

A.F.R.
Reserved on 10.10.2025
Delivered on 07.11.2025



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 9417 of 2023

Akh lakh Ahmad @ Ekhlakh Ahmad

.....Appellant(s)

Versus

State of U.P. and another

.....Respondent(s)

Counsel for Appellant(s)	: Avnish Kumar Srivastava, Bhavya Sahai, Sr. Advocate
Counsel for Respondent(s)	: G.A., Praveen Kumar Pandey, Sandeep Kumar Mishra

Court No. - 86

HON'BLE SHEKHAR KUMAR YADAV, J.

1. Heard Mr Brijesh Sahai, learned Senior counsel assisted by Mr Bhavya Sahai, learned counsel appearing for the appellant, Mr Manish Goyal, learned Addl. Advocate General for the State assisted by Mr Rupak Chaubey, learned AGA-I, Mr Thakur Azad Singh, learned AGA, Mr Praveen Kumar Pandey, learned counsel for the informant and perused the record.

2. This criminal appeal is directed against the judgment and order dated 23.08.2023 passed by learned Special Judge, SC/ST Act, Prayagraj in Bail Application No. 4196 of 2023 arising out of Case Crime No. 114/2023, under Sections 147, 148, 149, 302, 307, 506, 34, 120-B of the Indian Penal Code, Section 3 of the Explosive Substances Act, Section 7 of the Criminal Law Amendment Act, and Section 3(2)5 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station Dhoomanganj, District Prayagraj.

3. The prosecution story as per the First Information Report dated 25.02.2023 are that the complainant's husband, **Umesh Pal alias Krishna Kumar Pal**, was a prime witness in the **MLA Raju Pal murder case**. It is alleged that in **2006**, her husband, **Umesh Pal alias Krishna Kumar Pal**, was **abducted, beaten, and forced by former MP Atiq Ahmad and his associates to give a statement in his favour in the**

Raju Pal murder case. It is alleged that Umesh Pal had filed an FIR regarding that incident. Proceedings in that case were taking place on day to day basis as per the orders of the Hon'ble Supreme Court and Hon'ble High Court. Today, i.e. on February 24, 2023, arguments from the side of the accused were to be held in the aforementioned case. For this reason, on February 24, 2023, her husband, Umesh Pal, along with his security guards Sandeep Nishad and Raghavendra Singh, went to the District Court, Allahabad, in their nephew's car bearing number UP 70 FB 5433. It is alleged that as they got out of the car near their home, the son of former MP Atiq Ahmad, along with Guddu Muslim, Ghulam, and nine other associates, launched deadly attack on her husband and guards with a barrage of bullets and bombs with the intent to kill them. The complainant's husband, Umesh Pal, guard Sandeep Nishad, and guard Raghavendra Singh were badly injured by the bullets and bombs. The driver, Pradeep Sharma, who was sitting in the car, narrowly escaped. The complainant saw the incident on the CCTV screen in her room, and she ran screaming towards the lane. The attackers kept firing weapons and exploding bombs as they fled towards the road, threatening people by saying that anyone who came in front of them would be killed. People became frightened and ran here and there. Chaos ensued. The complainant, her family members, and people from the neighborhood helped in taking her husband Umesh Pal, guard Sandeep Nishad, and guard Raghavendra Singh to the hospital. There, her husband Umesh Pal and guard Sandeep Nishad died, and the other guard, Raghavendra Singh, was seriously injured was undergoing treatment, but his condition remained critical. It is alleged that the murder of her husband Umesh Pal and the guards were conspired by former M.P. Atiq Ahmad, his wife Shaista Parveen, and Atiq Ahmad's brother Ashraf, and was carried out through their sons and associates, which also included Atiq's sons, Guddu Muslim, Ghulam, and others. It is alleged that the complainant would be able to identify the other accused upon seeing them. This incident was also witnessed by other family members of the complainant. The incident occurred between approximately 4:45 p.m. to 5:00 p.m. It is further alleged that the complainant would be able to identify the people who shot and bombed her husband Umesh Pal and the guards with the intent to kill them, if they would be brought before her.

4. Learned counsel for the appellant in support of the bail contended that the appellant is completely innocent in the case. He has been falsely and illegally made an accused to fulfil a

malicious purpose. The appellant has no connection or involvement with the alleged incident. He was falsely implicated during the investigation to blackmail and pressure him, simply because he is M.P. Atiq Ahmad's brother-in-law. The applicant is a Government Doctor, and was serving as a Medical Officer at the Community Center Bhawanpur in Meerut before implication in the present matter. It is further submitted that the appellant's name came to light during the investigation about a month later in the statements of the co-accused. In reality, there is no legal and reliable evidence on record against the appellant during the investigation, except for the statement given to the police, which is not legally admissible. No legal and reliable evidence has been presented to explain the one-day delay in registering the First Information Report, even when the police station and the crime scene are less than a kilometre away from the Police Station- Dhoomanganj. The appellant has not committed any crime. He has no criminal history and has not been previously convicted. The applicant is currently in jail since 1.04.2023 and further there are numerous prosecution witnesses (83-P.Ws) and the trial is not likely to conclude in the near future.

5. It is further submitted that the prosecution's case against the appellant is built on a weak foundation. The primary evidence relied upon by the prosecution consists of **statements of co-accused persons** (Rakesh @ Nakesh @ Lala, Kaish Ahmad, Mohd. Arshad, Niyaz Ahmad, Iqbal Ahmad @ Mohd Sazar, and Shahrukh) recorded under Section 161 of the Cr.P.C. Such statements are legally inadmissible as substantive evidence, particularly against a co-accused, as per the principles enshrined in Sections 25 and 26 of the Indian Evidence Act, 1872. It is a fundamental principle of criminal jurisprudence that the statements of a co-accused cannot be used to deny bail. As held by the Hon'ble Supreme Court in **Surinder Kumar Khanna v. Directorate of Revenue Intelligence (2018) 8 SCC 271** and reaffirmed in **P. Krishna Mohan Reddy v. State of Andhra Pradesh (2025) SCC Online SC 1157**. In **P. Krishna Mohan Reddy (supra)**, explicitly cautions against using police-recorded confessions of a co-accused to establish a prima facie case against another. The prosecution's claim of corroborative evidence, namely the recovery of a DVR and a mobile phone, is highly tenuous and circumstantial. The mere recovery of these items from the appellant's house, particularly in the absence of a forensic report proving their authenticity and a link to the crime, is insufficient to justify the denial of bail. Prolonged incarceration without a substantive basis is a violation

of the appellant's fundamental right to personal liberty under Article 21 of the Constitution. Bail is the rule, and continued detention should only be for exceptional reasons, which are not present in this case.

6. On the contrary, Mr Manish Goel, learned Addl, Advocate General assisted by Mr Rupak Chaubey, learned AGA-I and Mr Thakur Azad Singh, learned AGA, appearing on behalf of the prosecution as well as learned counsel for the informant, opposed the bail application, submitted that the accused's name came to light during the investigation. The accused is facing serious charges, such as committing murder in collaboration with co-accused. There are material evidences collected during course of investigation suggesting the involvement of appellant in the crime in question. A total of three people were murdered in broad daylight in the middle of a market in most gruesome manner. The crime committed by the accused is of a serious nature and is punishable by death. Therefore, the bail application of the accused is liable to be rejected.

7. It is contended that the name of the appellant surfaced during investigation of the present case in the statement of co accused Rakesh @ Nakesh @ Lala, Niyaz Ahmad, Kaish Mohammad and Mohd Iqbal @ Sajar recorded on 29.03.2023 (CD 36). These accused persons had clearly stated that they along with other co accused persons including Atiq Ahmad and Ashraf used to call each other through whatsapp and face time. The active involvement of appellant is explicit from their statements. Co accused, Shahrukh @ Sharookh @ Sarup has also stated about involvement of the appellant in the present case (CD 38). It is stated that the appellant was arrested by the police in connection with present case and from his possession i-phone was recovered. The appellant did not provide the password of his phone deliberately in order to hide his complicity in the present case and for want of password, digital data from his iphone could not be recovered by FSL (CD-146). The aforesaid witnesses in their statements under Section 161 Cr.P.C. have categorically and specifically assigned the role to the accused appellant and his family members for providing financial assistance to the assailants as and when required.

8. It is further submitted that the present matter is not a minor offence; it's a heinous and barbaric act of **triple murder** in broad daylight. The fundamental principles of bail, as per **Prashanta Kumar Sarkar v. Ashis Chatterjee (2010) 14 SCC 496** and **Neeru Yadav v. State of U.P. (2014) 16 SC**

508, require the court to prioritize the interests of society over individual liberty in such grave cases. The appellant's argument regarding the lack of evidence is a gross misrepresentation of the facts. While it is true that statements of co-accused to the police are not substantive evidence at trial, they are still **material for consideration** at the bail stage. In support of this argument, he placed reliance on the case of **Indresh Kumar Vs State of UP and another, 2022 Live Law (SC) 610**, wherein Supreme Court has observed that "..... Statements under Section 161 of Cr.P.C may not be admissible in evidence, but are relevant in considering the prima facie case against an accused in an application for grant of bail in case of grave offence." Crucially, the prosecution's case does not rest on these statements alone.

9. It is further submitted that the statements of co-accused Rakesh @ Nakesh @ Lala, Niyaz Ahmad, Kaish Mohammad and Mohd Iqbal @ Sajar and Shahrukh are duly **corroborated** by the statements of independent witnesses **Abhishek Yadav, Shailendra Kumar Pal, and Saurabh Jaiswal**, which were recorded under **Section 164 of the Cr.P.C.**, a process that ensures voluntariness and carries greater evidentiary value than a police statement. These witnesses corroborate the pre-planned nature of the conspiracy to eliminate Umesh Pal. The recovery of a **DVR and a mobile iPhone** from the appellant's residence, which the prosecution has authenticated with **Section 65-B certificate**. The DVR contained footage showing a co-accused (Guddu Muslim) at the appellant's house after the crime. This is not mere "circumstantial" evidence; it is a **direct link** establishing the appellant provided shelter and aid to a prime accused after the crime. It is further submitted that the reliance on the **P. Krishna Mohan Reddy** (supra) is misplaced. That case primarily dealt with the inadmissibility of a co-accused's confession **in isolation**. In the present case, the statements of the co-accused are supported by a chain of other evidence, including the legally admissible Section 164 Cr.P.C. statements and the physical and electronic evidence recovered from the house of the appellant. The collective weight of this evidence, even at the prima facie stage, is sufficient to establish the appellant's deep involvement in the **criminal conspiracy**. It is further submitted that the appellant, being a relative of the key conspirator Atiq Ahmad (since deceased), holds a position of influence. Releasing him on bail would create a very real possibility of him influencing or intimidating witnesses, particularly the other family members who witnessed the

incident and the co-accused. The brutal nature of the crime itself indicates a clear intent to instill fear and subvert the judicial process. Granting bail would send a dangerous signal and undermine the administration of justice.

10. It is further submitted that the present case pertains to a brutal and premeditated triple murder, executed in broad daylight in a public place, using firearms and explosives, leading to the death of advocate Umesh Pal and two police constables assigned for his protection. This act not only resulted in loss of innocent lives but also caused public terror and outrage, striking at the very root of rule of law and public confidence in the justice system.

11. The investigation has revealed that the present appellant, though not a direct shooter, actively participated in the conspiracy by providing financial assistance, logistical support, and shelter to the prime accused Guddu Muslim and others, thereby facilitating the execution and aftermath of the offence. In support of his argument, learned AAG further relied upon the cases of **Indresh Kumar v. State of U.P. and Another, (2022)**, wherein the Hon'ble Supreme Court held that in heinous offences involving murder and conspiracy, the Court must adopt a cautious and restrictive approach in granting bail. The gravity of the offence and its impact on society must outweigh considerations of individual liberty. The present crime, involving organized and armed execution of a witness in a sensitive criminal case, falls within the ambit of the principle enshrined in *Indresh Kumar* (supra). The appellant's participation in the conspiracy and assistance to the main assailants clearly indicate that he cannot claim indulgence of bail. Learned counsel again relied upon the case of **Vinod Bhandari v. State of Madhya Pradesh, (2015) 11 SCC 502** to contend that liberty is not absolute and must yield to the interests of society in cases of grave offences involving moral turpitude or public impact. If prima facie material establishes complicity, the accused is not entitled to bail merely on the ground of delay or completion of investigation.

12. In the present case, the materials collected during investigation, including call detail records, witnesses statements under Section 161 & 164 Cr.P.C., and recovery of incriminating articles, clearly establish the appellant's role. The societal impact of the crime is immense; thus, the balancing of interests weighs heavily against release.

13. Learned counsel has further relied upon the case of **Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav, (2005) 2 SCC 42** to contend that bail cannot be granted where the accusations are serious, supported by prima facie evidence, or where there exists likelihood of tampering with witnesses or influencing the course of trial. The Court must consider not only the right to liberty but also the larger interest of administration of justice.

14. In the present case, the appellant belongs to a highly influential criminal network, being closely related to the main accused Atiq Ahmad. There is a legitimate apprehension that if released, he will intimidate witnesses and obstruct the course of justice. Hence, denial of bail is justified on this ground alone.

15. It is further argued that so far as the argument of learned counsel for the appellant that the appellant was not physically present at the crime scene is untenable in view of the well-settled law on common intention and constructive liability under Section 34 IPC. Learned counsel for the State further relied upon the case of **Krishnan and Another v. State of Kerala, (1996) 10 SCC 508** to argue that the common intention can be inferred from conduct and circumstances; physical presence is not a prerequisite. Even one who aids or facilitates the crime is equally liable. In the present case, the appellant's financial and logistical support to co-accused demonstrates his shared intention with the principal offenders.

16. Learned counsel for the State further relied upon the case of **Virendra Singh v. State of Madhya Pradesh, (2010) 8 SCC 407** to argue that common intention may develop before or during the commission of the offence, and active participation is not necessary if facilitation is proved. The appellant's role in harbouring and financing absconding accused after the crime establishes his conscious participation in furtherance of the common intention. It is further submitted that in the present case, seven accused persons including the wife of the appellant who is also an accused are still absconding. A reward has been announced by the State Government for her arrest but still she is not traceable.

17. Learned AGA further relied upon the case of **Balvir Singh v. State of Madhya Pradesh, (2019) 15 SCC 599; Jasdeep Singh @ Jassu v. State of Punjab, (2022) 2 SCC 545** to contend that once a concerted plan or meeting of minds is proved, each participant becomes equally culpable, irrespective of the extent of individual participation. In the case in hand, the

material on record establishes such concerted planning among all accused, including the appellant, rendering him liable for the offence of murder under Section 302 read with Section 34 IPC.

18. Learned A.G.A. further submits that the confessional statements recorded during investigation, when read with other corroborative evidence, clearly establish the appellant's active role in the conspiracy. Reliance is placed on **State of U.P. through CBI v. Amarmani Tripathi (2005) 8 SCC 21**, wherein the Hon'ble Supreme Court held that the question of voluntariness or admissibility of confession is a matter of trial, and at the stage of bail, such statements can legitimately be considered to assess the existence of a prima facie case. It is further submitted that the confessional material in this case demonstrates premeditation, participation, and conscious facilitation of the crime.

19. It is further submitted that the co-accused Atiq Ahmad and Ashraf, in their statements recorded before the Investigating Officer (when they were alive), had given detailed accounts implicating the present appellant. It is contended that these statements are admissible under Section 32(3) of the Indian Evidence Act, 1872, being statements made against the interest of the maker, exposing them to criminal prosecution. Reliance is placed on **Ramrati Kuer Vs. Dwarika Prasad Singh (AIR 1967 SC 1134)** and other decisions of this Court reiterating that such statements may be relevant for corroboration when they form part of the same transaction. Accordingly, these statements lend additional support to the prosecution's version of a common conspiracy under Section 34 IPC. Following this principle, this Hon'ble Court, in a catena of decisions — including **Criminal Misc Bail Application No. 30712 of 2021- Jay Kant Bajpai @ Jay v. State of U.P., Criminal Misc Bail Application No. 21849 of 2021-Jay Bajpai @ Jay Kant Bajpai v. State of U.P., Criminal Misc Bail Application No. 48444 of 2020- Vinay Kumar Tiwari v. State of U.P. (2021), and Criminal Misc Bail Application No. 14950 of 2021-Smt. Rekha Agnihotri v. State of U.P. decided by this Court** — has reiterated the admissibility and evidentiary relevance of such statements under Section 32(3) of the Act. Accordingly, the existence of these statements and their probative value under Section 32(3) of the Evidence Act substantially reinforce the prosecution's version and constitute relevant facts lending credibility to the allegation of common intention under Section 34 IPC. Viewed cumulatively, these

materials negate any presumption of innocence at this stage and establish a strong prima facie case justifying the continued custody of the appellant.

20. At last, it is argued by learned counsel for the State that looking to the appellant's influence, resources, and association with a known criminal network, there exists a real and substantial apprehension that his release would lead to threats, intimidation, or inducement of key witnesses, thereby obstructing the trial process.

21. Learned counsel for the informant has also pointed out specific role of each of the accused appellant and has adopted the arguments that was advanced on behalf of the State.

22. This court has carefully considered the submissions of the learned counsel for parties and has perused the available material on record. In the present matter, three person lost their lives in a most gruesome manner. The accused is charged with collaborating with co-accused to commit the murders of the complainant's husband and two police guards (a total of 3 persons) by openly attacking them on the road in broad daylight with weapons and bombs, spreading terror among the general public. The crime committed by the accused is of an extremely serious nature, and is punishable by death or life imprisonment.

23. This court takes note of the statement of co-accused Rakesh @ Nakesh @ Lala, a **domestic servant** for Atiq Ahmad. The statement of co-accused Rakesh directly implicates the appellant- Akhlaq. He has stated that Atiq and his brother Ashraf instructed co-conspirators to seek financial assistance from appellant-Akhlaq and his nieces in Meerut. Furthermore, Rakesh claimed that after the murder, co accused Guddu Muslim visited appellant's house and was given shelter and 50,000 rupees. **Further statement of co accused Kaish** (Driver of Atiq Ahmad) corroborates Rakesh's statements, confirming that Atiq and Ashraf instructed the group to get money from Akhlaq (appellant) and their nieces in Meerut if needed.

24. In the same-way, the co-accused Shahrukh has also given statement against the appellant Akhlaq, that "Atiq Ahmed and Ashraf told a group of people gathered for a meeting that if they needed money after the incident, they should get it from appellant, and his wife, Ayesha Noori, because they had already been informed about the plan. The murder plan for Umesh Pal was also discussed with Akhlaq (appellant), Ayesha Noori, Ujjala, and Manjasha over a mobile through Face time call.

Appellant, Ayesha Noori, and Manjasha said, "finish the work of Umesh Pal quickly, we are ready to help you in every way.

25. In consideration of the bail application, this Court has carefully reviewed the statements and the certificate submitted as evidence. The prosecution's case against the appellant is supported by multiple witnesses statements recorded under Sections 161 and 164 Cr.P.C. According to the statement of Abhishek Yadav, recorded under Section 164 Cr.P.C., on 24.02.2023, when Umesh Pal was leaving the MP/MLA Court, this witness, who was present nearby, overheard co-accused Vijay Mishra instructing Shaulet Haneef to make a phone call to inform someone that Umesh Pal had left the Court premises. Vijay Mishra then allegedly made a call himself, stating that Umesh Pal should not be spared that day. Likewise, witness Shailendra Kumar Pal, in his statement under Section 164 Cr.P.C., corroborated this version. Further, in his statement recorded under Section 164 Cr.P.C., witness Saurabh Jaiswal stated that 10-12 days prior to the incident, he overheard a conversation at a tea stall between Rakesh alias Naakesh, a servant of Atiq Ahmad, and another individual, wherein Rakesh mentioned that Umesh Pal would meet the same fate as Raju Pal, and that Vijay Mishra and Shaulet Haneef would look after the legal matters. These statements lend corroboration to the prosecution's case of a premeditated conspiracy to eliminate Umesh Pal.

26. Regarding the appellant's submission on the inadmissibility of evidence, this Court notes that the Supreme Court, in case of **Kalyan Chandra Sarkar (Supra)**, has repeatedly cautioned that **a detailed evaluation of the merits and elaborate documentation of pros and cons of the evidence are not required at the stage of bail.**

27. The question of whether the statements of witnesses and that of co-accused persons are legally admissible and sufficient to secure a conviction is a matter for the trial court, in light of **Sections 25 and 26 of the Evidence Act.** However, for the limited purpose of establishing a ***prima facie* case** for denying bail, the material collected during the investigation, particularly the statement of co accused persons namely, Rakesh @ Nakesh @ Lala, Kaish Shahrukh, which specifically links the appellant to the **pre-meditation and conspiracy (Section 120-B IPC)** by virtue of his providing financial assistance, and shelter to co accused- Guddu Muslim after the incident cannot be completely ignored.

28. Regarding the appellant's submission that the trial would be prolonged due to a long list of witnesses, the submission is premature and speculative and cannot by itself be a ground for granting bail in a case involving grave offences punishing under Sections 120-B 302 IPC and other serious provisions of the IPC. In the case of the **State of Karnataka Vs Sri Darshan, Criminal Appeal No. 3528-3534 of 2025 decided on 14.08.2025** emphasized that in cases involving heinous offences like murder coupled with criminal conspiracy, courts must exercise caution while considering bail applications.

29. At the stage of considering bail, the Court is not required to meticulously examine the admissibility of each piece of evidence, but only to ascertain whether the material collected during investigation prima facie indicates involvement of the accused. The statements recorded under Section 161 Cr.P.C. also form part of the material which the Court may legitimately take into account at this stage. In **State of U.P. v. Amarmani Tripathi, (2005) 8 SCC 21**, the Hon'ble Supreme Court held that while considering bail, the Court may look into the case diary and the statements recorded under Section 161 Cr.P.C., though such statements are not substantive evidence at the stage of trial. Similar principles have been reiterated in **Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav, (2004) 7 SCC 528** and **Neeru Yadav v. State of U.P., (2016) 15 SCC 422**.

30. Moreover, the recovery of a DVR and a green Apple mobile phone from the appellant's residence further implicates him. The DVR contained footage showing the co-accused, Guddu Muslim, at the appellant's house aftermath of the incident. The appellant allegedly admitted hiding the DVR to conceal evidence of the co-accused's involvement, and the recovered mobile iphone was used for communications with other accused persons in the alleged crime. The prosecution has also submitted a certificate under Section 65-B of the Indian Evidence Act, which attests that the electronic evidence related to present case.

31. In the present case, the prosecution has placed reliance upon the statements of co-accused Rakesh (domestic servant of Atiq Ahmad), Kaish (driver), and Shahrukh, and other several witnesses, who have implicated the appellant in providing financial assistance, and shelter to co accused- Guddu Muslim after the incident, and in being privy to the conspiracy.

32. It is further alleged that a DVR containing CCTV footage showing co-accused at the appellant's residence, and a green

Apple mobile phone used for communication, were recovered from the house of the appellant. While the evidentiary value of these materials is a matter for trial, but at this stage they cannot be brushed aside.

33. The principles for granting or rejecting bail, especially in cases involving serious and non-bailable offenses, are well-established by the Hon'ble Supreme Court of India in catena of decisions. While the fundamental principle of "bail is the rule, jail is the exception" is acknowledged, it is not an absolute rule, particularly in cases of heinous crimes. The court must balance the right to personal liberty with the larger interest of society.

34. In **Prashanta Kumar Sarkar v. Ashis Chatterjee & Anr. (2010) 14 SCC 496**, **Prahlad Singh Bhati Vs NCT of Delhi (2021) 4 SCC 280**, the Supreme Court reiterated the factors to be considered while granting or refusing bail. These include: the nature and gravity of the offense; the severity of the punishment in the event of a conviction; the reasonable apprehension of the accused absconding or fleeing from justice; the reasonable apprehension of witnesses being tampered with or influenced; the character, behavior, means, position, and standing of the accused; the likelihood of the offense being repeated; the impact the accused's release may have on the prosecution witnesses and the society.

35. The principles of bail have also been discussed in landmark judgments such as **Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav & Anr. (2004) 7 SCC 528** and **Gurbaksh Singh Sibbia v. State of Punjab (1980) 2 SCC 565**. While the latter case primarily deals with anticipatory bail, the principles regarding the court's wide discretionary power and the need to consider the nature and gravity of the accusation are highly relevant.

36. In **State of U.P. v. Amarmani Tripathi (2005) 8 SCC 21**, the Hon'ble Supreme Court held that the nature of accusation, gravity of the offense, severity of punishment in the event of conviction, possibility of tampering with witnesses or evidence, and likelihood of the accused fleeing justice are crucial considerations. In **Prashanta Kumar Sarkar v. Ashis Chatterjee (2010) 14 SCC 496**, the Apex Court reiterated similar principles, emphasizing that these factors must guide the exercise of discretion.

37. In **Neeru Yadav v. State of U.P. (2016) 15 SCC 422**, it was observed that in cases involving heinous crimes committed

in a barbaric manner, courts must adopt a cautious approach, for liberty of an individual cannot be prioritized over the interest of society. Likewise, in ***Masroor v. State of U.P. (2009) 14 SCC 286***, the Supreme Court underscored that the impact of such crimes on society and the likelihood of the accused influencing witnesses must weigh heavily in bail decisions.

38. Further, in ***Puran v. Rambilas (2001) 6 SCC 338***, it was held that bail must be refused if releasing the accused would result in miscarriage of justice or erode public confidence in the criminal justice system.

39. This Court has also considered the rival submissions regarding the evidentiary value of the DVR seized from the appellant's residence. Learned counsel for the prosecution has urged that the DVR itself constitutes **primary electronic evidence**, being the original device in which the CCTV footage was contemporaneously recorded. Reliance has been placed upon the decisions in ***Anvar P.V. v. P.K. Basheer, (2014) 10 SCC 473***, and ***Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal, (2020) 7 SCC 1***, wherein the Hon'ble Supreme Court clarified that when the original electronic device itself is produced before the Court, no certificate under Section 65B of the Indian Evidence Act is necessary, since such device falls within the definition of primary evidence under Section 62 of the Evidence Act. However, there is certificate of Section 65-B of Indian Evidence Act, produced by the prosecution.

40. On the other hand, learned counsel for the appellant has contended that **mere recovery of a DVR cannot ipso facto establish its authenticity or reliability**, particularly when it is seized from the house of the accused himself. It has been urged that electronic records are prone to manipulation and tampering, and in the absence of a forensic examination establishing the integrity of the data supporting its authenticity, the DVR cannot be safely relied upon. It is further submitted that unless the DVR is directly played in Court to demonstrate the alleged footage, the prosecution cannot rely upon copies or extracts therefrom without its forensic examination.

41. In evaluating these rival positions, this Court is mindful of the fact that at the **stage of considering bail**, it is not expected to undertake a meticulous examination of admissibility or proof of each piece of evidence. The test is limited to whether the material collected during investigation **prima facie indicates the involvement of the accused**. The DVR, being an original recording device recovered from the appellant's

residence, cannot be brushed aside altogether at this stage. Whether its contents are ultimately proved by proper forensic analysis and whether the prosecution succeeds in demonstrating its authenticity are matters to be decided during trial. In the present case, the recovery of the DVR, coupled with statements of co-accused and witnesses implicating the appellant, forms part of the prima facie material suggesting his complicity in the crime.

42. So far as the reliance on the judgement of **P. Krishna Mohan Reddy (supra)** is concerned, which is a recent and significant pronouncement on bail jurisprudence, serves as a crucial guidepost. It emphasizes that statements made by an accused to the police under Section 161 of the Cr.P.C. are not substantive evidence and cannot be the **sole basis** for denying bail, particularly when used against a co-accused. The judgment rightfully cautions against the potential for evidentiary shortcuts and upholds the principle that confessions to a police officer are generally inadmissible. However, this Court finds that the principles of **P. Krishna Mohan Reddy (supra)** do not singularly govern the outcome of the present bail application. The case at hand is distinguishable on several material grounds. First, the core principle of **P. Krishna Mohan Reddy (supra)** is that a bail application cannot be rejected **merely** on the basis of a co-accused's police statement. In the present case, the prosecution has presented a wealth of other evidence that corroborates the statements of the co-accused and collectively forms a strong prima facie case against the appellant. This is not a situation where the co-accused's statements are the only evidence. Secondly, the prosecution has submitted **statements of independent witnesses** (Abhishek Yadav, Shailendra Kumar Pal, and Saurabh Jaiswal) recorded under Section 164 of the Cr.P.C. These statements, made before a magistrate, are legally admissible and carry a much higher evidentiary weight than a police statement. They lend credibility to the prosecution's claim of a pre-meditated conspiracy and directly implicate the appellant's associates, thereby bolstering the overall case. Thirdly, the investigation has led to the **recovery of a DVR and a mobile i-phone** from the appellant's residence. The prosecution's assertion, supported by a Section 65-B certificate, is that the DVR contains footage of a key co-accused (Guddu Muslim) at the appellant's house after the crime. The recovery of these items from the appellant's possession provides tangible, physical evidence that corroborates the statements of the co-accused. This is not a

case of mere verbal accusations; it is a case where the investigative findings, though not yet tested at trial, point to a direct link between the appellant, his co-conspirators, and the facilitating of the crime's aftermath. Therefore, while acknowledging the legal principles laid down in **P. Krishna Mohan Reddy (Supra)**, this Court concludes that in the **totality of the circumstances** and the **cumulative weight of the evidence**—including the legally admissible Section 164 Cr.P.C. statements and the recovered electronic devices—sufficiently establishes a prima facie case against the appellant. The case is not a fit one for bail, as the evidence extends far beyond the limited scope cautioned against in the cited judgment. The gravity of the offense, the overwhelming evidence of a criminal conspiracy, and the chilling impact of a brutal triple murder on public safety far outweigh the appellant's plea for bail.

43. Further the judgement of **P. Krishna Mohan Reddy (supra)** dealt with economic offenses and corruption, while the present case involves a brutal, pre-meditated murder of three individuals in broad daylight using firearms and explosives, an act that has caused public terror. The gravity of the crime is a paramount consideration, as recognized in previous judgments like **Prashanta Kumar Sarkar (supra)** and **Neeru Yadav (supra)**, which the court has already cited.

44. This Court has carefully perused the submissions of both sides and the available material on records. While the appellant's counsel has argued that the appellant is a respected professional with no criminal history and that the evidence against him is weak, these submissions must be weighed against the gravity and nature of the accusations during the course of trial.

45. The brutal murder of three individuals, including two police guards, in a public area using firearms and explosives, caused widespread panic and terror among the public. This heinous act was not only a cold-blooded killing but also an attempt to intimidate society at large, which is a significant factor to be considered in bail jurisprudence. The charges against the appellant include murder, conspiracy, and offenses under the Explosive Substances Act and the SC/ST Act, which are punishable by death or life imprisonment.

46. The claim of false implication and the delay in the FIR are also matters for the trial court to determine based on the evidence. At this stage, the court's role is only to assess

whether there are reasonable grounds to believe the appellant is linked to the crime. The fact that the appellant's name came up during the investigation, even a month later, suggests that the investigating agency found some material linking him to the crime. The implication of accused on the material collected during course of investigation cannot be ruled out.

47. In the present case, this Court finds that the allegations against the appellant are grave and serious. The material collected during investigation prima facie indicates his involvement in the conspiracy and in facilitating shelter and support to the assailants. The brutal killing of three persons, including two security guards, in broad daylight with firearms and explosives has shaken public confidence and created terror in society.

48. Given the exceptionally gruesome manner in which the crime was committed, the public terror it caused, the involvement of multiple accused in a criminal conspiracy, and the severity of the charges, this Court finds no sufficient grounds to release the accused on bail. Granting bail in a case of such magnitude and societal impact could send a wrong signal and undermine the administration of justice. The court must consider the impact that the release of the accused may have on the public and the witnesses. The possibility of the accused, a relative of a key conspirator, influencing witnesses cannot be ruled out.

49. Accordingly, in light of the facts, circumstances, and the serious nature of the crime, the exceptional gravity and societal impact of the crime, and the strong prima facie material indicating the appellant's involvement in the criminal conspiracy and the recovery of incriminating materials and in line with the principles laid down by the Hon'ble Supreme Court, this Court finds no merit in the present criminal appeal.

The Criminal appeal lacks merit and is hereby rejected.

(Shekhar Kumar Yadav,J.)

November 7, 2025
RKS/