



2025 INSC 968

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____ OF 2025
[ARISING OUT OF SLP (CRL.) NO. _____ OF 2025]
[@DIARY NO.33018 OF 2025]

AJWAR

...APPELLANT

VERSUS

WASEEM AND ANOTHER

...RESPONDENTS

R1: WASEEM

R2: STATE OF UTTAR PRADESH

O R D E R

Heard learned counsel/senior counsel for the parties.

2. I.A. No.156017/2025 seeking permission to file the Special Leave Petition is allowed. I.A. Nos.156019/2025, 156023/2025, 167425/2025, 176616/2025 and 176617/2025 be treated as having been formally allowed.

3. Leave granted.

FACTUAL PRISM:

4. The present appeal arises from the Impugned Order dated 03.06.2025 in Criminal Misc. Bail Application No.10572/2025 [2025:AHC:94655] passed by a learned Single Judge of the High Court of Judicature at Allahabad granting bail to respondent no.1-accused.

5. A few basic facts are to be noted before this Court examines the merits.

6. Respondent no.1 is an accused in a case filed by the appellant-informant under Sections 147, 148, 149, 352, 302, 307, 504 and 34 of the Indian Penal Code, 1860. Initially, when bail was granted to respondent no.1 by the High Court on 22.08.2022 [***Waseem v State of Uttar Pradesh, 2022 SCC OnLine All 1518***], the appellant moved before this Court in Criminal Appeal No.1784/2022, in which the Order granting bail was interfered with by this Court *vide* Order dated 14.10.2022 [***Ajwar v Waseem, (2024) 10 SCC 787***] and the matter was remanded to the High Court. This led to the second round and respondent no.1 pursued his prayer for bail in the High Court. The High Court *vide* Order dated 07.12.2022 [***Waseem v State of Uttar Pradesh, 2022 SCC OnLine All 1510***] once again granted bail to respondent no.1.

Once more, the appellant moved this Court seeking cancellation of bail, which was allowed *vide* Judgment dated 17.05.2024 [**Ajwar v Waseem, (2024) 10 SCC 768**] (hereinafter referred to as the 'Judgment dated 17.05.2024'). The Judgment dated 17.05.2024 dealt with all the connected cases, and therein, while interfering with the bail granted to respondent no.1 and the others, this Court granted a window to the respondents-accused to move for bail afresh, observing:

'35. ... It is also clarified that in the event of any new circumstances emerging, the respondents shall be entitled to apply for bail at a later stage.'

7. This observation led respondent no.1 to apply for bail afresh before the learned Trial Court, which was rejected on 20.01.2025. He then moved the High Court in April, 2025, and by way of the Impugned Order, bail was granted.

APPELLANT'S SUBMISSIONS:

8. Learned counsel for the appellant submitted that the Impugned Order not only suffers from material irregularities but also violates the tenor and spirit of the Judgment of this Court by which the bail granted to respondent no.1 was cancelled. It was submitted that the Court, while cancelling the bail of respondent no.1, had dealt with each and every

aspect of the matter on merits and, for all practical purposes, on the day of such cancellation, whatever ground which may have been available to respondent no.1 was closed and the '*new circumstances emerging*' could only be prospective in nature. It was submitted that the Trial Court, thus, had correctly appreciated the position and rejected the prayer for bail; whereas, the High Court has approached the matter in a manner which would reveal that the High Court thought that it was considering the application for bail for the first time and delved into all those aspects which had already been dealt with at the time of cancellation of bail by this Court. It was submitted that the so-called ground before the High Court, as noted in the Impugned Order, is the period of custody and the fact that some similarly-situated accused had been granted bail by the High Court.

9. It was contended that having moved earlier before this Court, the appellant succeeded, and Judgment dated 17.05.2024 was final on all aspects/grounds available to the respondent no.1 on such date. Learned counsel submitted that, when the High Court had granted bail earlier, respondent no.1 misused the privilege and committed various criminal acts, including intimidation and assault on the witnesses, for which a First Information Report was also lodged. It was contended that respondent no.1, additionally, has criminal antecedent(s), and most importantly, the

trial was already in progress and was advancing at a relatively good pace. Further, whatever delay was being caused in trial, the same was on account of non-cooperation from the side of the accused, and such being the position, interference and grant of bail by the High Court was not proper, and the normal course ought to have been a direction to the Trial Court to conclude the trial expeditiously. Learned counsel submitted that respondent no.1 is enjoying the privilege of bail without being entitled to the same. Further, parity cannot be the sole ground in view of the background that this Court, not once, but twice, after going into the finer details on merits with regard to whether respondent no.1 deserved bail, had concluded that the same was not justified and interfered with the findings of the High Court, being conscious of all factors as of 17.05.2024. It was urged that the appeal be allowed.

RESPONDENT NO.1'S SUBMISSIONS:

10. Notice to respondent no.1 was not formally issued on the last occasion (21.07.2025) as learned Advocate-on-Record appeared on his behalf. On prayer made seeking time to bring on record testimonies of the witnesses examined, the matter was adjourned at his request and has been taken up for final hearing today.

11. Learned senior counsel for respondent no.1 submitted that the Court may take into consideration the parameters which are now well-established and laid down by various judicial pronouncements, requiring a substantive ground for cancellation of bail to be established, once bail has been granted. It was contended that the basic principle for cancellation of bail is whether the person who is enlarged on bail had abused such indulgence/privilege and/or violated the terms of grant of bail, which, in the present case has not been done. Further, neither the trial is being hampered due to the grant of bail to respondent no.1 nor has he indulged in any criminal activity, as there has not been such allegation or case registered against him in this regard. It was submitted that respondent no.1, if not having a better case than the other co-accused whose bail was upheld by this Court, is at least similarly-situated to them. It was submitted that the Court may take a lenient view in the larger public interest, for, at the end of the day, if respondent no.1 is acquitted, the period spent behind bars by him cannot be returned.

12. Learned senior counsel tried, with eloquence, to persuade this Court not to be swayed by the general impression sought to be created by the learned counsel for the appellant with regard to the Judgment dated 17.05.2024 by this Court cancelling the bail granted to respondent no.1, because the matter relates to the personal liberty of an individual.

Learned senior counsel emphasised that this Court may go by the substantive reasons recorded by the High Court while granting bail. It was submitted that a counter-case has also been filed by the accused in the present case for the same incident. Moreover, it was submitted that there have been injuries on the side of the accused, but surprisingly, the concerned agencies, including the police, have not shown due diligence in pursuing the matter, which has caused serious threat to the life and security of respondent no.1 and the other co-accused. It was submitted that they are being harassed and pursued in such a manner, where the ordinary and justified indulgence given by the High Court, is being portrayed as a grave transgression and challenged so vehemently by the appellant, with a *malafide* intention, so as to prejudice this Court against adopting a dispassionate view based on objective circumstances, which are borne out from the case records. It was submitted that even apropos the allegation of dilatory tactics and of non-cooperation, the Orders of the Trial Court, which have been brought on record, themselves disclose that it was not respondent no.1, but rather the other co-accused who may have, at some point in time, sought adjournments in the year 2023 and not thereafter. Thus, the same should not be held as a circumstance against respondent no.1. It was prayed that the appeal deserved dismissal at our hands.

ANALYSIS, REASONING AND CONCLUSION:

13. Upon taking into account the entirety of the case, we may candidly state that the Impugned Order requires intercession. The scheme of the Constitution mandates that all Orders/Judgments of this Court have to be given due deference to by all other Courts, including the High Courts, in letter and in spirit. In the present case, both the earlier Order(s)/Judgment(s) cancelling bail to respondent no.1 would leave no doubt that this Court examined all material aspects which the parties have argued today, especially in the Judgment dated 17.05.2024. Ultimately, this Court *vide* Judgment dated 17.05.2024 concluded that, in the circumstances, grant of bail was unjustified, both on facts and in law, while keeping a limited window open *in futuro*, as noted *supra*. Therefore, the Judgment dated 17.05.2024 assumes significance yet was not properly appreciated by the High Court.

14. We are required to dwell upon the manner and trajectory of the respondent no.1's quest for bail. After rejection of the bail application by the Trial Court's Order dated 20.01.2025, respondent no.1 knocked the doors of the High Court in April, 2025. The Judgment dated 17.05.2024 had indicated that '*... in the event of any new circumstances emerging, the respondents shall be entitled to apply for bail at a later stage.*' Before

the High Court, respondent no.1 projected the 'new circumstances' at

Paragraph 4:

'(i) At present, the applicant's total custody in the crime in question is 3 years and 2 months, 15 days and four prosecution witnesses of fact, i.e., PW-1, PW-2, PW-3 and PW-4, have been examined by the prosecution and the evidence of PW-5 (formal witness) is being recorded. The prosecution has applied to the trial court that no other fact-witness is required to be produced by the prosecution.

(ii) The trial in question has been hampered again and again by the informant's persistent frivolous applications for summoning the non-charge sheeted co-accused. Moreover, the informant has not only caused delay by filing such applications but has also caused delay in recording of evidence by the trial court

(iii) The co-accused Gayyur, Kadir @ Abdul Kadir and Nadeem have been granted bail by this Hon'ble Court on their respective bail applications vide orders dated 26.09.2023, 23.05.2023 and 23.05.2023, against which the informant Ajwar preferred S.L.P. (Crim) Diary Nos. 33688 of 2024, 53548 of 2023 and 53523 of 2023 before the Hon'ble Supreme Court, which has been disposed of vide order dated 25.11.2024 and the bail orders passed in favour of the above noted co-accused have not been interfered with and the informant has been asked to approach Hon'ble High Court for his grievances, if any.

(iv) The role assigned by the prosecution to the applicant is similar to the co-accused Gayyur, Kadir @ Abdul Kadir and Nadeem. Hence, the prayer of bail on behalf of the applicant stands on a similar footing. At present, total of five accused, namely, Nazim, Abubakar, Waseem, Aslam and Niyaz are languishing in jail.

(v) Moreover, the investigation of cross-case, i.e., crime no. 0361 of 2020, has revealed certain surprising facts, which demolish the entire prosecution version of crime no. 0126 of 2020. Despite the revelation of those crucial facts, the respective investigating officers of crime no. 0361 of 2020 have repeatedly filed Final Reports, which have been rejected by the learned court below with repeated point-wise directions have been issued to unearth the truth of the entire controversy.

(vi) *There is no likelihood of an early conclusion of the trial, as there are a total of 21 Prosecution witnesses mentioned in the charge sheet.'*
(sic)

15. The Judgment dated 17.05.2024 dealt with the relevant parameters for granting bail and the considerations for setting aside bail orders. The principles holding the field, as laid out in the Judgment dated 17.05.2024, were recently reiterated, *inter alia*, in **Manik Madhukar Sarve v Vitthal Damuji Meher, (2024) 10 SCC 753**; **Shabeen Ahmad v State of Uttar Pradesh, (2025) 4 SCC 172**; **State of Rajasthan v Indraj Singh, 2025 SCC OnLine SC 518** and **Victim 'X' v State of Bihar, 2025 SCC OnLine SC 1490**. Let us turn our gaze now to the reasoning employed by the High Court while passing the Impugned Order:

'9. After hearing rival contentions of the parties, this court finds that the witnesses of fact have already been examined. The applicant was earlier in jail from 27.05.2020 to 25.08.2022. He was granted bail by this court but after cancellation of bail the applicant again surrendered and was in jail from 21.10.2022 to 18.12.2022. Thereafter again his bail was cancelled by Apex Court and he is in jail since 31.05.2024. Although three prosecution witnesses remain to be examined but thereafter the defence evidence would be led and it will take time.

10. Considering the totality of the facts and circumstances of the case, applicant deserves to be enlarged on bail.

11. Keeping in view the nature of the offence, evidence, complicity of the accused; submissions of the learned counsel for the parties noted above; finding force in the submissions made by the learned counsel for the applicant; keeping view the uncertainty regarding conclusion of trial; one sided investigation by police, ignoring the case of accused side; applicant being under trial having fundamental

right to speedy trial; larger mandate of the Article 21 of the Constitution of India and recent judgment dated 11.07.2022 of the Apex Court in the case of Satendra Kumar Antil vs. C.B.I., passed in S.L.P (Crl.) No. 5191 of 2021 and considering 5-6 times overcrowding in jails over and above their capacity by the under trials and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.'

(emphasis supplied)

16. The aspect of the matter that bothers us most is the considerations which have weighed with the learned Single Judge while penning the Impugned Order. Observations such as '*one sided investigation by police*' and '*ignoring the case of accused side*' besides being thoroughly unwarranted, had absolutely no nexus with the prayer for bail which the learned Single Judge was seized of. Given the heinous nature of the alleged offence(s), in our considered view, it was not open to the High Court to make '*5-6 times overcrowding in jails*' as a ground to allow bail. Further, as evincible, the Impugned Order notes certain facts at Paragraph 9 but Paragraph 11 does not really offer insight into the actual view of the High Court thereon or on the '*new circumstances*' sought to be put forth by respondent no.1 in Paragraph 4 of the Impugned Order. Moreover, the Impugned Order has omitted to consider the detailed Judgment dated 17.05.2024 to cull out whether '*new circumstances*' had emerged to enlarge respondent no.1 on bail. In this view, the caveat that

the Impugned Order was passed '*without expressing any opinion on the merits of the case*' pales into insignificance and is not nearly enough for us to sustain the same. No doubt, '*an over-burdened docket is no justification for formulaic justice.*' [Refer ***Ajwar v Niyaj Ahmad, 2022 SCC OnLine SC 1403***] The High Court fell in error and has consequently offered up the Impugned Order for interdiction.

17. We must clarify that we should not be misunderstood as having conveyed that bail orders should be long and lengthy, but, in the facts of this case, when this Court had, while cancelling and/or setting aside bail granted on two previous occasions, examined all relevant aspects *in extenso*, it was incumbent upon the High Court to provide comprehensive reasoning, moreso, in light of this Court's observation of future consideration of bail '*at a later stage.*' What this Court has repeatedly cautioned against is to refrain from elaborately discussing/detailing the evidence or the view of the Court thereon while considering grant of bail [***Niranjan Singh v Prabhakar Rajaram Kharote, (1980) 2 SCC 559***; ***Vilas Pandurang Pawar v State of Maharashtra, (2012) 8 SCC 795***, and; ***Atulbhai Vithalbhai Bhanderi v State of Gujarat, (2023) 17 SCC 521***], but that does not obviate the bail order from offering cogent and germane reasoning, bearing in the mind the *dicta* in ***Manoj Kumar Khokhar v State of***

Rajasthan, (2022) 3 SCC 501.

18. Accordingly, for reasons aforesaid, this appeal stands allowed. The Impugned Order is quashed and bail granted to respondent no.1 stands set aside. Respondent no.1 is directed to surrender before the Trial Court at the latest within three weeks from today. The Trial Court shall endeavour with full vigour to proceed on priority and conclude the trial expeditiously. Copy of this Order be also despatched forthwith to the concerned Registrar of the High Court for onward transmission to the Trial Court. Our observations herein are confined to the legality of the Impugned Order and shall neither aid the prosecution nor prejudice the accused at trial.

19. Before parting, we take note of the submission by learned senior counsel for respondent no.1 that the counter-case filed by the accused is not being followed-up by the authorities in the manner required. If that be so, we may only observe that it shall be open to the aggrieved person(s) to pursue their remedies in accordance with law before the appropriate forum, including the High Court. Any plea in this regard shall be examined by the concerned forum on its own merits.

20. After the Order was dictated, learned senior counsel for respondent

no.1 prayed that liberty granted by this Court in the Judgment dated 17.05.2024 in the context of renewing the prayer for bail be maintained. We find that in the current scenario, the same would be unnecessary, as we have been informed that the majority of the prosecution witnesses have already been examined. Given the chequered litigative history and the attendant facts, we clarify that respondent no.1 shall remain in custody and not be enlarged on bail till the conclusion of the trial. Having directed so, we are quite aware of the grave consequences thereof as also fully cognizant that a person should not suffer for no fault of his or for the fault of others. Therefore, in case, genuinely, for reason(s) not attributable to respondent no.1, things are not taken to their logical conclusion expeditiously, he shall be at liberty to approach this Court directly for obtaining bail.

.....J.
[AHSANUDDIN AMANULLAH]

.....J.
[S.V.N. BHATTI]

NEW DELHI
29th JULY, 2025

ITEM NO.7

COURT NO.15

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CRIMINAL) DIARY NO.33018/2025

[Arising out of the Impugned Final Judgment and Order dated 03-06-2025 in CR MBA No.10572/2025 passed by the High Court of Judicature at Allahabad]

AJWAR

Petitioner(s)

VERSUS

WASEEM & ANR.

Respondent(s)

[IA No.156019/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT;

IA No.156023/2025 - EXEMPTION FROM FILING O.T.;

IA No.156017/2025 - PERMISSION TO FILE PETITION (SLP/TP/WP/..)]

DATE : 29-07-2025 This matter was taken up, heard and decided as per the Signed Reportable Order dictated in Open Court today.

CORAM :

HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

HON'BLE MR. JUSTICE S.V.N. BHATTI

For Petitioner

Mr. Md. Anas Chaudhary, Adv.
Ms. Alia Bano Zaidi, Adv.
Mr. Ansar Ahmad Chaudhary, AoR

For Respondent No.1

Mr. Shikil Shiv Suri, Sr. Adv.
Mr. M. Z. Chaudhary, Adv.
Mr. Tabarq Hussain, Adv.
Mr. Aftab Ali Khan, Adv.
Mr. Vishal Arun Mishra, AoR

UPON hearing learned counsel for the parties, the Court passed the following

O R D E R

Permission to file Special Leave Petition is granted; I.A. No.156017/2025 is allowed.

2. I.A. Nos.156019/2025, 156023/2025, 167425/2025, 176616/2025 and 176617/2025 are formally allowed.

3. The Court, speaking through Hon. Ahsanuddin Amanullah, J., granted leave.

4. Their Lordships were pleased to allow the appeal in terms of the signed Reportable Order.

(SAPNA BISHT)
COURT MASTER (SH)

(ANJALI PANWAR)
COURT MASTER (NSH)

[Signed Reportable Order is placed on the file.]