

Sagar vs State Of U P on 28 November, 2025

Author: Sanjay Karol

Bench: Sanjay Karol

2025 INSC 1370

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. _____ of 2025
(@Special Leave Petition (Crl.) No. 8865 of 2025)

SAGAR ... APPELLANT(S)

VERSUS

STATE OF UP & ANR. ... RESPONDENT(S)

WITH

CRIMINAL APPEAL No. _____ of 2025
(@Special Leave Petition (Crl.) No. 8866 of 2025)

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Reason :

Cr.A @SLP (CrI) Nos. 8865-8866 of 2025
JUDGMENT

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SANJAY KAROL, J.

Leave granted.

CrI.A. No.....of 2025@ SLP (CrI) No. 8865 of 2025

2. The appellant-complainant is aggrieved by an order granting bail in connection with Case Crime No. 0159 P.S. Hastinapur, dated 28th June, 2024 under Sections 147, 148, 149, 302, 506, Indian Penal Code, 18601, to one Rajveer by order dated 3rd January 2025 in Cr. Misc. Bail Application No. 44876 of 2024 by the High Court of Judicature at Allahabad.

3. A perusal of the First Information Report² reveals that the genesis of the instant proceedings was a verbal spat between the appellant-complainant and one Suresh Pal and his son Aditya, who were his co-villagers. The former's father, Sonveer, opposed the escalation of the dispute, resulting in threats from the latter. On the day of lodging of the FIR, while the appellant-complainant and his parents were, for matters unrelated to the accused, on their way to the land of one Ravindra, then allegedly, the accused persons namely Suresh Pal, Rajveer, Saurav, Aditya, Hereinafter referred as "IPC" FIR for short Prince, and Bijendra, armed with pistols came forward to block their way and prevent them from proceeding further. The respondent-accused Rajveer came forward and threatened them to the effect that they would all, particularly Sonveer, be taught a lesson for opposing them. Suresh Pal, then instigated the accused Aditya to shoot Sonveer, which he did, and the bullet hit him on the chest below the shoulder, making him fall to the ground and meet his end.

4. Consequent to the FIR, accused Rajveer was arrested. The record speaks about his applications for regular bail being rejected by the Additional Sessions Judge, Court No. 7, Meerut on at least two occasions. It is the second order of rejection dated 12th September 2024, which was challenged before the High Court and resulted in the impugned order. The reasoning given by the Additional Sessions Judge, in rejecting the bail application, was the presence of ante mortem injuries resulting in, more particularly, the gunshot wound and two lacerated wounds. It was observed that the nature of the crime of which the accused had been charged is serious and, in these circumstances, bail had to be rejected.

5. The High Court, in terms of the impugned order, observed thus:-

"4. It is argued by the learned counsel or the applicant that co-accused Suresh Pal has been released on bail by this Court vide its order dated 22.11.2024 passed in

Miscellaneous Bail Application No.36116 of 2024. It is further argued that since the role of the applicant is similar to that of the co-accused who has already been released on bail, therefore, on the basis of parity, the applicant is also entitled to get bail. The applicant has no criminal history. He has been in jail since 29.06.2024. It is also argued that if he is released, he will not misuse the bail.

5. Bail has been opposed on behalf of the plaintiff and the State, though the factual aspect of similarity of the applicant with the co-accused has not been contested.

6. The principles enunciated by this Court in *Nanha Putra Nabha Khan v. State of Uttar Pradesh* 1993 Criminal Law Journal 938 and by the Supreme Court in *Paras Ram Bishnoi v. Director, Central Bureau of Investigation MANU/SCOR/22410/2021* and *Satinder Kumar Antil v. Central Bureau of Investigation & Ors.*, 2022 INSC 690, without expressing any opinion on the facts and circumstances and merits of the case, In the opinion of the court, the applicant is entitled to get bail on the basis of equality. The bail application of the applicant is accepted on the basis of equality.”
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6. The only two observations on the merit of the bail application are that the respondent-accused has no criminal antecedent(s) and that his father had been released on bail by the order of the High Court dated 22nd November 2024 in Misc. Bail Application No. 36116 of 2024. In essence, however, parity with his father was the only ground to grant the respondent-accused bail.

7. The reasons given by the High Court in releasing accused Suresh Pal on bail was that the prosecution could not present any circumstance suggestive of him fleeing from justice or creating further trouble by repeating the offences that he has been accused of. The learned Judge also took note of the ‘strong alibi’ of him being a class-IV employee at BSA Office, Meerut along with inability of the prosecution to explain the presence of lacerated wounds.

8. The appellant-complainant aggrieved by such an order had carried the matter in appeal before us, and by way of our order dated 03rd March 2025 passed in Criminal Appeal No. 1200 of 2025, we had set aside the order granting bail, observing thus:-

“6. As is evident from the impugned order, the High Court has not assigned any reason, whatsoever, in allowing the application, granting bail, save and except observing that “there is no material particulars or circumstances suggestive of the applicant fleeing from justice or thwarting the course of justice”. The least that was expected of the High Court was to have appreciated the facts and applied the settled principles of law, more so in a case involving allegations of murder, in granting bail.

7. As such, we quash and set aside the order dated 22.11.2024 in CRMBA No. 36116/2024 titled “Suresh Pal Vs. State of U.P.” passed by the High Court of Judicature at Allahabad and direct the respondent No.2-Suresh Pal to surrender forthwith.”

9. It is also required to be noted that Criminal Misc. Bail Application No. 26358 of 2025 filed by the third accused-Aditya stands rejected by the High Court by order dated 07th August 2025.

10. The question that arises for consideration is whether, as done by the High Court in the impugned order, parity with the co-accused persons can be the sole reason for granting bail. Bail has often been stated to be the rule, and jail, the exception. This cannot be emphasized enough. At the same time, this, however, does not mean that the relief of bail is to be granted without due regard to the circumstances involved in the alleged offence for which the accused person has been arrested. In this regard, it has to be noted that a Court, while granting bail, has to consider a number of aspects. Judgments too many to count, delivered by this Court have delineated the relevant considerations to be kept in mind. A recent reiteration thereof was in Ashok Dhankad v. State of NCT of Delhi & Anr.³ The relevant extracts thereof are as under :-

“19. The principles which emerge as a result of the above discussion are as follows:

(i) An appeal against grant of bail cannot be considered to be on the same footing as an application for cancellation of bail;

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(ii) The Court concerned must not venture into a threadbare analysis of the evidence adduced by prosecution. The merits of such evidence must not be adjudicated at the stage of bail;

(iii) An order granting bail must reflect application of mind and assessment of the relevant factors for grant of bail that have been elucidated by this Court.

[See: Y v. State of Rajasthan (Supra)
; Jaibunisha v. Meherban and Bhagwan
Singh v. Dilip Kumar @ Deepu]

(iv) An appeal against grant of bail may be entertained by a superior Court on grounds such as perversity; illegality; inconsistency with law; relevant factors not been taken into consideration including gravity of the offence and impact of the crime;

(v) However, the Court may not take the conduct of an accused subsequent to the grant bail into consideration while considering an appeal against the grant of such bail. Such grounds must be taken in an application for cancellation of bail; and

(vi) An appeal against grant of bail must not be allowed to be used as a retaliatory measure. Such an appeal must be confined only to the grounds discussed above.”

11. It is clear from the perusal of the above factors that the High Court failed to consider all that was relevant. On parity, it is necessary to refer to Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana(Koli) and Anr. ⁴. This Court observed that while utilizing parity as a ground for bail, the same must focus on the role of the accused and cannot be utilized solely because (2021) 6 SCC 230

another accused person was granted bail in connection with the same offence, and neither can this ground be claimed as a matter of right. [See also: Tarun Kumar v. Assistant Director Directorate of Enforcement⁵; Sabita Paul v. State of West Bengal and Anr.⁶]

12. The High Court appears, plainly, to have erroneously granted bail to the accused-respondent on the sole ground of parity which it has misunderstood as a tool of direct application as opposed to parity being focused on the role played by the accused and not the thread of the same offence being the only common factor between the accused persons. On this count alone we can set aside the impugned judgment and order. However, we propose not to do so and proceed to delve further.

13. In an attempt to clarify the position of law qua parity as a ground, we may refer to certain judgments of the High Court to appreciate whether there is convergence or divergence of opinion/understanding.

13.1 The Allahabad High Court in Nanha v. State of U.P.⁷, observed as under :-

24. My answer to the points referred to us is that parity cannot be the sole ground for granting bail even at the stage of second or third or subsequent 2023 SCC Online SC1486 2024 SCC Online SC 374 1992 SCC OnLine All 871 bail applications when the bail applications of the co-accused whose bail application had been earlier rejected are allowed and co-accused is released on bail. Even then the court has to satisfy itself that, on consideration of more materials placed, further developments in the investigations or otherwise and other different considerations, there are sufficient grounds for releasing the applicant on bail. If an examination of a given case, it transpires that the case of the applicant before the court is identically similar to the accused on facts and circumstances who has been bailed out, then the desirability of consistency will require that such an accused should be also released on bail. As regards the second part of the referred question my answer is that it is not at all necessary for an accused to state in his application that the application of a co-accused had been rejected previously.

(emphasis supplied) 13.2 The Delhi High Court in Harbhajan Singh v. State⁸, while holding that parity cannot be the sole ground for the grant of bail, observed:

“15. ... In this regard, this Court thinks fit to reiterate the settled principle that in a criminal jurisprudence, every case stands on different footings and no straightjacket formula can be adopted in the facts of each case. No doubt, the weight of judicial parity should be followed, but on the other hand, this Court is of the conscious opinion that the word ‘parity’ connotes a state when a person is placed on the same footing as of the other person. This court is also of the opinion that that parity cannot be the sole ground for granting bail in a case where the bail 2016 SCC OnLine Del 4920 applications of other co-accused whose bail applications had been allowed and are released on bail. It is purely a discretion of the court. Before granting or refusing bail, the court must satisfy itself after considering the material placed on record and

further developments in the investigations or otherwise and other peculiar circumstances of each case, which show that there are sufficient grounds for releasing the applicant on bail. If on examination of any case, it transpires that the case of the applicant before the court is identically similar to the accused on facts and circumstances, who has been bailed out, then the desirability of consistency will require that such an accused should be also released on bail.

(emphasis supplied) 13.3 The Himachal Pradesh High Court in *Abhay Gupta v. State of H.P.*⁹ held that:

“ It is more than settled that parity alone cannot be the sole ground for granting of bail. It is only one of the grounds for consideration of the question of bail. There is no absolute hide bound rule that bail must necessarily be granted to the co-accused when another co-accused has been granted bail. If on careful scrutiny in a given case it transpires that case of the bail petitioner is identically similar to the accused and facts and circumstances of the case who has been bailed out, then desirability of consistency will require that such an accused should also be released on bail.” 13.4 The High Court of Karnataka at Bengaluru in *Shri Narayanaswamy v. State of Karnataka*¹⁰, speaking 2016 SCC OnLine HP 1758 2017 SCC OnLine Kar 1066 through Aravind Kumar J., (as he then was) observed as hereinbelow:

“24. The law of Parity would be applied in granting bail to an accused, where the co-accused has been granted bail on similar set of circumstances. Law of Parity is a desirable rule where the case of accused/petitioner is identical with the co-accused, who is already enlarged on bail. Simply because the co-accused has been granted bail also cannot be the sole criteria for granting bail to another accused if they are standing on different footings.

25. Parity cannot be the sole ground for granting bail and if on scrutiny and examination of records in a given case it transpires that the case of the petitioner before the Court is identically similar to the accused, who has already been granted bail, then it would be desirable that petitioner should also be enlarged on bail. However, if material placed by the prosecution and further developments in the investigation unraveling changed circumstances, this aspect also requires to be taken into consideration and in such circumstances the principle of Parity as an universal application or a straight jacket formula cannot be applied.

(emphasis supplied) 13.5 The Madhya Pradesh High Court in *Neeraj alias Vikkysharma v. State of M.P.*¹¹, held that parity cannot be the sole ground for considering the prayer for bail, even at the stage of the second or third application for 2019 SCC OnLine MP 7023 bail. It was further observed that “Failure of justice may be occasioned if bail is granted to an accused on the basis of parity with another co-accused whose bail order does not contain any reason.” 13.6 Once again, turning to the Delhi High Court- in *Pradeep v. State (Govt. NCT of Delhi)*¹² it was held by a learned Single Judge that the grant of bail to a co- accused in itself does not grant other accused a ground for bail. Even

when parity as a ground is urged, the sum total of circumstances is to be looked into.

13.7 Recently, the Calcutta High Court in *Subires Bhattacharya v. CBI*¹³ also took the same view in the following terms:

“30. Parity cannot be the sole ground for granting bail even at the stage when the bail application of a co-accused is allowed. The Court has to satisfy itself that, on consideration of more materials placed, further developments in the investigations and other different considerations, there are sufficient grounds for releasing the applicant on bail. In deciding the aspect of parity, the role attached to the accused persons, their position in relation to the incident and to the victims is of utmost importance. Court cannot proceed on the basis of parity on a simplistic assessment, which again cannot pass muster under the law.” 2023 SCC OnLine Del 4307 2024 SCC OnLine Cal 11889

14. What flows from the above judgments, which have been referred to, only to the limited extent indicated above, is that the High Courts speak in one voice that parity is not the sole ground on which bail can be granted. That, undoubtedly, is the correct position in law. The word ‘parity’ is defined by the Cambridge Dictionary as “equality, especially of pay or position.”¹⁴ When weighing an application on parity, it is ‘position’ that is the clincher. The requirement of ‘position’ is not met only by involvement in the same offence. Position means what the person whose application is being weighed, his position in crime, i.e., his role etc. There can be different roles played - someone part of a large group, intending to intimidate; an instigator of violence; someone who throws hands at the other side, instigated by such words spoken by another, someone who fired a weapon or swung a machete - parity of these people will be with those who have performed similar acts, and not with someone who was part of the group to intimidate the other by the sheer size of the gathering, with another who attempted to hack away at the opposer’s limbs with a weapon.

15. In this case, the respondent-accused was the instigator of the moment, asking accused Aditya to shoot Sonveer. Suresh Pal, was a member of the mob yielding a weapon, as per the FIR. He had been the original conveyor of the threat at the time of the <https://dictionary.cambridge.org/dictionary/english/parity> original altercation/ verbal spat. The roles of these two people at the time of the shooting of the deceased cannot be said to be the same, even though they may be holding a common intention of causing harm to the other side. In that view of the matter, consideration of bail, on parity, is misplaced. That apart, there remains no parity to be weighed since Suresh Pal, too, we assume, as a consequence of our order, is behind bars.

16. In that view of the matter, the appeal is allowed, and the judgment of the High Court is set aside. The Respondent- accused Rajveer is directed to surrender before the concerned Court within two weeks from the date of this judgment. It stands clarified here that any observations made hereinabove are only for the adjudication of this appeal against the grant of bail, and nothing further. It shall not be construed as a comment on the merits of the matter.

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17. This appeal assails an order granting bail to a co-accused namely Prince, in the same sequence of events and offence, i.e., the alleged murder of deceased Sonveer. The High Court of Judicature at Allahabad by order dated 18th December 2024 in Criminal Misc Bail Application No. 46196 of 2024 directed the release of the respondent-accused Prince in connection with Case Crime No. 159 of 2024.

18. It is noted at the outset that since the background of the case is the same as the one discussed above, no purpose would be served in describing the same once more. The impugned order of the High Court runs into four pages, but however, does not disclose any reason whatsoever which weighed with the Court in granting bail to the respondent-accused Prince. Reference simpliciter is made to *Satender Kumar Antil v. CBI and Anr.*¹⁵ and to *Manish Sisodia v. CBI*¹⁶, however, such a reference to the above-mentioned pronouncements of this Court is not followed by any justification as to what in these cases as held by us, applies to the instant case.

19. In *Brijmani Devi v. Pappu Kumar and Anr.*¹⁷, Nagarathna J., writing for a bench of three learned judges considered a host of previous decisions of this Court held as under:

“36. ... As noted from the aforesaid judgments, it is not necessary for a court to give elaborate reasons while granting bail particularly when the case is at the initial stage and the allegations of the offences by the accused would not have been crystallised as such. There cannot be elaborate details recorded to give an impression that the case is one that would result in a (2022) 10 SCC 51 (2024) 12 SCC 691 (2022) 4 SCC 497 conviction or, by contrast, in an acquittal while passing an order on an application for grant of bail.

At the same time, a balance would have to be struck between the nature of the allegations made against the accused; severity of the punishment if the allegations are proved beyond reasonable doubt and would result in a conviction; reasonable apprehension of the witnesses being influenced by the accused; tampering of the evidence; the frivolity in the case of the prosecution; criminal antecedents of the accused; and a prima facie satisfaction of the court in support of the charge against the accused.

37. Ultimately, the court considering an application for bail has to exercise discretion in a judicious manner and in accordance with the settled principles of law having regard to the crime alleged to be committed by the accused on the one hand and ensuring purity of the trial of the case on the other.

38. Thus, while elaborating reasons may not be assigned for grant of bail, at the same time an order dehors reasoning or bereft of the relevant reasons cannot result in grant of bail. It would be only a non-speaking order which is an instance of violation of principles of natural justice. In such a case the prosecution or the informant has a right to assail the order before a higher forum.” (emphasis supplied)

20. Clearly, the High Court, in the impugned order has been unable to assign reasons, even briefly. As such, the order impugned is set aside and in that view of the matter, the question of bail to the

respondent-accused Prince is remanded to the High Court to be considered afresh, keeping in view the gravity of the offence, the role of the instant accused and all other relevant factors, as delineated time and again in various judgments of this Court.

21. Registrar (Judicial) of this Court is directed to dispatch a copy of this judgment to the learned Registrar General, High Court of Judicature at Allahabad, for necessary action and compliance.

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

.....J. (SANJAY KAROL)J.
(NONGMEIKAPAM KOTISWAR SINGH) New Delhi;

November 28, 2025