



Prosecution Replenish

An endeavour for Learning and Excellence

“Aano Bhadra Kratvo Yantu Viswatah”
Let all good things come to me in all directions



ॐ भद्रं कर्णेभिः शृणुयाम देवाः ।
 भद्रं पश्येमाक्षभिर्यजत्राः ।
 स्थिरैरङ्गैस्तुष्टुवाग्ँसस्तनूभिः ।
 व्यशेम देवहितं यदायूः ।

*Om Bhadram Karnnebhih Shrnnuyaama Devaah |
 Bhadram Pashyema-Akssabhir-Yajatraah |
 Sthirair-Anggais-Tussttuvaamsas-Tanuubhah |
 Vyashema Devahitam Yad-Aayuh |*

Meaning:

1: Om, O Devas, May we Hear with our Ears what is Auspicious,

2: May we See with our Eyes what is Auspicious and Adorable.

3: May we be Prayerful (in Life) with Steadiness in our Bodies (and Minds).

4: May we Offer our Lifespan allotted by the Devas (for the Service of God).

HAPPY NEW YEAR 2026

CITATIONS

APHC010654312025; <https://indiankanoon.org/doc/199351534/>;
KADIMI RAKESH Vs State of A.P And other batch cases; CRIMINAL REVISION CASE NO: 1386 of 2025 and Batch; Date: 05.12.2025;

NDPS Act- As seen from the record on 165th day of the judicial custody of the Petitioner, a remand extension petition was filed before the learned Trial Court. The impugned order doesn't reflect that at the time of extension of the remand the Petitioner was either produced physically or virtually.

As per [Jigar @ Jimmy Pravinchandra Adatiya v. State of Gujarat 2022 Supreme \(SC\) 973](#), failure to procure the presence of the Accused either physically or virtually before the Court and failure to inform him that the application made by the Public Prosecutor for the extension of time is being considered not a mere procedural irregularity, it is a gross illegality that violates the fundamental right of the Accused guaranteed under [Article 21](#) of the Constitution of India.

Bail Granted

<https://indiankanoon.org/doc/57854595/>; **Manoj Kumar Mutta vs The State Of Andhra Pradesh; CRLP No.12215 of 2025 Date:04.12.2025;**

As seen from the case dairy produced by the learned Public Prosecutor, a witness who had been working with the petitioner has categorically stated, in a statement recorded under Section 161 of 'the [Cr.P.C.](#),'/Section 180 of 'the BNSS.,' that the petitioner and Accused No.23 were involved in manufacturing caps for plastic bottles and were illegally printing government logos, labels and symbols on the caps unauthorizedly to give an impression or appearance that they were all government-approved one, with the active support of Accused Nos.1 and 2. It is also stated that the petitioner is known as Manoj Kataria. It is alleged that, for the purpose of filling illegal spurious liquor in bottles, the petitioner supplied caps at unusually higher costs.

The petitioner filed an affidavit in which he alleged that he had no connection whatsoever with any illegal liquor activity, his name does not appear in the FIR, and that there was no material connecting him with the alleged offence. Pursuant to a notice issued under [Section 35\(3\)](#) of 'the BNSS.,' the petitioner submitted a reply, sending it via WhatsApp to the mobile of the investigating officer. A notice under [Section 35\(3\)](#) of 'the BNSS.,' was issued to the petitioner, identifying him as a suspect. The petitioner was expected to appear before the police and cooperate with the investigating officer to facilitate the investigation. Instead of doing so, the petitioner refuted all allegations, giving his reply as if it were a counter-affidavit before a Court or a response to an advocate's notice. The reply dated 04.11.2025 essentially contains the petitioner's contentions as if he were seeking quashment of the proceedings. This is not the manner in which the petitioner, being an accused, is expected to cooperate with the investigating officer.

In view of the specific overt acts attributed to the petitioner, this Court is not inclined to grant pre-arrest bail. Grant of pre-arrest bail is an extraordinary remedy, to be granted only in exceptional circumstances. It is well settled in law, as enunciated by the Hon'ble Supreme Court in [Gurbaksh Singh Sibbia v. State of Punjab](#)⁴ and [Sushila Aggarwal v. State \(NCT of Delhi\)](#)⁵, that the grant of anticipatory bail does not amount to a charter for commission of serious offences, nor does it serve as a cloak of immunity for individuals against whom specific and prima facie cognizable allegations have been levelled. The relief under Section 482 of 'the BNSS' is intended to safeguard personal liberty, but not to thwart the legitimate course of investigation or to protect those who are prima facie complicit in grave offences involving overt acts.

The allegations prima facie disclose a serious offence warranting thorough investigation, and custodial interrogation of the Petitioner. Hence, in the considered opinion of this Court, the petitioner is not entitled for the relief of pre-arrest bail. Accordingly, the prayer for pre-arrest bail is rejected.

<https://indiankanoon.org/doc/2900647/>; **Koppaka Veerababu vs The State Of Andhra Pradesh on 5 December, 2025; Crl.PNo.11744 of 2025**

As seen from the record, the allegation against the petitioners/Accused Nos.2 to 4 is that they were allegedly indulged in dealing with 28.105 Kgs of ganja. They were spot-arrested. The seized contraband is commercial quantity. After thorough investigation, charge sheet has been filed on 04.11.2025. The seized contraband was found in the trunk of the car in which the petitioners were travelling. The petitioners were arrested on 03.08.2025. Considering the facts and circumstances of the case, this Court is inclined to enlarge the petitioner No.2/Accused No.3 on bail

APHC010625422025; <https://indiankanoon.org/doc/139690558/>; Pitta Raju Alias Risky Boy vs The State Of Andhra Pradesh; CRIMINAL PETITION No.12010 of 2025 Date: 05.12.2025

As seen from the record, the Petitioners/Accused Nos.1 to 5 were arrested on the spot while they were in possession and transportation of 5.900 Kgs of ganja. The seized contraband is not a commercial quantity. Against Accused No.1, there is one [IPC](#) case and three NDPS cases. Against Accused No.2, there is one [IPC](#) case. Against Accused Nos.3 to 5, there are no adverse antecedents reported. The petitioners were arrested on 31.10.2025 and they have been in judicial custody for the past 35 days. So far, three witnesses have been examined. Since the petitioner/Accused No.1 has three NDPS cases registered against him in the recent past, if he is enlarged on bail at this stage, he may commit a similar offence.

APHC010477712025; <https://indiankanoon.org/doc/141138578/>; Idupulapati Srinivasa Rao vs The State Of Andhra Pradesh on 8 December, 2025; CRLP 9451/2025

Furthermore, in Lalita Kumari 1st supra, the Hon'ble Supreme Court has categorically held at para No.120.6 that a preliminary enquiry is **mandatory** in cases involving commercial transactions before registration of a crime. In the present case, however, the FIR was registered on the very same day of receipt of the complaint without any such enquiry, which is contrary to the settled principles of law.

{The Hon'ble Apex Court in Lalita Kumari Case, does not envisage preliminary enquiry as MANDATORY in all cases. It states that where the contents of the petition do not disclose a Cognizable offence, then preliminary enquiry can be conducted to find out the specific cognizable offence available in that case}

**APHC010782202015; <https://indiankanoon.org/doc/77798283/>:
Munuswamy Ravi vs The State Of A P; CRIMINAL REVISION CASE NO:
2721/2015 DATED:08.12.2025.**

The trial has already been commenced, out of 132 witnesses 72 witnesses already examined. At this juncture, the petitioner has filed an application under [Section 239](#) of Criminal Procedure Code (for short [Cr.P.C](#)) to discharge the petitioner as A1 alleging inter-alia that the concerned jurisdictional Magistrate has no jurisdiction to entertain the case, since the First Information Report (for short F.I.R) of the case was submitted before court of IX Metropolitan Magistrate, Hyderabad and commission of offence has been taken place at the place of Tamilnadu and Hyderabad.

In this particular case, admittedly the charge against the present petitioner is not groundless. The petitioner only alleged that the court had no jurisdiction to entertain. However, on the police report, the learned Court below has satisfied that Hyderabad had jurisdiction to entertain the crime against the present Petitioner. The several materials suggest that the Charge against the present petitioner is not groundless.

**{Discharge petition filed after framing of charges and during trial
(after examining 72 witnesses)}**

**APHC010645372025; <https://indiankanoon.org/doc/196904635/>;
Pennamaboina Rajesh vs The State Of Andhra Pradesh; CRIMINAL
PETITION NO: 12406/2025 Dated 09.12.2025**

As seen from the record, the petitioner/Accused No.1 has allegedly been running a brothel under the guise of operating a spa by engaging women in flesh trade and collecting money from the customers. Certain victims were found by the police in the premises during its operation by the petitioner. The victims stated that the petitioner exploited their financially vulnerable condition and compelled them to resort to prostitution.

Therefore, request for grant of pre-arrest bail to the petitioner does not appear to be convincing or reasonable. Furthermore, importantly grant of pre- arrest bail to the petitioner, against whom specific overt acts grave in nature are alleged, is neither a license for commission of serious offence nor a shield or protection for having committed grave offences, as per the

decisions of the Hon'ble Apex Court in [Gurbaksh Singh Sibbia v. State of Punjab](#) 1 and [Sushila Aggarwal v. State \(NCT of Delhi\)](#) 2 . There are no merits in the petition. The Petitioner/Accused No.1 is disentitled for grant of pre-arrest bail.

<https://indiankanoon.org/doc/129955579/>; **Namballa Venkata Ramana Murthy (died) Vs State of A.P; 9.12.2025**

I.A.No.02 of 2025 It is an application filed by the petitioner seeking to grant leave to come on record as a legal representative of the sole appellant, by continue the Criminal Appeal No.1572 of 2008.

Heard learned counsel for the petitioner. Since the other side reported no objection with regard to the status of the proposed party as Legal Representative of the deceased/appellant, the petition is allowed.

Registry is directed to carry out necessary amendments in this regard.

{Sole Appellant died, legal representatives came on record to contest the conviction in Appeal}

APHC010401322008; <https://indiankanoon.org/doc/61004549/>; Saladi Sriranga Rao vs Sri Dontu Maheswara Rao And Another; CRIMINAL REVISION CASE NO: 122 OF 2008; 10.12.2025

the Magistrate has discretion to entertain a private complaint after the same being returned from the concerned Police Officer to be non cognizable. Hon'ble Apex Court has specifically disclosed that in exercising of such discretion, learned Magistrate shall go through the Affidavits placed by the complainant as well as witnesses at this stage.

In my view, allegation of non-payment of earlier due arising out of running business between parties does not always call for criminal liability.

I make it clear that taking cognizance of an offence is discretion of Magistrate concerned; whether learned Magistrate has exercised discretion properly or not, is to be looked into. In this matter, it appears that the Magistrate concerned has justifiable exercise the discretion and passed the impugned order in accordance with law. I find no justification to interfere with the said order.

APHC010520152025; RACHAKUNTA JAYASHANKAR Vs The State of Andhra Pradesh; Crl.P.No.10172 of 2025 Dated 12.12.2025 ;

The grant of pre-arrest bail is neither a license for the commission of offences nor a shield or protection for the persons who have allegedly committed offences, and against whom specific overt acts are attributed, as per the judgments of the Hon'ble Supreme Court in [Gurbaksh Singh Sibbia v. State](#)

of Punjab (1980) 2 SCC 565 and Sushila Aggarwal v. State (NCT of Delhi) (2020) 5 SCC 1.

**[APHC010649162025](#); BOMMATHOTI DEEPAK Vs State of A.P;
Crl.P.No.12471 of 2025 Dated 12.12.2025**

In this regard, it is relevant to comprehend the decision of the Hon'ble Apex Court in Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana (2021) 6 SCC 230 , wherein at paragraph Nos.25 and 26 it is held as under regarding the applicability of the principle of parity: "25. We are constrained to observe that the orders passed by the High Court granting bail fail to pass muster under the law. They are oblivious to, and innocent of, the nature and gravity of the alleged offences and to the severity of the punishment in the event of conviction. In Neeru Yadav v. State of U.P. [Neeru Yadav v. State of U.P., (2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527] , this Court has held that while applying the principle of parity, the High Court cannot exercise its powers in a capricious manner and has to consider the totality of circumstances before granting bail. This Court observed : (SCC p. 515, para 17) "17. Coming to the case at hand, it is found that when a stand was taken that the second respondent was a history-sheeter, it was imperative on the part of the High Court to scrutinise every aspect and not capriciously record that the second respondent is entitled to be admitted to bail on the ground of parity. It can be stated with absolute certitude that it was not a case of parity and, therefore, the impugned order [Mitthan Yadav v. State of U.P., 2014 SCC OnLine All 16031] clearly exposes the non-application of mind. That apart, as a matter of fact it has been brought on record that the second respondent has been charge-sheeted in respect of number of other heinous offences. The High Court has failed to take note of the same. Therefore, the order has to pave the path of extinction, for its approval by this Court would tantamount to travesty of justice, and accordingly we set it aside." 26. Another aspect of the case which needs emphasis is the manner in which the High Court has applied the principle of parity. By its two orders both dated 21-12-2020 [PravinbhaiHirabhai Koli v. State of Gujarat, 2020 SCC OnLine Guj 2986] , [KhetabhaiParbatbhai Makwana v. State of Gujarat, 2020 SCC OnLine Guj 2988] , the High Court granted bail to Pravin Koli (A-10) and Kheta Parbat Koli (A-15). Parity was sought with SidhdhraisinhBhagubha Vaghela (A-13) to whom bail was granted on 22-10-2020 [SiddhraisinhBhagubha Vaghela v. State of Gujarat, 2020 SCC OnLine Guj 2985] on the ground (as the High Court recorded) that he was "assigned similar role of armed with stick (sic)". Again, bail was granted to Vanraj Koli (A-16) on the ground that he was armed with a wooden stick and on the ground that Pravin (A-10), Kheta (A-

15) and Sidhdhrajsinh (A-13) who were armed with sticks had been granted bail. The High Court has evidently misunderstood the central aspect of what is meant by parity. Parity while granting bail must focus upon the role of the accused. Merely observing that another accused who was granted bail was armed with a similar weapon is not sufficient to determine whether a case for the grant of bail on the basis of parity has been established. In deciding the aspect of parity, the role attached to the accused, their position in relation to the incident and to the victims is of utmost importance. The High Court has proceeded on the basis of parity on a simplistic assessment as noted above, which again cannot pass muster under the law.”

7. Indeed, as per Ramesh Bhavan Rathod supra, while applying the principle of parity, this Court cannot exercise its powers in a capricious manner. This Court has to consider the totality of circumstances before granting bail. Parity, while granting bail, must focus upon the role of the accused. This Court cannot proceed on the basis of parity on a simplistic assessment. Merits or demerits of the facts of the case or evidence of the witnesses of the prosecution cannot be looked into while hearing the application for enlarging the Petitioner on bail.

APHC010059052025; SIRIGIREDDY ARJUN REDDY Vs State of A.P.;
CRIMINAL PETITION NO: 1387/2025 Dated.15.12.2025

Notice under Sec 35(3) BNSS directed to be served for offence registered U/s. 111(2)(b) of Organised Crime which is punishable with Imprisonment not less than 5 years but which may extend to imprisonment for life and fine of not less than 5 lakh rupees.

APHC010665912025; CHABOLU SIVA KUMAR GOUD Vs State of A.P.;
CRIMINAL APPEAL No:839 OF 2025: Date: 16.12.2025

It is an admitted fact that the appellant/A-3 was on bail and on 29.05.2025 due to ill-health, he could not attend the Court and thereby, learned trial Court issued Non-bailable Warrant against the appellant/A-3. It is also an admitted fact that the learned Sessions Judge at the time of issuing Non-Bailable Warrant on 29.05.2025, did not forfeit the bail bond of the A-3 for breach of the bail conditions. The learned Sessions Judge also did not issue any notice to the sureties forfeiting their bonds as per the procedure contemplated under Section 446 Cr.P.C. corresponding to 491 B.N.S.S. The learned Sessions Judge also did not take any steps for cancellation of the earlier bail order. Therefore, in the light of the above facts and circumstances, it is clear that the earlier bail granted by the learned Special Court is in force.

Perusal of the impugned order rendered by the Special Court would disclose that for the reasons mentioned in the order passed in CrI.M.P.No.1041/2025, the request of the appellant to enlarge him on bail was refused, instead of considering whether earlier bail is in existence, the bail bonds of the accused were not forfeited, no notice was issued to the sureties as per Section 446 Cr.P.C., corresponding to Section 491 B.N.S.S., 2023, apart from merits of the bail application.

In the light of foregoing circumstances, the order of learned trial Court is not sustainable either on facts or in law. Therefore, it is liable to be set aside. The appellant/A3 shall be released from judicial custody, on executing fresh personal bond for Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties for a like sum each to the satisfaction of the learned trial Court. However, the learned trial Court is at liberty to take necessary steps under Section 446 Cr.P.C. with regard to forfeiting of the bond executed by A-3 and sureties as per the earlier bail order, if the accused committed breach of the bail bond, by not attending the Court on 29.05.2025, and impose penalty in accordance with law U/s.446 Cr.P.C. corresponding to Section 491 B.N.S.S., 2023.

Kanduru Chinnappanna Vs State of A.P; CRIMINAL PETITION NO: 12357 of 2025; 15.12.2025

The SIT constituted by the Hon'ble Apex Court mandated a deeper probe to uncover the larger conspiracy in the case, as it pertains to the supply of adulterated ghee to TTD, which defiled sentiments of crores of devotees worldwide. Though all the main accused, who supplied ghee to TTD, were enlarged on bail after completion of the statutory period, the investigation into the alleged role of the Petitioner is at a crucial stage. The Petitioner was arrested on 29.10.2025. He has been in judicial custody for only 47 days. The period in which an application for granting of custodial interrogation is not yet completed. Four more accused are still at large. The SIT is required to determine at whose behest the Petitioner had allegedly demanded Rs. 25 per kg of adulterated ghee the mode in which the money was paid to him and others, and who are the ultimate beneficiary unlawfully. Undoubtedly, enlarging the petitioner on bail, even with certain stringent conditions, would hamper the further progress of the investigation at this juncture

**APHC010603282025; JAMI SUDHEER KUMAR Vs State of A.P.;
Crl.P.No.11640 of 2025 Dated 17.12.2025**

The Hon'ble Apex Court in catena of decisions held that promise to marriage and subsequent physical relationship between the two with consent would not amount to rape.

Considering the ratio lay down by the Hon'ble Apex Court in Kunal Chatterjee, Prithvirajan, Pramod Suryabhan Pawar, Naim Ahmed, and Maheshwar Tigga supra, the gravity and nature of the allegations levelled against the petitioner/Accused No.1 is entitled for grant of bail, but with some stringent conditions

2025 0 INSC 1371; 2025 0 Supreme(SC) 1987; Chandan Pasi & Ors. Vs. The State Of The Bihar; Criminal Appeal No (s). 5137-5138 of 2025 (Arising out of SLP (Crl.) No (s). 3685-3686 of 2025); 01-12-2025

The statements extracted above reveal a sorry state of affairs- an abject failure on the part of the Court in complying with the basic tenets of law. The statements given by all three persons are carbon copies of each other. How such statements can pass muster at the hands of the learned Trial Judge is something which we fail to understand. Out of the four questions asked, directly related to the sequence of events, were only two. The second question was as general as can be, with reference to only the bare allegations, to which an omnibus denial was issued. The third was also of similar nature, saying that it has been alleged and evidenced, and nothing further. This cannot be said to be the putting of every material circumstance. It is equally disturbing for us to see that in the desire to secure a conviction for the accused persons, the prosecutor also let their duty of assisting the Court in conducting the examination of the accused under this section fall by the wayside. The prosecutor is an officer of the Court and holds a solemn duty to act in the interest of justice. They cannot act as a defence lawyer, but for the State, with the sole aim of making the gauntlet of punishment fall on the accused. [See: Sovaran Singh Prajapati v. State of U.P., 2025 SCC OnLine SC 351].

A trial is a function of memory; it is this memory that, when translated into spoken word testimony on oath, becomes evidence, and thus the same is susceptible to the vagaries of time. Keeping in view the fact that the offence is from the year 2016, and while being cognizant of the observations of the Constitution Bench in High Court Bar Association, Allahabad v. State of U.P., [\(2024\) 6 SCC 267](#), we direct the concerned Trial Court to do the needful within four months from the date of the communication of this judgment.

2025 0 INSC 1373; 2025 0 Supreme(SC) 1989; Tuhin Kumar Biswas @ Bumba Vs. The State of West Bengal; Criminal Appeal No. 5146 of 2025 (Arising out of Special Leave Petition (Crl.) No. 3002 of 2024) 02-12-2025

Before parting with this case, this Court would like to emphasise that where there is a pending civil dispute between the parties, the Police and the Criminal Courts must be circumspect in filing a chargesheet and framing charges respectively. In a society governed by rule of law, the decision to file a chargesheet should be based on the Investigating Officer's determination of whether the evidence collected provides a reasonable prospect of conviction. The Police at the stage of filing of Chargesheet and the Criminal Court at the stage of framing of Charge must act as initial filters ensuring that only cases with a strong suspicion should proceed to the formal trial stage to maintain the efficiency and integrity of the judicial system. The tendency of filing chargesheets in matters where no strong suspicion is made out clogs the judicial system. It forces Judges, court staff, and prosecutors to spend time on trials that are likely to result in an acquittal. This diverts limited judicial resources from handling stronger, more serious cases, contributing to massive case backlogs. Undoubtedly, there can be no analysis at the charge framing stage as to whether the case would end in conviction or acquittal, but the fundamental principle is that the State should not prosecute citizens without a reasonable prospect of conviction, as it compromises the right to a fair process.

2025 0 INSC 1375; 2025 0 Supreme(SC) 1991; Rousanara Begum Vs. S.K. Salahuddin @ S.K. Salauddin and Another; CRLA No. 5164 of 2025 [Arising Out of SLP(Crl)No. of 2025][Diary No. 60854/ 2024] 02-12-2025

To put it in context, the scope and object of 1986 Act is concerned with securing the dignity and financial protection of a Muslim women post her divorce which aligns with the rights of a women under Article 21 of the Constitution of India. The construction of this Act, therefore, must keep at the forefront equality, dignity and autonomy and must be done in the light of lived experiences of women where particularly in smaller towns and rural areas, inherent patriarchal discrimination is still the order of the day.

2025 0 INSC 1378; 2025 0 Supreme(SC) 1993; Bal Kumar Patel @ Raj Kumar Vs. State of U.P.; Criminal Appeal No (s). 5196 of 2025 (Arising out of SLP(Crl) No. 6421 of 2025), Criminal Appeal No. 5197 of 2025 @ SLP (Crl) No. 13168 of 2025, Criminal Appeal No. 5198 of 2025 @ SLP (Crl) No. 13090 of 2025 With Criminal Appeal No. 5199 of 2025 @ SLP

(Crl) No. 13144 of 2025, Criminal Appeal No. 5200 of 2025 @ SLP (Crl) No. 13142 of 2025, Criminal Appeal No. 5201 of 2025 @ SLP (Crl) No. 13161 of 2025 Decided On : 03-12-2025

The Court in Ram Naresh (1957 SCC OnLine SC 22 : [AIR 1957 SC 389](#)) spoke in the context of a Trial Court and the duty that is cast upon it when an application for withdrawal is made by the Public Prosecutor, after the latter has made an independent assessment of the justifiability of such an application. Undoubtedly this is the duty of the Trial Court when applications for withdrawal from prosecution is made in regular course before the Court, however, we are of the considered view that the duty described above, of the applications of judicial mind, applies in letter and spirit to the High Court as well, when considering applications for permission in cases concerning MPs or MLAs, which can only be filed before it in terms of the law referred to supra. The Public Prosecutor who has a duty to assist the Court 'with a fairly considered view' on the case, in his application and in the interest of justice should disclose all reasons that weighed with them to put forward this application to the Court. This is in furtherance of the well recognised principle that reasons are the soul of a judicial as well as administrative function. In view of Ashwini Kumar Upadhyay (supra) this application disclosing the reasons for withdrawal of prosecution given by the Public Prosecutor as also the records of the case should be before the High Court which would exercise its judicial mind and give a reasoned order, granting or denying such permission.

2025 0 INSC 1377; 2025 0 Supreme(SC) 1995; Mahesh Joshi Vs Directorate of Enforcement; Criminal Appeal No. 5189 of 2025 (Arising Out of S.L.P. (CRL.) No.13737 of 2025); 03-12-2025

In V. Senthil Balaji v. Deputy Director, Directorate of Enforcement [2024 SCC OnLine SC 2626], of which, one of us was a member (Augustine George Masih, J.), this Court, particularly in para 27, held that where a trial cannot be reasonably concluded and incarceration becomes prolonged, constitutional courts must intervene to safeguard the right to personal liberty under Article 21. The Court further emphasised that Section 45(1)(ii) of the PMLA cannot be interpreted to justify indefinite detention in cases involving voluminous, document-heavy material where trial is unlikely to begin promptly.

2025 0 INSC 1384; 2025 0 Supreme(SC) 2000; Rocky Vs. State of Telangana & Anr.; Criminal Appeal No. 5252 of 2025 (@ Special Leave Petition (Criminal) No. 11151 of 2025) 04-12-2025

The appellant's core contention, that the dispute is purely civil in nature, is untenable at this stage. Although courts must guard against giving criminal colour to civil disputes, it is equally well settled that the existence of civil remedies does not preclude criminal prosecution where the allegations disclose the essential ingredients of an offence. Civil and criminal proceedings may validly coexist if the factual matrix supports both.

2025 0 INSC 1386; 2025 0 Supreme(SC) 2002; Neeraj Kumar @ Neeraj Yadav Vs. State of U.P. & Ors.; Criminal Appeal No. 5229 of 2025 (Arising out of SLP(Crl.) No. 7518 of 2025); 04-12-2025

While it is true that the appellant did not specifically mention in the FIR that the husband of the deceased had fired at the instigation of the respondents, as conveyed by his niece, however, it is trite law that an FIR is not an encyclopaedia that must contain every minute detail of the incident, since its primary purpose is to set criminal law in motion. [See: CBI v. Tapan Kumar Singh, [\(2003\) 6 SCC 175](#) and Amish Devgan v. Union of India, [\(2021\) 1 SCC 1](#)] Therefore, at this stage, his deposition cannot be construed as an embellished or improved one simply because of the absence of certain particulars in the FIR, particularly when his testimony is consistent with the overall narrative.

While a statement recorded under Section 161 CrPC is not substantive evidence in itself, it may be used to corroborate the evidence recorded by the Court to invoke the power under Section 319 CrPC, as held in S. Mohammed Ispahani (supra). Therefore, conjointly reading PW-2's deposition along with her Section 161 statement, we find that a specific and overt act has been assigned to the respondents. Whether she actually witnessed the firing or arrived immediately thereafter, and the extent to which her statement inspires confidence, are matters that are to be determined at the stage of trial, upon full appreciation of the evidence. The testimony of a child witness shall be weighed by the Court concerned in view of the principles laid in State of Rajasthan v. Chitra, [\(2025\) 8 SCC 613](#) and State of M.P. v. Balveer Singh, [\(2025\) 8 SCC 545](#).

It is a well-established position of law that a statement made by a deceased person, as to the cause of his death or to the circumstances of the transaction which resulted in his death, to a Police Officer and recorded under Section 161 CrPC, shall be relevant and admissible under Section 32(1) of the Evidence Act, notwithstanding the express bar provided in

Section 162 CrPC. Such a statement, upon the death of the declarant, assumes the character of a dying declaration. It is also equally settled that a dying declaration need not necessarily be recorded in the presence of a Magistrate, and that the lack of a doctor's certification as to the fitness of the declarant's state of mind would not ipso facto render the dying declaration unacceptable. This position has been recently reiterated by this Court in *Dharmendra Kumar v. State of M.P.*, [\(2024\) 8 SCC 60](#),

Additionally, in our considered view, the High Court erred in holding that these statements cannot be treated as dying declaration(s) merely because the death of the deceased occurred after a substantial lapse of time from their recordings. Such an approach is clearly untenable since the law does not require that a declarant, at the time of making the statement, to be under the shadow of death or the expectation that death is imminent. Here the time gap between the incident and the death is less than 2 months. In any event, Section 32 of the Evidence Act, contains no such limitation. What is pertinent is that the statement relates either to the cause of death or the circumstances leading to it. [See: *Rattan Singh v. State of H.P.*, [\(1997\) 4 SCC 161](#); *Kulwant Singh v. State of Punjab*, [\(2004\) 9 SCC 257](#); and *Amar Singh v. State of Rajasthan*, [\(2010\) 9 SCC 64](#)]

2025 0 INSC 1395; 2025 0 Supreme(SC) 2011; Dadu @ Ankush & Anr. Vs. State Of Madhya Pradesh & Anr.; Criminal Appeal No. 5301 of 2025 [Arising Out Of SLP (Criminal) No. 10759 of 2024]; Decided On : 08-12-2025

The High Court further observed that from the statements of the appellants recorded under Section 313 Cr. PC, it was clear that they knew PW-1 belonging to Scheduled Caste. An abrupt finding was recorded that "it is clear that the offence was committed by the appellants simply for reason that the complainant was belonging to scheduled caste." Curiously, there appears to be no statement in court in course of trial by the victim that A-2 committed the alleged offence only because of the victim being a member of Scheduled Caste. No such statement was even made by PW-2. The finding returned by the High Court is, thus, perverse

2025 0 INSC 1396; 2025 0 Supreme(SC) 2012; Salil Mahajan Vs. Avinash Kumar & Anr.; Criminal Appeal No. 5313 of 2025 (Arising out of SLP (Crl.) No. 7275 of 2025); 08-12-2025

it is well settled by this Court that an appeal against the grant of bail and an application seeking cancellation of bail are on different footing. The grounds for testing the legality of an order granting bail are well settled. Recently, in

Ashok Dhankad v. State (NCT of Delhi), 2025 SCC Online SC 1690 this Court had summarized the position of law as follows:

“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;
- (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.”

We deem it appropriate to advert to the exposition of law, in Vipan Kumar Dhir v. State of Punjab, [\(2021\) 15 SCC 518](#) where while setting aside the grant of anticipatory bail this Court observed:

“11. In addition to the caveat illustrated in the cited decision(s), bail can also be revoked where the court has considered irrelevant factors or has ignored relevant material available on record which renders the order granting bail legally untenable. The gravity of the offence, conduct of the accused and societal impact of an undue indulgence by Court when the investigation is at the threshold, are also amongst a few situations, where a Superior Court can interfere in an order of bail to prevent the miscarriage of justice and to bolster the administration of criminal justice system. This Court has repeatedly viewed that while granting bail, especially anticipatory bail which is per se extraordinary in nature, the possibility of the accused to influence prosecution witnesses, threatening the family members of the deceased, fleeing

from justice or creating other impediments in the fair investigation, ought not to be overlooked.”

The impugned order, while explicitly recording the contents of this report, makes no reference to the contents thereof in its reasoning. Pertinently, there is no reference as to why his alleged conduct of being on the run ought to be ignored. In our view, the Court erred by not taking this relevant status report into consideration. Such failure cannot be sustained. Moreover, the Court vide the impugned order appears to be have taken a mechanical route in releasing the accused under the extraordinary relief of anticipatory bail. No consideration was made to the merits of the allegations against him or his conduct, as alleged by the investigating agencies.

Even if the contention of the accused is accepted that, due to the filing of the charge sheet, his custodial interrogation is no longer required, we have no doubt that the judgment of the High Court is vitiated by non-consideration of essential facts.

2025 0 INSC 1397; 2025 0 Supreme(SC) 2013; Sohanvir @ Sohanvir Dhama & Ors. Vs. State Of U.P. & Anr.; Criminal Appeal No. 5314 of 2025 (Arising Out Of SLP (Crl) No.14100 of 2025): 08-12-2025

A perusal of the Application filed by the complainant under Section 156(3) of the CrPC reveals that the alleged casteist abuses were stated to have been used by the Appellants inside the premises of the complainant. This circumstance, on its face, does not satisfy the statutory requirement that the abuses were made “in any place within public view,” which is an essential component of the offence under Section 3(1)(s) of the SC/ST Act. The house of the complainant cannot be considered to be within public view.

2025 0 INSC 1402; 2025 0 Supreme(SC) 2018; Amal Kumar & Ors. Vs. The State of Jharkhand & Anr.; Criminal Appeal No. 5335 of 2025 (@ Special Leave Petition (Crl.) No.5913 of 2025); Decided On : 09-12-2025

We are inclined to find that in the totality of the circumstances as noticed above, the FIR based on the **FIS (First Information Statement)** is a clear abuse of process of law. From the records of the suit as has been filed by the first informant, the allegations in the FIS does not come out. As of now the land is covered by a sale deed in favour of the first appellant. There can be no question of an offence being charged under Section 2 (3)(g) of the Act of 1989, of wrongful dispossession of a member of a Scheduled Caste/Schedule Tribe from their land. Likewise, there is no offence as coming out under Section 3(1)(s) of the Act of 1989 since there is no

allegation that the casteist slur was made in a place within public view or that there was any member of the public present at the spot. In any event, the allegations in the FIS itself are found to be unbelievable going by the clear averments made in the suit filed on the very same day. The High Court, in the circumstances, ought to have quashed the FIR. Having not done so we set aside the order of the High Court and quash FIR No.18 of 2020 registered in Police Station Kanke, Ranchi and direct that no further proceedings shall be taken by the police against the arrayed accused in pursuance of the said FIR. The appeal stands allowed.

2025 0 INSC 1412; 2025 0 Supreme (SC) 2028; Surender Kumar Vs. State of Himachal Pradesh; Criminal Appeal No. 2025 [SLP (Crl) No. 5532 of 2025]; Decided On: 09-12-2025

In our view, the act in question would not fall under Exception 2 because, firstly, there is no evidence to show that the accused or his property was attacked by the deceased. Even in his statement under Section 313 Cr.P.C. no plea of self-defense or of deceased causing any injury to the appellant was raised. Besides, no defense evidence was led. Further, it is not shown that the deceased was armed. In such circumstances, in our view, benefit of Exception 2 would not be available to the petitioner.

In *Bhagwan Munjaji Pawade vs. State of Maharashtra*, [\(1978\) 3 SCC 330](#) (Para 6), followed and affirmed in *Awadhesh Kumar vs. State of U.P. and Another*, [\(2019\) 10 SCC 323](#), this Court held that where the accused is armed and the deceased is unarmed, Exception 2 can have no application and Exception 4 to Section 300 would not apply if there is sudden quarrel but no fight between the deceased and the accused. It was held that 'fight' postulates a bilateral transaction in which blows are exchanged.

2025 0 INSC 1413; 2025 0 Supreme(SC) 2029; The State of West Bengal Vs. Anil Kumar Dey; Criminal Appeal No. 5373 of 2025 [Arising Out of SLP (Crl.) No. 1003 of 2025] 10-12-2025

Courts ought not to be expected to follow judgments and orders of this Court as binding precedents when, the facts, in light of which the conclusion arrived at, are not properly disclosed and discussed, for law is not always applicable as the black letter of the law and is instead applied to the facts of each case.

2025 0 INSC 1415; 2025 0 Supreme(SC) 2031; Dr. Sohail Malik Vs. Union Of India & Anr.; Civil Appeal No. 404 of 2024; Decided On : 10-12-2025

In the present case, considering the wide definition of the word 'workplace' under the POSH Act, particularly as contained in Section 2(o)(v), if we were

to accept the contentions of the appellant, the said interpretation would run contrary to the object of the POSH Act and its intent as a social welfare legislation. In the interest of clarity and easy comprehension, the following are our conclusions in terms of the above discussion:

- (i) The phrase 'where the respondent is an employee' as contained in Section 11 of the POSH Act, cannot be interpreted to mean that ICC proceedings against a 'respondent' may only be instituted before the ICC constituted at the workplace of the 'respondent';
- (ii) Such a restrictive interpretation of the POSH Act will run contrary to the scheme of the Act, specifically in light of the all-encompassing and wide definition which has been given to the term 'workplace' in Section 2(o) of the POSH Act, particularly in light of Section 2(o)(v) which expands the scope of 'workplace' to include any place visited by the employee 'arising out of or during the course of employment';
- (iii) Under Section 13 of the POSH Act, the recommendations and report of the ICC are to be sent to the 'employer' which shall then take a decision with respect to initiation of disciplinary action. In light of the OM dated 16.07.2025, the ICC has a dual-role – to conduct the preliminary / fact-finding inquiry under the POSH Act and to act as the inquiry authority in the formal disciplinary proceedings under the CCS CCA Rules, 1965 as discussed, since nothing prevents the ICC constituted at the Department of the aggrieved woman from conducting the preliminary / fact-finding inquiry and upon receiving the report of the said ICC, if the employer initiates disciplinary proceedings, the ICC constituted at the Department of the 'respondent' shall act as the inquiry authority in the disciplinary proceedings.
- (iv) In case the ICC constituted at the aggrieved woman's workplace is conducting a fact-finding inquiry under the POSH Act, the employer of the 'respondent', even if it is a different department, must abide its duties under Section 19(f) of the POSH Act to swiftly cooperate and make available information upon a request by the ICC of the aggrieved woman's workplace.

<https://indiankanoon.org/doc/185217351/>; Golluri Somanadh vs The State Of Andhra Pradesh on 1 December, 2025; CRIMINAL REVISION CASE NO: 1352/2025; JANAM JAGANADHAM ALIAS JAGGU Vs A.P.;1355 of 2025; PISE AKSHAY SHIVAJI Vs A.P.; MULJANGI ESWARARAO Vs A.P CRL.R.C.NO: 1337/2025; CRL.R.C.NO: 1350/2025 Sec 36A(4) NDPS Act, As per [Jigar @ Jimmy Pravinchandra Adatiya v. State of Gujarat](#), 2022 Supreme (SC) 973; failure to procure the presence of

the Accused either physically or virtually before the Court and failure to inform them that the application made by the Public Prosecutor for the extension of time is being considered not a mere procedural irregularity, it is a gross illegality that violates the fundamental right of the Accused guaranteed under [Article 21](#) of the Constitution of India.

<https://indiankanoon.org/doc/92771410/>; **TALARI KRISHNA MOHAN Vs State of A.P; CRIMINAL APPEAL No.1736 of 2018; 02.12.2025**

It is a settled principle of law in criminal jurisprudence that, while appreciating the evidence of a witness, the court must assess whether, read as a whole, it is truthful. In doing so, the court must keep in mind the deficiencies, drawbacks and infirmities to find out whether such discrepancies shake the truthfulness. Only when discrepancies are so incompatible as to affect the credibility of the version of a witness, the court may reject the evidence. The court must filter the chaff from the grain and find out the truth.

It is also a settled principle in criminal jurisprudence that if the testimony of a single witness is trustworthy and it inspires confidence in the court, the Court can rely upon the evidence and convict the accused. There is no legal impediment to convict the accused on the sole testimony of a single witness. However, if there are doubts about the testimony, it requires corroboration. It is not the number, the quantity, but the quality that is material. The test is whether the evidence has a ring of truth, is cogent, credible and trustworthy or otherwise.

In the cross-examination of P.W.9, the Assistant Professor, Department of Forensic Medicine and Toxicology, Kurnool Medical College, Kurnool, it was elicited that the injury sustained by the deceased cannot be caused by the knife when the deceased is in a standing position, and it can be caused only when the deceased is in a lying position. This may not be helpful to the appellant. When the evidence of P.W.1, inspires confidence, the direct witness to the occurrence, the medical evidence, alternative possibilities need not be accepted. The medical evidence is opinion evidence, and it cannot nullify the evidence of an eyewitness, when the evidence of such eye witness inspires confidence and trustworthiness.

2025 0 INSC 1443; 2025 0 Supreme (SC) 2059; Jayantibhai Chaturbhai Patel Vs. State Of Gujarat; Criminal Appeal No. 890-891 of 2017; Decided On: 16-12-2025

We are of the view that when the main witness of the prosecution, i.e. the victim herself, has not supported the case of the prosecution, it is not open

for the Court to presume that she did not support the case of the prosecution because the appellant-accused has won over the said witness.

Furthermore, it is also relevant to observe that three independent witnesses who were present at the place of occurrence, i.e. in the hospital/clinic of the appellant-accused, though cited as prosecution witnesses in the chargesheet, were not examined by the prosecution. Furthermore, the medical evidence also does not support the version of the prosecution. Merely because the victim has levelled allegations against the appellant-accused in the FIR and the investigating officer has deposed before the Court with regard to the contents of the said FIR, it cannot be presumed that the allegations levelled in the FIR are true and correct unless the same is proved during the course of trial by leading cogent evidence.

2025 0 INSC 1417; 2025 0 Supreme(SC) 2034; Jothi @ Nagajothi Vs The State, Rep. By The Inspector Of Police; Criminal Appeal No. 259 of 2025 (Arising out of SLP (Crl.) No. 52102 of 2024) Decided On : 11-12-2025

This Court has consistently held that the non-examination of independent witnesses is not, by itself, fatal to the prosecution, particularly in prosecutions under the NDPS Act where operations often take place under challenging circumstances. In *Surinder Kumar v. State of Punjab* ([2020 \(2\) SCC 563](#)), this Court reiterated that the mere absence of independent witnesses does not lead to the conclusion that the accused has been falsely implicated. Referring to *Jarnail Singh v. State of Punjab* ([\(2011\) 3 SCC 521](#)), the Court underscored that the testimony of official witnesses cannot be discarded solely on the ground of their official status and that their evidence must be assessed on its own merits like that of any other witness.

In the present case, upon careful evaluation, the evidence of the official witnesses stands out as consistent and coherent. Their depositions corroborate each other on all material particulars and no material has been brought out in cross-examination to cast doubt on their credibility. The absence of independent witnesses, therefore, cannot be said to weaken the prosecution case in any manner.

The appellant's primary submission is that the representative samples ought to have been drawn only before a Magistrate in terms of Section 52-A of the NDPS Act and that sampling at the spot itself renders the entire prosecution void. This contention is legally untenable. In *Bharat Aambale v. State of Chhattisgarh*, ([2025\) 8 SCC 452](#), this Court has comprehensively clarified the scope, purpose and effect of Section 52-A. Most significantly, paragraphs 56.5 and 56.6 of the said judgment make it clear that mere non-compliance or delayed compliance with Section 52-A is not fatal unless the irregularity

creates discrepancies affecting the integrity of the seized substance or rendering the prosecution case doubtful. Equally, even where some procedural lapse is shown, if the remaining oral or documentary evidence inspires confidence regarding the seizure and conscious possession, the conviction may still be upheld.

The reduction in weight (from “about 50g” to 40.6g) is sufficiently explained by natural drying and loss of moisture, a fact also recorded by PW-6 in the Analysis Report, which notes that the sample contained dry, broken fragments. The High Court rightly held that minor variations in weight, particularly where the sample quantity is described as “about”, do not affect the identity or integrity of the sample.

The appellant urges this Court to consider her youth, lack of prior criminal history and responsibility towards her minor child. While we are not unmindful of the appellant’s circumstances, the NDPS Act prescribes minimum mandatory sentences for possession of commercial quantity. The Court has no discretion to reduce the sentence below the statutory minimum under Section 20(b)(ii)(C) of the NDPS Act. Humanitarian considerations, though relevant for executive remission, cannot override statutory minimum punishment mandated by the legislature. Thus, no interference with sentence is permissible.

2025 0 INSC 1418; 2025 0 Supreme(SC) 2035; Central Bureau of Investigation Vs. Dayamoy Mahato; Criminal Appeal Nos. 5400-5401 of 2025 (Arising out of SLP(Crl) Nos. 12376-12377 of 2023), Criminal Appeal Nos. 5402-5403 of 2025 (Arising out of SLP(Crl) Nos. 12656-12657 of 2023) And Criminal Appeal No. 5404 of 2025 (Arising out of SLP(Crl) No. 2669 of 2024); Decided On : 11-12-2025

Directions in rem

The Crimes in India Report, 2023 published by the National Crimes Records Bureau shows total number of cases pending for trial and total number of cases pending for investigation in year 2023 under UAPA to be 3949¹⁹[<https://www.ncrb.gov.in/uploads/files/TABLE10A5.pdf>] and 4794²⁰[<https://www.ncrb.gov.in/uploads/files/TABLE10A3.pdf>] respectively. The State Legal Services Authority shall take steps to make aware, each undertrial of his right to representation, either by counsel of their own choice or through a legal aid counsel. For those who choose the latter, assignments to their cases to the counsel should be made expeditiously so that the proceedings can start/continue at the earliest.

The learned Chief Justices of all High Courts are requested:

(a) to examine the number of cases pending within their States under laws such as the UAPA, posing a reverse burden of proof on the accused;

(b) to ascertain the number of special courts designated to try the said offences, and if special courts have not been designated, the number of Sessions courts dealing with matters under these legislations and to take up the matter with the appropriate authority if it is found that they are not sufficient;

(c) to discern, whether posting of judicial officers in these courts as also staffing is sufficient, thereby foreclosing a ground for delay and adjournment, and if not, then suitable order for posting be issued expeditiously;

Further, it is hereby directed:

(a) that the list prepared in accordance with (a) shall be organised in order of case registered, to the extent possible and permissible, from the earliest to latest. Requisite directions be issued to the special courts/sessions courts to take up the matters registered earliest, first, unless otherwise warranted.

(b) In consultation with the appropriate authority, the High Court to ascertain the position with respect to appointment/allotment of prosecutors/special public prosecutors, as may be applicable, to ensure that the matters, once taken up, are not further delayed on that count;

(c) For those cases that have been pending for more than five years, the concerned court be directed to take stock of the situation as and when they are taken up, record detailed order taking note of the previous reasons for adjournment if available, refrain from granting adjournments on routine requests and take up the matter on a day-to-day basis.

(d) The High Court concerned will periodically, seek reports from the concerned Courts dealing with these matters and take up issues that may be confronting the said courts, on the administrative side so as to ensure smooth functioning.

2025 0 INSC 1433; 2025 0 Supreme(SC) 2049; Manojbhai Jethabhai Parmar (Rohit) Vs. State Of Gujarat; Criminal Appeal No(S). 2973 of 2023; Decided On : 15-12-2025

A grave and distressing case of brutal sexual assault upon a four-year old girl¹[Hereinafter, being referred to as 'child victim'. Hereinafter, being referred to as 'child victim'.] stands before this Court, enveloped in layers of investigative apathy and procedural infirmities. The First Information Report, despite the informant's professed complete knowledge of the incident, is bereft of even the most rudimentary details, neither the name of the accused person (appellant herein) nor those of the purported witnesses of the last seen together circumstance find mention. What followed was an

investigation hopelessly botched and a trial conducted with a pedantic rigidity that obscured, rather than unveiled, the truth. The highly unnatural conduct of the witnesses, marked by gross insensitivity/rank apathy, contradictions and apparent concoctions raises serious doubts about the reliability of the prosecution's case. Yet, in face of this disturbing matrix, the accused-appellant stands convicted and has remained behind bars for nearly thirteen long years.

This Court cannot remain oblivious to the sobering reality that such handling of criminal cases leaves scars not merely upon the individuals involved but upon the justice system itself. When investigations are carried out in a manner that betrays their foundational purpose, and trials become mechanical exercises divorced from the quest for truth, the resulting miscarriage of justice reverberates far beyond the confines of the courtroom. It erodes public faith, instills uncertainty in victims, and sends a chilling message to society at large that the pursuit of justice may falter not at the altar of complexity but at the hands of indifference. The criminal law, which must stand as a bulwark protecting the vulnerable, risks becoming an instrument of unintended cruelty when procedural lapses and institutional negligence overshadow substantive justice. With this prelude, we now proceed to examine the factual matrix of the case.

In the present case, it is manifest that the Investigating Officer had ample opportunity to secure and preserve crucial forensic material, particularly by securing samples necessary for conducting DNA profiling of the child victim and the accused-appellant. Such scientific examination, now an integral component of modern criminal investigation, would have provided objective corroboration and materially assisted in ascertaining the truth. However, no effort was made to obtain or preserve such forensic material. This omission, whether arising from negligence or otherwise, assumes significance in light of the seriousness of the allegations. The failure to pursue an available and reliable scientific avenue not only weakens the prosecution's case but also raises a legitimate apprehension that the investigation may not have been carried out with the requisite fairness and diligence. In the circumstances, the possibility that such inaction was intended, or at least operated, to shield the actual perpetrators of the offence cannot be ruled out. Such lapses *ex facie* undermine the credibility of the prosecution's case and strike at the foundational requirement that every investigation must be fair, diligent, and oriented solely towards the discovery of truth.

Before parting with the present case, we would like to highlight that the judgments of the trial Court as well as the High Court in the instant case have indeed appended charts of witnesses and documents in their respective

judgments. However, we are of the considered view that a more structured and uniform practice must be adopted to enhance the legibility of criminal judgments. Accordingly, to ensure a systematic presentation of evidence that enables efficient appreciation of the record, we issue the following directions to all trial Courts across the country. These directions aim to institutionalize a standardized format for cataloguing witnesses, documentary evidence, and material objects. This will serve to facilitate better comprehension and immediate reference for all stakeholders, including the Appellate Courts. Hence, we are passing the following directions, which shall be adhered to by all trial Courts across the country.

82. Preparation of Tabulated Charts in all the judgments:

82.1 All trial Courts dealing with criminal matters shall, at the conclusion of the judgment, incorporate tabulated charts summarizing: -

- a. Witnesses examined,
- b. Documents exhibited, and
- c. Material objects (muddamal) produced and exhibited.

82.2. These charts shall form an appendix or concluding segment of the judgment and shall be prepared in a clear, structured and easily comprehensible format.

83. Standardized Chart of Witnesses

83.1. Each criminal judgment shall contain a witness chart with at least the following columns:

- a. Serial Number
- b. Name of the Witness
- c. Brief Description/Role of the Witness, such as: Informant, Eye-witness, Medical Jurist/Doctor, Investigating Officer (I.O.), Panch Witness, etc.

83.2. The description should be succinct but sufficient to indicate the evidentiary character of the witness. This structured presentation will allow quick reference to the nature of testimony, assist in locating the witness in the record, and minimize ambiguity.

83.3. Specimen Chart for Witnesses Examined

<u>Prosecution Witness No.</u>	<u>Name of Witness</u>	<u>Description</u>
1	Mr. X	Eye-witness
2	Mr. Y	Witness of last seen circumstance
3	Ms. Z	Medical Jurist
4	Mr. A	Investigating Officer
5	Mr. B	Complainant/First Informant

84. **Standardized Chart of Exhibited Documents**

84.1 A separate chart shall be prepared for all documents exhibited during trial. This chart shall include:

- a. Exhibit Number;
- b. Description of document;
- c. The Witness who proved or attested the document.

84.2 Illustratively, the description may include: FIR, complaint, panchnamas, medical certificates, FSL reports, seizure memos, site plans, dying declarations, etc.

84.3. The requirement of specifying the witness who proved the document ensures traceability of proof and assist the Court in appreciating compliance with the Indian Evidence Act, 1872/Bharatiya Sakshya Adhinyam, 2023.

84.4. **Specimen Chart for Exhibited Documents**

<u>Exhibit No.</u>	<u>Description of the Exhibit</u>	<u>Proved by/ Attested by</u>
1	Inquest Panchnama/Memo	PW-1
2	Recovery Panchnama/Memo	PW-2
3	Arrest Memo	PW-3
4	Post-mortem Report	PW-4
5	FSL Report	PW-5

85. **Standardized Chart of Material Objects/Muddamals**

85.1 Whenever material objects are produced and marked as exhibits, the trial Court shall prepare a third chart with:

- a. Material Object (M.O.) Number;
- b. Description of the Object;
- c. Witness who proved the Object's Relevance (e.g., weapon, clothing, tool, article seized under panchnama, etc.)

85.2. This enables clarity regarding the physical evidence relied upon.

85.3. **Specimen Chart for Material Objects/Muddamals**

<u>Material Object No.</u>	<u>Description of the Exhibit</u>	<u>Proved by/ Attested by</u>
1	Weapon of Offence	PW-1
2	Clothing of accused/victim	PW-2
3	Mobile Phone/Electronic Object	PW-3
4	Vehicle	PW-4
5	Purse/earrings/identity card	PW-5

86. Special Provisions for Cases Involving Voluminous Evidence

86.1. In complex cases, such as conspiracies, economic offences or trials involving voluminous oral or documentary evidence, the list of witnesses and exhibits may be substantially long. Where the number of witnesses or documents is unusually large, the trial Court may prepare charts only for the material, relevant, and relied-upon witnesses and documents, clearly indicating that the chart is confined to such items. This ensures that the charts remain functional reference tools rather than unwieldy compilations.

87. Application to Defence Witnesses and Evidence

87.1. The aforesaid directions shall apply, mutatis mutandis, to all witnesses examined and all evidence adduced by the defence.

88. Adoption of Specimen Format and Permissible Deviations

88.1. The specimen charts provided herein shall ordinarily serve as the standard format to be followed by trial Courts across the country.

89. Observations Regarding Applicability to Civil Proceedings

89.1. While these directions are primarily intended to streamline criminal trials, we leave it open to the High Courts to consider, wherever appropriate, the adoption of similar tabulated formats in civil matters as well, particularly in cases involving voluminous documentary or oral evidence, so as to promote clarity, uniformity, and ease of reference.

90. The High Court may consider incorporating the above directions in their respective rules governing the procedure of trial Courts.

2025 0 INSC 1435; 2025 0 Supreme(SC) 2051; State Of U.P. Vs. Ajmal Beg; Criminal Appeal Nos. 132-133 Of 2017; Decided On : 15-12-2025

19. What is now for us to do is balance the position of statements unblemished by the assault of cross-examination and the inconsistencies, omissions, contradictions in the testimony of witnesses, in order to determine the guilt, as found proved by the Trial Court, or lack thereof as held by the High Court. At this juncture, we must notice the effect of certain omissions or inconsistencies in the testimonies of witnesses.

19.1 In *Sohrab v. State of M.P.*, [\(1972\) 3 SCC 751](#) the Court held as follows in connection with inconsistencies in statement of witnesses in a criminal trial:

“8...It appears to us that merely because there have been discrepancies and contradictions in the evidence of some or all of the witnesses does not mean that the entire evidence of the prosecution has to be discarded. It is only after exercising caution and care and sifting the evidence to separate the truth from untruth, exaggeration, embellishments and improvement, the Court comes to the conclusion that what can be accepted implicates the appellants

it will convict them. This Court has held that *falseus in uno falsus in omnibus* is not a sound rule for the reason that hardly one comes across a witness whose evidence does not contain a grain of untruth or at any rate exaggeration, embroideries or embellishments. In most cases, the witnesses when asked about details venture to give some answer, not necessarily true or relevant for fear that their evidence may not be accepted in respect of the main incident which they have witnessed but that is not to say that their evidence as to the salient features of the case after cautious scrutiny cannot be considered though where the substratum of the prosecution case or material part of the evidence is disbelievable it will not be permissible for the Court to reconstruct a story of its own out of the rest....”

19.2 In this connection, various judgments of this Court have restated the position. [See: *Radha Mohan Singh v. State of U.P.*, [\(2006\) 2 SCC 450](#), *Hari v. State of U.P.*, [\(2021\) 17 SCC 111](#) and *Ravasaheb v. State of Karnataka*, [\(2023\) 5 SCC 391](#).]

Before we part with this judgment, we deem it appropriate to note that while in this case, the accused person(s) has finally been brought to book, there are many cases in which it is not the case. Many, who openly seek and give dowry, go scot-free. It has been noted time and again, in various judicial pronouncements that DPA, 1961 suffers from various difficulties in its implementation. About forty-two years ago, R.S Pathak J., (as His Lordship then was) in *Bhagwant Singh v. Commr. of Police*, [\(1983\) 3 SCC 344](#), observed:

“18. ... Young women of education, intelligence and character do not set fire to themselves to welcome the embrace of death unless provoked and compelled to that desperate step by the intolerance of their misery. It is pertinent to note that such cases evidence a deep-seated malady in our social order. The greed for dowry, and indeed the dowry system as an institution, calls for the severest condemnation. It is evident that legislative measures such as the Dowry Prohibition Act have not met with the success for which they were designed. Perhaps, legislation in itself cannot succeed in stamping out such an evil, and the solution must ultimately be found in the conscience and will of the social community and in its active expression through legal and constitutional methods.

19. Besides this, what is important to point out is that where the death in such cases is due to a crime, the perpetrators of the crime not infrequently escape from the nemesis of the law because of inadequate police investigation. It would be of considerable assistance if an appropriately high priority was given to the expeditious investigation of such cases, if a special magisterial machinery was created for the purpose of the prompt investigation of such

incidents, and efficient investigative techniques and procedures were adopted taking into account the peculiar features of such cases. Among other suggestions, we would recommend that a female police officer of sufficient rank and status in the police force should be associated with the investigation from its very inception. There are evident advantages in that. In a case where a wife dies in suspicious circumstances in the husband's home it is invariably a matter of considerable difficulty to ascertain the precise circumstances in which the incident occurred. As the incident takes place in the home of the husband, the material witnesses are usually the husband and his parents or other relations of the husband staying with him. Whether it was cooking at the kitchen stove which was responsible for the accident or, according to the inmates of the house, there was an inexplicable urge to suicide or whether indeed the young wife was the victim of a planned murder are matters closely involving the intimate knowledge of a woman's daily existence.

A few years later, taking note of this ineffective implementation, this Court even entertained a writ petition³⁵[W.P. No. 499 of 1997] and issued various directions for effective implementation of the Act finally culminating in Enforcement and Implementation of Dowry Prohibition Act, 1961, In re, [\(2005\) 4 SCC 565](#).

While on the one hand, the law suffers from ineffectiveness and so, the malpractice of dowry remains rampant, on the other hand, the provisions of this Act have also been used to ventilate ulterior motives along with Section 498-A, IPC. This oscillation between ineffectiveness and misuse creates a judicial tension which needs urgent resolution. While this urgent resolution cannot be stressed upon enough, at the same time it is necessary to be recognized that particularly when it comes to the giving and taking of dowry, this practice unfortunately has deep roots in society, hence, it not being a matter of swift change, instead needs concentrated effort on part of all the involved parties, be it Legislature, law enforcement, Judiciary, civil society organizations etc.

26. With an intent to further this change, we issue the following directions: -
(a) to ensure that the change brought in is able to make an impact on the efforts to eradicate this evil, it is to be ensured that the future generation, youngsters of today, are informed and made aware about this evil practice and the necessity to eschew it. As such, it is directed that States and even the Union Government consider changes as are necessary to the educational curricula across levels, reinforcing the constitutional position that parties to a marriage are equal to one another and one is not subservient to

the other as is sought to be established by giving and taking of money and or articles at the time of marriage;

(b) The law provides for the appointment of Dowry Prohibition Officers⁴⁰[Section 8B of DPA] in States. It is to be ensured that these officers are duly deputed, aware of their responsibilities and given the necessary wherewithal to carry out the duties entrusted to them. The contact details (name, official phone number and email ID) of such an officer designated to this position are disseminated adequately by the local authorities ensuring awareness of citizens of the area;

(c) the police officials, as also the judicial officers dealing with such cases, should periodically be given training, equipping them to fully appreciate the social and psychological implications which are often at the forefront of these cases. This would also ensure a sensitivity of the concerned officials towards genuine cases versus those which are frivolous and abusive of the process of law;

(d) it is not lost on us that the instant case began in 2001 and could only be concluded 24 years later by way of this judgment. It is but obvious that there would be many such similar cases. The High Courts are requested to take stock of the situation, ascertain the number of cases pending dealing with Section 304-B, 498-A from the earliest to the latest for expeditious disposal; and

(e) in furtherance of (a) above, we also recognize that many people today are/have been outside the education fold, and that it is equally, if not more so, important to reach them and make accessible and comprehensible, the relevant information regarding the act of giving or taking of dowry as also other acts sometimes associated therewith, other times independent thereof (mental and physical cruelty) is an offence in law. The District Administration along with the District Legal Services Authorities, by engaging and involving civil society groups and dedicated social activists, is requested to conduct workshops/awareness programs at regular intervals. This is to ensure change at the grassroot level.

<https://indiankanoon.org/doc/26358879/>; [T.Krishnappa \(Died\) vs The State Of Andhra Pradesh Rep By Public on 18 December, 2025](#); **CRIMINAL REVISION CASE NO: 1427 OF 2009**

Even if, we believe the version of prosecution that there was an assault by brick to PW-1 by the Accused No.1, by which the PW-1 sustained injuries. It appears that though brick was not seized, but if the brick is taken to be a weapon used for an assault PW-1 the brick cannot said to be a dangerous weapon as termed under [Section 324](#) of IPC.

<https://indiankanoon.org/doc/107035732/>; **CHANDOLE THIMOTHI @ SURESH Vs State of A.P; SHAIK BAJI Vs State of A.P.; CRIMINAL REVISION CASE NOS: 962 and 1119 of 2009, 20.12.2025**

In this particular case, the petitioners may be entices away PW.2 (minor girl) from the custody of her parents. But the intention of the petitioners to do such act with intent that such girl may forced or seduced to illicit intercourse with another person is not made out in the instant case.

After scanning the evidences on record as well as the observation of the learned trial Court and learned appellate Court, this Court found that the prosecution has failed to prove such intention of the petitioners, being accused, to commit an offence under [Section 366-A](#) IPC, intention to do an offence is primary ingredient to constitute an offence, in this case, as the intention of the petitioners, being accused has not been proved properly. The order of conviction against the present petitioners under [Section 366-A](#) IPC appears to me illegal and not tenable. According to the discussion, the order of conviction against the petitioners is hereby set aside.

(WHAT ABOUT THE OFFENCE OF KIDNAPPING)

<https://indiankanoon.org/doc/177577317/>; **State of A.P. Vs. RAVILLA NAGABHUSHANAM NAIDU & others; CRIMINAL APPEAL NO: 1095/2009 Date: 22.12.2025**

It is evident that both cases arose from the same transaction. In such circumstances, this Court finds that it is the duty of the prosecution to produce the counter complaint.

It is established from the record that a land dispute exists between the parties and that a civil suit is pending. The Investigation Officer did not choose to place on record the documents relating to the property or the orders passed by the Civil Court. A perusal of the material collected during the investigation indicates that the Investigation Officer was aware of the civil disputes between the parties.

The existence of enmity between the parties is thus a double-edged sword. Its effect must be considered in light of the circumstances and the evidence available on record. It is well settled that, where enmity exists, the evidence adduced by the parties must be scrutinized with great care and caution, and every mitigating circumstance must be given due importance.

<https://indiankanoon.org/doc/137107995/>; **Bethala Ganesh vs State Of Andhra Pradesh; CRIMINAL REVISION CASE NO: 903 OF 2016 Date: 24.12.2025**

All onus is upon prosecution to prove the crime against the Accused beyond all reasonable doubt. Furthermore, it is a trait law that a person may keep silence until and unless there is a duty to speak. In the present case, when the document i.e Ex.P2 was place before learned Trial Court, the defence should have raised an objection, i.e there was a duty for the defence to raise objection with regard to Ex.P2. When there is a duty to speak, such duty was not adhere to by keeping silence it can be presumed that the defendant has nothing to utter against such document. In my view at this stage as well as at the stage of Appeal, the document being Ex.P2 cannot be challenged. Moreover, the document Ex.P2 is a definite document, issued by competent authority which pin pointed the scene of crime within the Reserved Forest Area. I find no justification to disbelieve Ex.P2 at this stage. Merely by not placing the notification, entire case of prosecution cannot be said to be failed. Under the above observation I find no merit in the instant Criminal Revision.

<https://indiankanoon.org/doc/163867627/>; **Billu Chenchu Krishna and Others Vs State of A.P; CRLP NO: 12949 OF 2025 24.12.2025**

registered for the alleged offence punishable under Sections 109(1), 351(2), 118(1) and 49 read with 3(5) of Bharatiya Nyaya Sanhita (for short 'the BNS'). **Considering the nature and gravity of the allegations against Petitioner No.2/Accused No.5, and in view of the fact that he was not present at the scene of the offence and is alleged only to be the main conspirator, this Court is inclined to grant pre-arrest bail to Petitioner No.2/Accused No.5.**

<https://indiankanoon.org/doc/14080625/>; **Sirra Essaku Issaku Vs State of A.P.; CRLA/875/2025 on 24 December, 2025**

In the light of above circumstances, which was prima facie shows that procedure contemplated under Section 250 of Cr.P.C. was not followed before order compensation, it is a fit case to stay of the order of the trial Court regarding direction to pay compensation by the complainant to the accused within three (03) months from the date of the judgment. Hence, "there shall be stay of the order of the trial Court on direction to pay the compensation of Rs.1,00,000/- (Rupees One Lakh only) to the accused within three (03) months from the date of this Order. Such Stay order shall be in force till disposal of the appeal in the light of sub-section (7) under Section 250 Cr.P.C."

NOSTALGIA

Prima Facie Case at time of Discharge

This Court has recently in *Ram Prakash Chadha v. State of UP* ([\(2024\) 10 SCC 651](#)), cited with approval earlier decisions of this Court in *Stree Atyachar Virodhi Parishad v. Dilip Nathumal Chordia*, ([1989\) 1 SCC 715](#); *P. Vijayan v. State of Kerala*, ([2010\) 2 SCC 398](#); and *Union of India v. Prafulla Kumar Samal*, ([1979\) 3 SCC 4](#) as under:-

“21. In the decision in *Stree Atyachar Virodhi Parishad v. Dilip Nathumal Chordia* [*Stree Atyachar Virodhi Parishad v. Dilip Nathumal Chordia*, ([1989\) 1 SCC 715](#) : 1989 SCC (Cri) 285] , this Court held that the word “ground” in Section 227CrPC, did not mean a ground for conviction, but a ground for putting the accused on trial.

22. In *P. Vijayan v. State of Kerala* [*P. Vijayan v. State of Kerala*, ([2010\) 2 SCC 398](#) : (2010) 1 SCC (Cri) 1488] , after extracting Section 227CrPC, this Court in paras 10 and 11 held thus: (SCC pp. 401-402)

“10. ... If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage he is not to see whether the trial will end in conviction or acquittal. Further, the words “not sufficient ground for proceeding against the accused” clearly show that the Judge is not a mere post office to frame the charge at the behest of the prosecution, but has to exercise his judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. In assessing this fact, it is not necessary for the court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really the function of the court, after the trial starts.

11. At the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. In other words, the sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him.”

23. In para 13 in *P. Vijayan* case [*P. Vijayan v. State of Kerala*, ([2010\) 2 SCC 398](#) : (2010) 1 SCC (Cri) 1488] , this Court took note of the principles enunciated earlier by this Court in *Union of India v. Prafulla Kumar Samal* [*Union of India v. Prafulla Kumar Samal*, ([1979\) 3 SCC 4](#) : 1979 SCC (Cri) 609] which reads thus: (*Prafulla Kumar Samal* case [*Union of India v. Prafulla Kumar Samal*, ([1979\) 3 SCC 4](#) : 1979 SCC (Cri) 609] , SCC p. 9, para 10)

“10. ... (1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the

evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced court cannot act merely as a post office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.”

16. In *M.E. Shivalingamurthy vs. Central Bureau of Investigation Bengaluru*, [\(2020\) 2 SCC 768](#), this Court has held as under:-

“17. This is an area covered by a large body of case law. We refer to a recent judgment which has referred to the earlier decisions viz. *P. Vijayan v. State of Kerala* and discern the following principles:

17.1. If two views are possible and one of them gives rise to suspicion only as distinguished from grave suspicion, the trial Judge would be empowered to discharge the accused.

17.2. The trial Judge is not a mere post office to frame the charge at the instance of the prosecution.

17.3. The Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding. Evidence would consist of the statements recorded by the police or the documents produced before the Court.

17.4. If the evidence, which the Prosecutor proposes to adduce to prove the guilt of the accused, even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, “cannot show that the accused committed offence, then, there will be no sufficient ground for proceeding with the trial”.

17.5. It is open to the accused to explain away the materials giving rise to the grave suspicion.

17.6. The court has to consider the broad probabilities, the total effect of the evidence and the documents produced before the court, any basic infirmities appearing in the case and so on. This, however, would not entitle the court to make a roving inquiry into the pros and cons.

17.7. At the time of framing of the charges, the probative value of the material on record cannot be gone into, and the material brought on record by the prosecution, has to be accepted as true.

17.8. There must exist some materials for entertaining the strong suspicion which can form the basis for drawing up a charge and refusing to discharge the accused.

18. The defence of the accused is not to be looked into at the stage when the accused seeks to be discharged under Section 227 CrPC (see *State of J&K v. Sudershan Chakkar*). The expression, **“the record of the case”, used in Section 227 CrPC, is to be understood as the documents and the articles, if any, produced by the prosecution.** The Code does not give any right to the accused to produce any document at the stage of framing of the charge. At the stage of framing of the charge, the submission of the accused is to be confined to the material produced by the police (see *State of Orissa v. Debendra Nath Padhi*).” (emphasis supplied)

17. Consequently, at the stage of discharge, a strong suspicion suffices.

However, a strong suspicion must be found on some material which can be translated into evidence at the stage of trial.

Withdrawal of cases

In *State of Kerala v. K. Ajith*, [\(2021\) 17 SCC 318](#) DY Chandrachud J. (as he then was) formulated the following principles for exercise of the power under Section 321 CrPC:

“25. The principles which emerge from the decisions of this Court on the withdrawal of a prosecution under Section 321CrPC can now be formulated:

25.1. Section 321 entrusts the decision to withdraw from a prosecution to the Public Prosecutor but the consent of the court is required for a withdrawal of the prosecution.

25.2. The Public Prosecutor may withdraw from a prosecution not merely on the ground of paucity of evidence but also to further the broad ends of public justice.

25.3. The Public Prosecutor must formulate an independent opinion before seeking the consent of the court to withdraw from the prosecution.

25.4. While the mere fact that the initiative has come from the Government will not vitiate an application for withdrawal, the court must make an effort to elicit the reasons for withdrawal so as to ensure that the Public Prosecutor was satisfied that the withdrawal of the prosecution is necessary for good and relevant reasons.

25.5. In deciding whether to grant its consent to a withdrawal, the court exercises a judicial function but it has been described to be supervisory in nature. Before deciding whether to grant its consent the court must be satisfied that:

(a) The function of the Public Prosecutor has not been improperly exercised or that it is not an attempt to interfere with the normal course of justice for illegitimate reasons or purposes;

(b) The application has been made in good faith, in the interest of public policy and justice, and not to thwart or stifle the process of law;

(c) The application does not suffer from such improprieties or illegalities as would cause manifest injustice if consent were to be given;

(d) The grant of consent subserves the administration of justice; and

(e) The permission has not been sought with an ulterior purpose unconnected with the vindication of the law which the Public Prosecutor is duty-bound to maintain.

25.6. While determining whether the withdrawal of the prosecution subserves the administration of justice, the court would be justified in scrutinising the nature and gravity of the offence and its impact upon public life especially where matters involving public funds and the discharge of a public trust are implicated.

25.7. In a situation where both the trial Judge and the Revisional Court have concurred in granting or refusing consent, this Court while exercising its jurisdiction under Article 136 of the Constitution would exercise caution before disturbing concurrent findings. The Court may in exercise of the well-settled principles attached to the exercise of this jurisdiction, interfere in a case where there has been a failure of the trial Judge or of the High Court to apply the correct principles in deciding whether to grant or withhold consent.

..

67. The test which has been laid down in the decisions of this Court commencing with *Ram Naresh Pandey* [State of Bihar v. Ram Naresh Pandey, 1957 SCC OnLine SC 22 : [AIR 1957 SC 389](#)] in 1957, spanning decisions over the last 65 years is consistent. The true function of the court when an application under Section 321 is filed is to ensure that the executive function of the Public Prosecutor has not been improperly exercised or that it is not an attempt to interfere with the normal course of justice for illegitimate reasons or purposes. The court will grant its consent if it is satisfied that it subserves the administration of justice and the purpose of seeking

it is not extraneous to the vindication of the law. It is the broad ends of public justice that must guide the decision. The Public Prosecutor is duty-bound to act independently and ensure that they have applied their minds to the essential purpose which governs the exercise of the powers. Whether the Public Prosecutor has acted in good faith is not in itself dispositive of the issue as to whether consent should be given. This is clear from the judgment in Sheonandan Paswan [Sheonandan Paswan v. State of Bihar, [\(1987\) 1 SCC 288](#) : 1987 SCC (Cri) 82]. In para 73 of the judgment, V. Khalid, J. has specifically observed that the court must scrutinise “whether the application is made in good faith, in the interest of public policy and justice and not to thwart or stifle the process of law”. Good faith is one and not the only consideration. The court must also scrutinise whether an application suffers from such improprieties or illegalities as to cause manifest injustice if consent is given.”

[emphasis supplied]

Carrying forward this stipulation in Ajith (supra) a bench of 3 Judges in Ashwini Kumar Upadhyay ([2021\(20\) SCC 599](#)), held as under:

“8. In view of the law laid down by this Court, we deem it appropriate to direct that no prosecution against a sitting or former MP/MLA shall be withdrawn without the leave of the High Court in the respective suo motu writ petitions registered in pursuance of our order dated 16-9-2020 [Ashwini Kumar Upadhyay v. Union of India, [\(2021\) 20 SCC 613](#)]. The High Courts are requested to examine the withdrawals, whether pending or disposed of since 16-9-2020 [Ashwini Kumar Upadhyay v. Union of India, [\(2021\) 20 SCC 613](#)], in light of guidelines laid down by this Court.”

[emphasis supplied]

Regarding the duty of the Court, the Court as far back as 1957 in State of Bihar v. Ram Naresh Pandey, 1957 SCC OnLine SC 22, speaking in the context of Section 494 of the old Code whose counterpart is Section 321 CrPC referred supra observed as under:

“...The section is an enabling one and vests in the Public Prosecutor the discretion to apply to the Court for its consent to withdraw from the prosecution of any person. The consent, if granted, has to be followed up by his discharge or acquittal, as the case may be. The section gives no indication as to the grounds on which the Public Prosecutor may make the application, or the considerations on which the Court is to grant its consent... The function of the Court, therefore, in granting its consent may well be taken to be a judicial function. It follows that in granting the consent the Court must exercise a judicial discretion. But it does not follow that the

discretion is to be exercised only with reference to material gathered by the judicial method. Otherwise the apparently wide language of Section 494 of the Code of Criminal Procedure would become considerably narrowed down in its application. In understanding and applying the section, two main features thereof have to be kept in mind. The initiative is that of the Public Prosecutor and what the Court has to do is only to give its consent and not to determine any matter judicially.As the Privy Council has pointed out in Faqir Singh v. Emperor [AIR 1938 Privy Council 266, 269] “It (Section 494 of the Code of Criminal Procedure) gives a general executive discretion (to the Public Prosecutor) to withdraw from the prosecution subject to the consent of the Court, which may be determined on many possible grounds”. The judicial function, therefore, implicit in the exercise of the judicial discretion for granting the consent would normally mean that the Court has to satisfy itself that the executive function of the Public Prosecutor has not been improperly exercised, or that it is not an attempt to interfere with the normal course of justice for illegitimate reasons or purposes. In this context it is right to remember that the Public Prosecutor (though an executive officer as stated by the Privy Council in Faqir Singh v. Emperor [AIR 1938 Privy Council 266, 269]) is, in a larger sense, also an officer of the Court and that he is bound to assist the Court with his fairly-considered view and the Court is entitled to have the benefit of the fair exercise of his function...”

Quash- four conditions to be satisfied by the accused

In the case of Pradeep Kumar Kesarwani ([2025 SCC OnLine SC 1947](#)), this Court outlined a structured four-step test to assess claims for quashing under Section 482 of the CrPC. The material relied on by the accused must be

- (i) of sterling and impeccable quality,
- (ii) sufficient to completely negate the allegations,
- (iii) uncontested or incapable of legitimate contest by the prosecution, and
- (iv) such that continuing the trial would amount to abuse of process.

Unless all four tests are satisfied, quashing is unwarranted. The relevant paragraph of the said decision reads as under: -

“20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:-

- (i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal-proceedings, in exercise of power vested in it under Section 482 of the Cr. P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused. [(See: Rajiv Thapar v. Madan Lal Kapoor (Criminal Appeal No. 174 of 2013))]"

Appreciation of Oral Evidence

In [Balu Sudam Khalde Vs. State of Maharashtra](#)¹ the Hon'ble Apex Court, after considering several judgments, regarding the appreciation of oral evidence, summed up as follows:

Appreciation of oral evidence

25. The appreciation of ocular evidence is a hard task. There is no fixed or strait jacket formula for appreciation of the ocular evidence. The judicially evolved principles for appreciation of ocular evidence in a criminal case can be enumerated as under:

"I. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the Court to scrutinise the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole (2023) 13 SCC 365 and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief.

II. If the court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate

court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details.

III. When eyewitness is examined at length it is quite possible for him to make some discrepancies. But courts should bear in mind that it is only when discrepancies in the evidence of a witness are so incompatible with the credibility of his version that the court is justified in jettisoning his evidence.

IV. Minor discrepancies on trivial matters not touching the core of the case, hypertechnical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole.

V. Too serious a view to be adopted on mere variations falling in the narration of an incident (either as between the evidence of two witnesses or as between two statements of the same witness) is an unrealistic approach for judicial scrutiny.

VI. By and large a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a video tape is replayed on the mental screen.

VII. Ordinarily it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence which so often has an element of surprise. The mental faculties, therefore cannot be expected to be attuned to absorb the details.

VIII. The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on one person's mind whereas it might go unnoticed on the part of another.

IX. By and large people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape recorder.

X. In regard to exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guesswork on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time-sense of individuals which varies from person to person.

XI. Ordinarily a witness cannot be expected to recall accurately the sequence of events which take place in rapid succession or in a short time span. A witness is liable to get confused, or mixed up when interrogated later on.

XII. A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross-examination by counsel and out of nervousness mix up facts, get confused regarding sequence of events, or fill up details from imagination on the spur of the moment. The subconscious mind of the witness sometimes so operates on account of the fear of looking foolish or being disbelieved though the witness is giving a truthful and honest account of the occurrence witnessed by him.

XIII. A former statement though seemingly inconsistent with the evidence need not necessarily be sufficient to amount to contradiction. Unless the former statement has the potency to discredit the later statement, even if the later statement is at variance with the former to some extent it would not be helpful to contradict that witness."

Malice and Malafides

In *State of Punjab v. Gurdial Singh*, [\(1980\) 2 SCC 471](#) Krishna Iyer J. in his inimitable style, wrote:

"9. The question, then, is what is mala fides in the jurisprudence of power? Legal malice is gibberish unless juristic clarity keeps it separate from the popular concept of personal vice. Pithily put, bad faith which invalidates the exercise of power - sometimes called colourable exercise or fraud on power and oftentimes overlaps motives, passions and satisfactions - is the attainment of ends beyond the sanctioned purposes of power by simulation or pretension of gaining a legitimate goal. If the use of the power is for the fulfilment of a legitimate object the actuation or catalysation by malice is not legicidal. The action is bad where the true object is to reach an end different from the one for which the power is entrusted, goaded by extraneous considerations, good or bad, but irrelevant to the entrustment. When the custodian of power is influenced in its exercise by considerations outside those for promotion of which the power is vested the court calls it a colourable exercise and is undeceived by illusion. In a broad, blurred sense, Benjamin Disraeli was not off the mark even in law when he stated: "I repeat . . . that all power is a trust - that we are accountable for its exercise - that, from the people, and for the people, all springs, and all must exist". Fraud on power voids the order if it is not exercised bona fide for the end designed. Fraud in this context is not equal to moral turpitude and embraces all cases in which the action impugned is to effect some object which is beyond the purpose and intent of the power, whether this be malice-laden or even benign. If the purpose is corrupt the resultant act is bad. If considerations, foreign to the scope of the power or extraneous to the statute,

enter the verdict or impel the action, mala fides or fraud on power vitiates the acquisition or other official act.” (Emphasis supplied)

In *W.B. SEB v. Dilip Kumar Ray*, [\(2007\) 14 SCC 568](#) this Court studied in detail, the meaning of malice. Relevant extracts are as follows:

“15. ...Malice in fact is malue animus indicating that action against a party was actuated by spite or ill will against him or by indirect or improper motives.

Malice in fact - ‘Malice in fact’ means express malice.

Malice in fact or actual malice, relates to the actual state or condition of the mind of the person who did the act.

Malice in fact is where the malice is not established by legal presumption or proof of certain facts, but is to be found from the evidence in the case.

Malice in fact implies a desire or intention to injure, while malice in law is not necessarily inconsistent with an honest purpose...”

In *State of Punjab v. V.K. Khanna*, [\(2001\) 2 SCC 330](#) a co-ordinate bench held:

“5. Whereas fairness is synonymous with reasonableness - bias stands included within the attributes and broader purview of the word “malice” which in common acceptation means and implies “spite” or “ill will”. One redeeming feature in the matter of attributing bias or malice and is now well settled that mere general statements will not be sufficient for the purposes of indication of ill will. There must be cogent evidence available on record to come to the conclusion as to whether in fact, there was existing a bias or a mala fide move which results in the miscarriage of justice [See in this context *Kumaon Mandal Vikas Nigam Ltd. v. Girja Shankar Pant*, [\(2001\) 1 SCC 182](#) : JT 2000 Supp (2) SC 206]. In almost all legal inquiries, “intention as distinguished from motive is the all-important factor” and in common parlance a malicious act stands equated with an intentional act without just cause or excuse. In the case of *Jones Bros. (Hunstanton) Ltd. v. Stevens*, (1955) 1 QB 275 : (1954) 3 All ER 677 (CA) the Court of Appeal has stated upon reliance on the decision of *Lumley v. Gye*, (1853) 2 E&B 216 : 22 LJQB 463 as below:

“For this purpose maliciously means no more than knowingly. This was distinctly laid down in *Lumley v. Gye*, (1853) 2 E&B 216 : 22 LJQB 463 where Crompton, J. said that it was clear law that a person who wrongfully and maliciously, or, which is the same thing, with notice, interrupts the relation of master and servant by harbouring and keeping the servant after he has quitted his master during his period of service, commits a wrongful act for which he is responsible in law. Malice in law means the doing of a wrongful act intentionally without just cause or excuse: *Bromage v. Prosser*, (1825) 1 C&P 673 : 4 B&C 247. ‘Intentionally’ refers to the doing of the act; it does not mean that the defendant meant to be spiteful, though

sometimes, as for instance to rebut a plea of privilege in defamation, malice in fact has to be proved.” (Emphasis supplied)

In *Prabodh Sagar v. Punjab SEB*, [\(2000\) 5 SCC 630](#) it was held:

13. ... Incidentally, be it noted that the expression “mala fide” is not meaningless jargon and it has its proper connotation. Malice or mala fides can only be appreciated from the records of the case in the facts of each case. There cannot possibly be any set guidelines in regard to the proof of mala fides. Mala fides, where it is alleged, depends upon its own facts and circumstances.... Mere user of the word “mala fide” by the petitioner would not by itself make the petition entertainable. The Court must scan the factual aspect and come to its own conclusion i.e. exactly what the High Court has done and that is the reason why the narration has been noted in this judgment in extenso. ...” (Emphasis supplied)

In *Ratnagiri Gas & Power (P) Ltd. v. RDS Projects Ltd.* [\(2013\) 1 SCC 524](#):

“25. Even otherwise the findings recorded by the High Court on the question of mala fides do not appear to us to be factually or legally sustainable. While we do not consider it necessary to delve deep into this aspect of the controversy, we may point out that allegations of mala fides are more easily made than proved. The law casts a heavy burden on the person alleging mala fides to prove the same on the basis of facts that are either admitted or satisfactorily established and/or logical inferences deducible from the same. This is particularly so when the petitioner alleges malice in fact in which event it is obligatory for the person making any such allegation to furnish particulars that would prove mala fides on the part of the decision-maker. Vague and general allegations unsupported by the requisite particulars do not provide a sound basis for the court to conduct an inquiry into their veracity.

LOCAL SURETIES

Insisting to produce the local sureties is against the judgment of the Hon'ble Apex Court in [Moti Ram vs. State of Madhya Pradesh](#) (1978) 4 SCC 47 and [Satender Kumar Antil vs. Central Bureau of Investigation](#) and another (2022) 10 SCC 51.

INDEPENDENT WITNESS & RELATED WITNESS

In [Hari Ram vs. State of U.P.](#) (2004) 8 SCC 146, the Hon'ble Supreme Court held that: "17. We shall first deal with the contention regarding interestedness of the witnesses for furthering prosecution version. Relationship is not a factor to affect credibility of a witness. It is more often than not that a relation would not conceal actual culprit and make allegations against an innocent person.

Foundation has to be laid if plea of false implication is made. In such cases, the court has to adopt a careful approach and analyse evidence to find out whether it is cogent and credible.

In [Dalip Singh and Ors. v. The State of Punjab](#), MANU/SC/0031/1953 it has been laid down as under:-

"26. A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted and that usually means unless the witness has cause, such as enmity against the accused, to wish to implicate him falsely. Ordinarily a close relation would be the last to screen the real culprit and falsely implicate an innocent person. It is true, when feelings run high and there is personal cause for enmity, that there is a tendency to drag in an innocent person against whom a witness has a grudge along with the guilty, but foundation must be laid for such a criticism and the mere fact of relationship far from being a foundation is often a sure guarantee of truth. However, we are not attempting any sweeping generalization. Each case must be judged on its own facts. Our observations are only made to combat what is so often put forward in cases before us as a general rule of prudence. There is no such general rule. Each case must be limited to and be governed by its own facts."

Again in [Masalti and Ors. v. State of U.P.](#) AIR 1965 SC 202, this Court observed: (p, 209-210 para 14):

"But it would, we think, be unreasonable to contend that evidence given by witnesses should be discarded only on the ground that it is evidence of partisan or interested witnesses The mechanical rejection of such evidence on the sole ground that it is partisan would invariably lead to failure of justice. No hard and fast rule can be laid down as to how much evidence should be appreciated. Judicial approach has to be cautious in dealing with such evidence; but the plea that such evidence should be rejected because it is partisan cannot be accepted as correct."

As observed by this Court in [State of Rajasthan v. Teja Ram and Ors.](#) MANU/SC/0189/1999, the over-insistence on witnesses having no relation with the victims often results in criminal justice going away. When any incident happens in a dwelling house or nearby the most natural witnesses would be the inmates of that house. It would be unpragmatic to ignore such natural witnesses and insist on outsiders who would not have even seen anything. If the Court has discerned from the evidence or even from the investigation records that some other independent person has witnessed any event connecting the incident in question then there is justification for making adverse comments against non-

examination of such person as prosecution witness. Otherwise, merely on surmises the Court should not castigate a prosecution for not examining other persons of the locality as prosecution witnesses. Prosecution can be expected to examine only those who have witnessed the events and not those who have not seen it though the neighbourhood may be replete with other residents also. (See Sucha Singh and Anr. v. State of Punjab (MANU/SC/0527/2003))

Successive Anticipatory bails:

The Hon'ble Apex Court in [G.R. Ananda Babu v. State of Tamil Nadu](#) (2021) 16 SCC 725 at para No.6 held as under: "6...As a matter of fact, successive anticipatory bail applications ought not to be entertained and more so, when the case diary and the status report, clearly indicated that the accused (Respondent 2) is absconding and not cooperating with the investigation. The specious reason of change in circumstances cannot be invoked for successive anticipatory bail applications, once it is rejected by a speaking order and that too by the same Judge."

BAIL- RULES

In Pinki v. State of Uttar Pradesh 2025 SCC OnLine SC 781 , the Hon'ble Supreme Court at para Nos.67 and 78 held that considering the gravity of the offence and the accused's modus operandi, the High Court erred in granting bail in a callous manner without adequate safeguards, resulting in accused absconding and jeopardizing the trial; the Court failed to balance personal liberty with societal interest by not imposing conditions such as regularly reporting to the police; and the true test of judicial discretion in bail lies in striking a fair balance between the rights of the accused and the interest of society, based on the facts of each case.

The Hon'ble Apex Court in Gudikanti Narasimhulu v. Public Prosecutor (1978) 1 SCC 240 , at para No.9, held that courts may consider the risk of an accused interfering with justice when deciding bail. Examining the applicant's criminal antecedents is rational, especially to assess the likelihood of reoffending while on bail. Thus, bail discretion based on criminal history is relevant and justified to protect society.

The Hon'ble Apex Court in Prahlad Singh Bhati v. NCT, Delhi (2001) 4 SCC 280 , at para No.8 held that bail must be granted judiciously, based on settled principles and the specific facts of each case, not arbitrarily. Courts must consider the nature of the accusation and evidence, severity of punishment, character of the accused, risk of absconding or witness tampering, and public interest. At the bail stage, the court needs only to assess whether there are reasonable grounds to believe a prima facie case exists.

The Hon'ble Supreme Apex Court in RamGovind Upadhyayv. Sudarshan Singh (2002) 3 SCC 598 , at para No.3 held that grant of bail is discretionary but must be exercised judiciously and supported by cogent reasons. Bail decisions depend on the facts of each case, and social standing of the accused alone is not decisive. The nature and gravity of the offence are crucial factors, with more heinous crimes justifying greater caution in granting bail.

The Hon'ble Apex Court in Prasanta Kumar Sarkar v. Ashis Chatterjee (2010) 14 SCC 496 at para No.9 held as under: "9...It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

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

The Hon'ble Supreme Court in Brijmani Devi v. Pappu Kumar (2022) 4 SCC 497 , at para No.35 held that individual liberty is vital, but courts must also consider the seriousness of accusations supported by adequate material. Bail decisions must rest on a reasoned prima facie assessment of the vital facts on record. The nature of the crime, criminal antecedents, and the severity of punishment upon conviction are key considerations.

The Hon'ble Apex Court in Manoj Kumar Khokhar v. State of Rajasthan (2022) 3 SCC 501 at para Nos.37 and 38 held that courts must exercise bail discretion judiciously, balancing the alleged crime with the need to ensure a fair trial. Though detailed reasoning is unnecessary, a bail order must contain relevant reasons and cannot be unreasoned. If bail is perverse or ignores material facts, it may be challenged on appeal or cancelled if new circumstances arise.

The Hon'ble Supreme Court in Pinki supra at para No.63 held that individual liberty cannot be so overstated as to cause disorder or undermine law and order in society.

Bail decisions must reflect reasoned application of mind and adherence to established legal norms, not rigid formulas. Liberty operates within the limits of law and carries a responsibility to preserve social tranquility and safety.

The Hon'ble Apex Court in *Pinki supra* at para No.64, relying on its earlier decision in *Ash Mohammad v. Shiv Raj Singh* (2012) 9 SCC 446, held that personal liberty, though highly valued, is neither absolute nor unrestricted. It must be exercised within limits so as not to endanger the life or liberty of others. Society does not tolerate actions that are anti-social or harmful to the collective good. 20. The Hon'ble Supreme Court in *Rohit Bishnoi v. State of Rajasthan* at para Nos.24 and 25 held that while individual liberty is vital, bail decisions must account for the seriousness of accusations supported by adequate material and a reasoned prima facie assessment. Courts need not give elaborate reasons or examine merits in detail, especially at an early trial stage. However, bail orders must consider material factors such as gravity of offence, possible punishment, witness influence, evidence tampering, criminal antecedents, and prima facie satisfaction.

The Hon'ble Apex Court in *Y.S. Jagan Mohan Reddy v. Central Bureau of Investigation* at para Nos.34 and 35 held that economic offences form a distinct category and require a stricter approach to bail due to their serious impact on public funds and the national economy. Such offences, often involving deep-rooted conspiracies, are treated as grave threats to financial stability. While granting bail, courts must consider the nature of accusations and evidence, severity of punishment, character of the accused, risk of absconding or witness tampering, and public interest

FALSE PROMISE TO MARRY & RAPE

The Hon'ble Apex Court in *Amol Bhagwan Nehul v. State of Maharashtra* MANU/SC/0787/2025 wherein at para No.9 it is held as under: "9...In our considered view, this is also not a case where there was a false promise to marry to begin with. A consensual relationship turning sour or partners becoming distant cannot be a ground for invoking criminal machinery of the State. Such conduct not only burdens the Courts, but blots the identity of an individual accused of such a heinous offence. This Court has time and again warned against the misuse of the provisions, and has termed it a folly³ to treat each breach of promise to marry as a false promise and prosecute a person for an offence under section 376 IPC".

In *Kunal Chatterjee v. State of West Bengal* Spl Leave Petition (Crl.) No.7004 of 2025 the Hon'ble Supreme Court held as under: "We have heard learned counsel for the parties at length. Learned counsel appearing for the State has relied upon the

definition of 'Rape' and would argue that the consent given by the minor is no consent and it would still be a rape. In our considered opinion, as regarding the rape being committed by the appellant when the prosecutrix was a minor, there is absolutely no evidence, and definitely no forensic evidence with the prosecution. It is only an allegation in the FIR after more than 03 years, in order to make out a case under the POCSO Act, that such an act of rape was committed three years back when she was a minor. She also categorically states that she consented to the act as there was a promise of marriage by the appellant”.

The Hon'ble Apex Court in *Naim Ahmed v. State of (NCT) of Delhi (2023) SCC Online SC 89* at para No.21 and 22 it is held as under: “21... The bone of contention raised on behalf of the respondents is that the prosecutrix had given her consent for sexual relationship under the misconception of fact, as the accused had given a false promise to marry her and subsequently he did not marry, and therefore such consent was no consent in the eye of the law and the case fell under Clause Secondly of Section 375IPC. In this regard, it is pertinent to note that there is a difference between giving a false promise and committing breach of promise by the accused. In case of false promise, the accused right from the beginning would not have any intention to marry the prosecutrix and would have cheated or deceived the prosecutrix by giving a false promise to marry her only with a view to satisfy his lust, whereas in case of breach of promise, one cannot deny a possibility that the accused might have given a promise with all seriousness to marry her, and subsequently might have encountered certain circumstances unforeseen by him or the circumstances beyond his control, which prevented him to fulfil his promise. So, it would be a folly to treat each breach of promise to marry as a false promise and to prosecute a person for the offence under Section 376. As stated earlier, each case would depend upon its proved facts before the court.

In the instant case, the prosecutrix who herself was a married woman having three children, could not be said to have acted under the alleged false promise given by the appellant or under the misconception of fact while giving the consent to have sexual relationship with the appellant. Undisputedly, she continued to have such relationship with him at least for about five years till she gave complaint in the year 2015. Even if the allegations made by her in her deposition before the court, are taken on their face value, then also to construe such allegations as “rape” by the appellant, would be stretching the case too far. The prosecutrix being a married woman and the mother of three children was matured and intelligent enough to understand the significance and the consequences of the moral or immoral quality of act she was consenting to. Even otherwise, if her entire conduct during the

course of such relationship with the accused, is closely seen, it appears that she had betrayed her husband and three children by having relationship with the accused, for whom she had developed liking for him. She had gone to stay with him during the subsistence of her marriage with her husband, to live a better life with the accused. Till the time she was impregnated by the accused in the year 2011, and she gave birth to a male child through the loins of the accused, she did not have any complaint against the accused of he having given false promise to marry her or having cheated her. She also visited the native place of the accused in the year 2012 and came to know that he was a married man having children also, still she continued to live with the accused at another premises without any grievance. She even obtained divorce from her husband by mutual consent in 2014, leaving her three children with her husband. It was only in the year 2015 when some disputes must have taken place between them, that she filed the present complaint. The accused in his further statement recorded under Section 313CrPC had stated that she had filed the complaint as he refused to fulfil her demand to pay her huge amount. Thus, having regard to the facts and circumstances of the case, it could not be said by any stretch of imagination that the prosecutrix had given her consent for the sexual relationship with the appellant under the misconception of fact, so as to hold the appellant guilty of having committed rape within the meaning of Section 375IPC”.

In *Bhawar Singh v. State of Madhya Pradesh SLP (Cri.)No.3475 of 2025* the Hon’ble Apex Court set aside the order of the High Court of Madhya Pradesh rejecting the request for grant of pre-arrest bail to the petitioner therein, and granted pre-arrest bail to the petitioner for the offence punishable under Section 69 of ‘the BNS’. 10. Similarly, the Hon’ble Apex Court in *Kunal Chatterjee* case supra also in the similar facts and circumstances of the case, granted the relief of quashing the proceedings. The Hon’ble Apex Court in catena of decisions held that promise to marriage and subsequent physical relationship between the two with consent would not amount to rape.

In *Prithvirajan v. State* 2025 SCC OnLine SC 696 at para Nos.6 and 7 it is held as under: “6. This Court has time and again reiterated that only because physical relations were established based on a promise to marry, it will not amount to rape. For the offence of rape to be attracted, the following conditions need to be satisfied : first, the accused promised to marry the prosecutrix solely to secure consent for sexual relations without having any intention of fulfilling said promise from the very beginning; second, that the prosecutrix gave her consent for sexual relations by being directly influenced by such false promise of marriage.

7. The instant case is one of consensual relationship between the appellant and prosecutrix. Even otherwise, it does not appear from the record that the initial promise to marry allegedly made by the appellant was false to begin with. Perusal of FIR itself suggests that the alleged promise to marry could not be fulfilled by the appellant due to intervening circumstances. Consequently, the relationship ended because of which the present FIR came to be registered. Under these circumstances, letting the appellant face trial would be nothing short of an abuse of the process of the Court. This cannot be permitted”.

In *Pramod Suryabhan Pawar v. State of Maharashtra* (2019) 9 SCC 608 at para Nos.12, 18, and 21 it is held under: “12... This Court has repeatedly held that consent with respect to Section 375 IPC involves an active understanding of the circumstances, actions and consequences of the proposed act. An individual who makes a reasoned choice to act after evaluating various alternative actions (or inaction) as well as the various possible consequences flowing from such action or inaction, consents to such action. 18. To summarise the legal position that emerges from the above cases, the “consent” of a woman with respect to Section 375 must involve an active and reasoned deliberation towards the proposed act. To establish whether the “consent” was vitiated by a “misconception of fact” arising out of a promise to marry, two propositions must be established. The promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the time it was given. The false promise itself must be of immediate relevance, or bear a direct nexus to the woman's decision to engage in the sexual act. 21. The allegations in the FIR do not on their face indicate that the promise by the appellant was false, or that the complainant engaged in sexual relations on the basis of this promise. There is no allegation in the FIR that when the appellant promised to marry the complainant, it was done in bad faith or with the intention to deceive her. The appellant's failure in 2016 to fulfil his promise made in 2008 cannot be construed to mean the promise itself was false. The allegations in the FIR indicate that the complainant was aware that there existed obstacles to marrying the appellant since 2008, and that she and the appellant continued to engage in sexual relations long after their getting married had become a disputed matter. Even thereafter, the complainant travelled to visit and reside with the appellant at his postings and allowed him to spend his weekends at her residence. The allegations in the FIR belie the case that she was deceived by the appellant's promise of marriage. Therefore, even if the facts set out in the complainant's statements are accepted in totality, no offence under Section 375 IPC has occurred”.

In *Maheshwar Tigga v. State of Jharkhand* (2020) 10 SCC 108 at para Nos.10, 12, 13, 14, and 18 it is held as under: "10...The appellant belonged to the Scheduled Tribe while the prosecutrix belonged to the Christian community. They professed different religious beliefs in a traditional society. They both resided in the same Village Basjadi and were known to each other. The nature and manner of allegations, coupled with the letters exchanged between them, marked as exhibits during the trial, make it apparent that their love for each other grew and matured over a sufficient period of time. They were both smitten by each other and passions of youth ruled over their minds and emotions. The physical relations that followed was not isolated or sporadic in nature, but regular over the years. The prosecutrix had even gone and resided in the house of the appellant. In our opinion, the delay of four years in lodgement of the FIR, at an opportune time of seven days prior to the appellant solemnising his marriage with another girl, on the pretext of a promise to the prosecutrix raises serious doubts about the truth and veracity of the allegations levelled by the prosecutrix. The entire genesis of the case is in serious doubt in view of the admission of the prosecutrix in crossexamination that no incident had occurred on 9-4-1999.

12. The prosecutrix acknowledged that an engagement ceremony had also been performed. She further deposed that the marriage between them could not be solemnised because they belonged to different religions. She was therefore conscious of this obstacle all along, even while she continued to establish physical relations with the appellant. If the appellant had married her, she would not have lodged the case. She denied having written any letters to the appellant, contrary to the evidence placed on record by the defence. The amorous language used by both in the letters exchanged reflect that the appellant was serious about the relationship desiring to culminate the same into marriage. But unfortunately for societal reasons, the marriage could not materialise as they belonged to different communities.

13. The question for our consideration is whether the prosecutrix consented to the physical relationship under any misconception of fact with regard to the promise of marriage by the appellant or was her consent based on a fraudulent misrepresentation of marriage which the appellant never intended to keep since the very inception of the relationship. If we reach the conclusion that he intentionally made a fraudulent misrepresentation from the very inception and the prosecutrix gave her consent on a misconception of fact, the offence of rape under Section 375 IPC is clearly made out. It is not possible to hold in the nature of evidence on record that the appellant obtained her consent at the inception by

putting her under any fear. Under Section 90 IPC a consent given under fear of injury is not a consent in the eye of the law. In the facts of the present case, we are not persuaded to accept the solitary statement of the prosecutrix that at the time of the first alleged offence her consent was obtained under fear of injury.

14. Under Section 90 IPC, a consent given under a misconception of fact is no consent in the eye of the law. But the misconception of fact has to be in proximity of time to the occurrence and cannot be spread over a period of four years. It hardly needs any elaboration that the consent by the appellant was a conscious and informed choice made by her after due deliberation, it being spread over a long period of time coupled with a conscious positive action not to protest. The prosecutrix in her letters to the appellant also mentions that there would often be quarrels at her home with her family members with regard to the relationship, and beatings given to her.

We have given our thoughtful consideration to the facts and circumstances of the present case and are of the considered opinion that the appellant did not make any false promise or intentional misrepresentation of marriage leading to establishment of physical relationship between the parties. The prosecutrix was herself aware of the obstacles in their relationship because of different religious beliefs. An engagement ceremony was also held in the solemn belief that the societal obstacles would be overcome, but unfortunately differences also arose whether the marriage was to solemnised in the church or in a temple and ultimately failed. It is not possible to hold on the evidence available that the appellant right from the inception did not intend to marry the prosecutrix ever and had fraudulently misrepresented only in order to establish physical relation with her. The prosecutrix in her letters acknowledged that the appellant's family was always very nice to her".

15. The Hon'ble Apex Court in Prithvirajan supra observed that the Supreme Court has repeatedly held that merely because physical relations were established on a promise to marry, it would not, by itself, amount to rape. In the present case also, the relationship between the petitioner/Accused No.1 and respondent No.2 appears to have been consensual. 16. Furthermore, the Hon'ble Apex Court in Amol Bhagawan Nehul supra observed that a consensual relationship that later turns sour, or partners subsequently becoming distant, cannot by itself justify invoking the criminal machinery of the State. The alleged misconception of fact of the petitioner has spread over a period of three years.

NEWS

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ON A LIGHTER VEIN

Q: All your responses must be oral, OK? What school did you go to?

A: Oral.

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