the criminal antecedents of the accused and what had weighed with the High Court was only the doctrine of parity, this Court set aside the bail granted to the accused therein.

18. In ***Sudha Singh vs. State of Uttar Pradesh and another***⁶, a 3-Judge Bench of this Court was dealing with the validity of a bail order passed in favour of an alleged contract killer. This Court found that the High Court had simply ignored the criminal antecedents of that accused. It was observed that though liberty is important, even that of a person charged with crime, it is equally important for the Courts to recognize the potential threat to life and liberty of victims/witnesses, if such an accused is released on bail.

19. Though the observations made in some of the above cases were in the context of heinous offences, which is not the case presently, we may note that the value of life and liberty of members of society is not limited only to their ‘person’ but would also extend to the quality of their life, including their economic well-being. In offences of a pecuniary nature, where innocent people are cheated of their hard-earned monies by conmen, who make it their life’s pursuit to exploit and feast upon the gullibility of others, the aforesaid factors must necessarily be weighed while dealing with the alleged offenders’ pleas for grant of bail.

20. In the case on hand, the investigation against respondent No.1, as is borne out by the counter affidavit filed by the State, clearly demonstrates that he is a habitual offender. The number of diverse and unconnected aliases, fake IDs and the deliberate changes of identity, including his father’s name, clearly manifest his nefarious intention to dupe innocent victims and cheat them.

21. Further, the fact that respondent No.1 was granted bail earlier but chose to indulge in the same activities once again, resulting in the registration of multiple FIRs over the years, demonstrates that he is a career criminal and a menace to society. The impugned order reflects that his past antecedents were not even taken into consideration. Similarly, his conduct in the context of the pending case was not noted. Having secured bail in relation to FIR No. 229 of 2017, respondent No.1 chose to abscond, resulting in issuance

⁶(2021) 4 SCC 781

of a non-bailable warrant, which also brought to light the fact that his surety was not to be found.

22. In such circumstances, the High Court ought not to have blindly extended the parity principle to him without considering the particular and distinctive features of his individual case. Given the fact that respondent No.1 has not turned over a new leaf, despite the indulgence shown by grant of bail in relation to FIR No. 229 of 2017, as evidenced by the FIRs registered against him over the years, we are of the opinion that letting him loose on society would only pose a risk and hazard to others.

23. The case law cited on behalf of respondent No.1, in the context of the value of liberty and the principles applicable to interference with bail orders, would have to be applied on the strength of the individual facts of each particular case and insofar as the present case is concerned, we find that the same have no application, given his antecedents and his past and present conduct.

24. The impugned order dated 12.11.2025 passed by the Allahabad High Court, Lucknow Bench, granting bail to respondent No.1, therefore, cannot be sustained either on facts or in law. The said order is accordingly set aside. The State shall, however, ensure that the trial in the case is expedited by taking all necessary measures.

The appeal is allowed in the aforestated terms.

Pending applications, if any, shall stand disposed of.

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