



2026 INSC 511

REPORTABLE

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

CRIMINAL APPEAL NO. OF 2026
(@ Special Leave Petition (Crl.) No. 16332 of 2025)

RAMBALAK

... APPELLANT (S)

VERSUS

STATE OF U.P.

... RESPONDENT (S)

J U D G M E N T

SANJAY KAROL, J.

Leave Granted.

2. On first blush, this appeal at the instance of the accused was directed against the rejection of his second bail application¹ by the High Court of Judicature at Allahabad² in a case arising out of Case Crime No.175/2002 under Sections 419,420,467,468 and 471, Indian Penal Code 1860³ at PS Hamirpur, presents that limited issue, but it is not so. While dismissing the bail application, the Court directed that the Trial Court should issue summons under Section 62 and 69 Cr.P.C. and also take coercive measures as against those persons who delay or impede proceedings. This issue of delay in serving summons for taking coercive measures apparently was considered by the court in *Bhanwar Singh @ Karamvir v. State of U.P.*⁴ and *Jitendra v. State of U.P.*⁵. It was directed that the Trial Court was under an obligation to follow the abovesaid judgment as also the directions issued by the Director General of Police and Home Secretary, Government of Uttar Pradesh, in compliance thereof.

3. *Vide* interim order dated 26th November 2025 this Court had released the appellant on bail and then posted the matter for consideration on a subsequent date regarding issue of the power of the Court to issue directions while exercising bail jurisdiction.

¹ Order dated 1st April 2025

² CRMBA 9700 of 2025

³ IPC

⁴ CRMBA 16871 of 2023

⁵ CRMBA 9126 of 2023

4. Since the directions issued by the Court are the mainstay of the appeal, let us discuss the same in detail. In terms of order dated 14th September 2023, in CrI. Misc. Bail Application No. 9126 of 2023 the learned Single Judge observed that the criminal justice system within the State suffered from great difficulties in delay of execution of summons and the production of witnesses. As such, he called for affidavits of the concerned authorities in the following terms:

“In this wake, this Court is forced to call for the personal affidavits of Additional Chief Secretary (Home), Government of Uttar Pradesh, Lucknow as well as Director General of Police, Government of Uttar Pradesh, Lucknow on the following issues:

I. The current system of departmental accountability of officials nominated by statutes for service of summons and execution of coercive measures issued by the trial courts has failed.

II. To create an efficacious departmental accountability system where officers nominated by the statute (Cr.P.C. as well as Government Orders from time to time) are held accountable for failures to serve summons and execute coercive measures and the inability to compel appearance of witnesses despite orders of the Court. The aforesaid officers nominated by the statute and the government order for the aforesaid purpose are Executive Magistrate, Superintendent of Police of the districts, Commissioner of Police, as well as Inspector General of Police.

III. The system of accountability in the department will become efficacious only if the performance of officers is also judged on the yardsticks of their ability to serve summons,

execute coercive measures issued by the court and compel appearance of witnesses on the dates fixed before the learned trial court.

IV. Penalty for departmental action/penalty for failure to comply with the orders of the Court if the explanation for the same is not satisfactory is also liable to be included if the statutory schemes of summons and enforcement of coercive measures have to be implemented as per law.

IV. The Director General of Police as well as Additional Chief Secretary (Home) shall also consider the judgment rendered by this Court in *Bhanwar Singh @ Karamvir* (supra) and the report of the JTRI while filing their affidavits. The Director General of Police as well as Additional Chief Secretary (Home) shall always bear in mind that the efficiency of the departmental system of accountability has a direct bearing on the rule of law and credibility of the criminal law process.”

The next order i.e., the order dated 20th December 2023 passed in *Jitendra* (supra), records the following directions to have been issued by the Principal Secretary (Home), Government of Uttar Pradesh. Similar, were the directions issued by the Director General of Police of the concerned State. By the said order they have been ordered to be treated as directions of the Court. The same are extracted as under:

“Similarly, the relevant paragraphs of the affidavit filed by the Director General of Police, Government of U.P., Lucknow are extracted hereunder:

"5. That in respect of the directions given by Hon'ble High Court from time to time and specially in 'Bhanwar Singh Case' regarding

timely execution of processes issued by the learned trial courts the Principal Secretary (Home), Govt. of U.P. vide Government Order No. HC-100/6-PO-9-2023 Dated 14.10.2023 has issued the following directions:

- i. A Superintendent of Police rank officer has been appointed as a Nodal officer for effective execution of processes (summons/warrants/notices) issued by learned trial courts, in every police Commissionerate/District. In this respect D.G. police circular dated 10.10.2023 will be strictly complied by every Nodal officer.
- ii. All District Nodal officers will ensure the strict compliance of DG police circular dated 10.10.2023.
- iii. All District Magistrates, Executive Magistrates, District Incharge of police will ensure the compliance of Government Order dated 23.11.2022 issued by Department of Home, Government of Uttar Pradesh, Lucknow.
- iv. Additional Director General (Prosecution) is directed to issue a direction regarding maintainability of witness register with 'Court Moharrir', in which name and address, mobile number, Aadhar number of every prosecution witness will be mentioned and a direction is also issued to insert a column in the 'Pairavi Register' of concerned Pairokar of Police Station.
- v. District Nodal officer will ensure that the Public Prosecutor and concerned 'Court Moharrir' will have access to process register of learned trial courts so that police station/summon cell process register could be matched. A direction to learned trial courts to this effect, by Hon'ble High Court, will be required.
- vi. As per provision of Chapter 3 read with Rule 12 of General Rules Criminal as well as circular order C.L. Number 42/98 dated 20.08.98 issued by Hon'ble High Court the

name, designation, mobile number of police official who received the court process will be clearly mentioned in the column of process register of learned trial court, so that his responsibility could be fixed. A copy of Government Order No. HC-100/6-PO-9-2023 Dated 14.10.2023 is annexed as Annexure No. 2 to this affidavit.

6. That in respect of the directions given by Hon'ble High Court from time to time and specially in 'Bhawar Singh Case' regarding timely execution of processes issued by the learned trial courts the deponent has issued the following directions.

i. A central register will be prepared for entering processes received from different trial courts in the office of the Nodal Officer and a Desk will be established for sending the summon/warrants for its execution daily processes will be recorded in central register, policeman will be deployed at the process desk.

ii. The service receipt received after service of summons/warrants will be entered in the central register by policeman posted at summon desk and service report will be communicated to the concerned trial court.

iii. In compliance with the processes served, the details of the witnesses present and examined in trial courts will also be complied through summon/warrant desk and it will be reviewed from time to time at the competent officer level.

iv. Nodal officers will weekly examine the Summons/warrants execution register.

v. A monthly statement will be prepared in respect of the service of processes and same will be presented before Nodal officer for perusal. The Nodal officer will warn in writing to subordinate Officers and station in charge who are on laxity and after three consecutive months of laxity, so cause notice will be issued against the subordinate Officers and In-charge of Police Station.

vi. At District level Deputy Superintendent of Police/Additional Superintendent of Police and at Police Commissionerate level Assistant Police Commissioners will monitor the service of processes by the concerned police stations under their local jurisdiction and if any laxity will be found Supervisory officers will be accountable.

vii. Every Nodal Officer will be responsible for execution of service of processes (summons /warrants/ notices) under their local jurisdiction.

viii. Work of Nodal Officers will be regularly assessed by Additional Director General of Police (Zonal) and Regional Inspector General of Police / Deputy Inspector General of Police in case of any laxity, he will inform the Headquarter of Director General of Police.

ix. As discussed above D.G. Circular no. 30/2023 dated 16.08.2023 has been partially changed as Superintendent of Police will be a Nodal Officer in place of Additional Superintendent of Police. A copy of DG police circular dated 10.10.23 is annexed as Annexure No.3 to this affidavit.”

The Government Orders and the directions issued by the Principal Secretary (Home), Government of U.P., Lucknow as well as Director General of Police, Government of U.P., Lucknow extracted herein earlier from now on shall be treated as orders of this Court for purposes of implementation.

The Director General of Police, Government of U.P., Lucknow and other responsible officials shall ensure strict compliance of the directions extracted earlier”

5. In the impugned order, it is these directions that had been reiterated. The sole question which arises for consideration is whether under the power of Section 483 of BNSS 2023, the Court could have issued such directions. We have heard learned counsel

for the appellant, the State and the *amicus curiae*, Ms. Akriti Chaubey. We have also perused the written submission of the parties.

6. Section 483 BNSS reads as under:

“483. Special powers of High Court or Court of Session regarding bail.

(1) A High Court or Court of Session may direct,-

(a) that any person accused of an offence and in custody be released on bail, and if the offence is of the nature specified in sub-section (3) of section 480, may impose any condition which it considers necessary for the purposes mentioned in that sub-section;

(b) that any condition imposed by a Magistrate when releasing any person on bail be set aside or modified:

Provided that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence which is triable exclusively by the Court of Session or which, though not so triable, is punishable with imprisonment for life, give notice of the application for bail to the Public Prosecutor unless it is, for reasons to be recorded in writing, of opinion that it is not practicable to give such notice:

Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under section 65 or sub-section (2) of section 70 of the Bharatiya Nyaya Sanhita, 2023, give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.

(2) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under section 65 or sub-section (2) of section 70 of the Bharatiya Nyaya Sanhita, 2023.

(3) A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody.”

7. In a recent case viz., *State of U.P. v. Anurudh*⁶, also arising from a matter before the Allahabad High Court wherein, similar to the present case, far reaching directions had been issued by the Court under bail jurisdiction, mandating the scientific determination of the age of the victim in cases under the Protection of Children from Sexual Offences Act 2012, in teeth of the scheme of the Juvenile Justice (Care and Protection of Children) Act 2015 which is also applicable to the former, this Court held the same to be impermissible in spite of reference to Article 21 and the assertion of the Court that it is not denuded of its constitutional power even while sitting in bail jurisdiction. The relevant discussion is reproduced as under as it squarely covers the issue in the present *lis*:

“11.2. The upshot of the above discussion is that a Court's jurisdiction, i.e., either the Court of Sessions or the High Court under Section 439CrPC is limited to adjudicating the question of the person concerned being released into society pending trial or whether they should continue to be incarcerated.

11.3. It is unquestionable that High Court is a constitutional Court. However, in the instant case the error of jurisdiction by the High Court was in exercise of a statutory power and not under the Constitution. The powers arising from the Constitution and those flowing from a statute are distinct and separate. A constitutional

⁶ 2026 SCC OnLine SC 40

power is the one which emanates directly from the text and spirit of the Constitution of India, the supreme and fundamental charter of governance, and inheres in those institutions or functionaries whose existence and competence are defined by it. Such powers are self-sustaining; they are not contingent upon any act of the Legislature, nor can they be abridged or extinguished except through a formal amendment under Article 368. For example, the President's power to dissolve the Lok Sabha under Article 85(2)(b); the Governor's authority to reserve a bill for the consideration of the President under Article 200, or the jurisdiction of the Supreme Court under Article 32 are all in exercise of constitutional power. These powers represent the apex of the legal hierarchy, deriving their legitimacy not from the will of the people as expressed by Parliament, but from the sovereignty of the Constitution itself.

In contrast, a statutory power is derivative and conditional, drawing its vitality from a law duly enacted by the Parliament or a State Legislature. Such power exists only within the four corners of the enabling statute and is circumscribed by its language, purpose, and legislative intent. Illustratively, the powers conferred upon the Central Government under the Environmental (Protection) Act, 1986, to frame rules, issue directions, or regulate industrial operations are purely statutory in nature, as are the regulatory functions vested in the Securities and Exchange Board of India under the SEBI Act, 1992, or those entrusted to the Competition Commission of India under the Competition Act, 2002. The exercise of these powers must conform strictly to the parameters laid down by the statute; any transgression beyond its express or implied authority is rendered *ultra vires* and, therefore, void in the eyes of law.

The essential distinction between these two species of power lies not merely in their origin but also in their constitutional status and susceptibility to control. Constitutional powers are sovereign, foundational, and insulated from the vicissitudes of ordinary legislation; they can neither be curtailed nor expanded by parliamentary enactment. Statutory powers, by contrast,

are subordinate and mutable, existing at the pleasure of the Legislature, which may at any time amend, restrict, or repeal them through the ordinary legislative process. Judicial review, while applicable to both, assumes different contours in each case: in relation to constitutional powers, the Courts examine whether their exercise conforms to constitutional limitations including the protection of fundamental rights and the inviolable tenets of the basic structure whereas, in the case of statutory powers, the inquiry is confined to whether the authority has acted within the scope and purpose of the statute from which its power is drawn.

The constitutional power cannot overshadow the statutory power, enlarging its scope beyond what has been envisaged by the statute. In other words, while both powers rest with the High Court, one power cannot usurp the ambit of another, unless otherwise permitted by law.”

8. In view of this short discussion alone, we are of the considered view that the impugned judgment in so far as it directs following what has been laid in the earlier bail orders, cannot be sustained and has to be set aside. Ordered accordingly. However, in the interest of justice we direct that the steps that have been taken by the State authorities shall remain unaffected and continue to function independent of the orders in which they stood issued. The State shall be at liberty to modify the same to be in consonance with the prevalent laws of the land should the need so arise. It is further clarified that even though we have set aside the directions on account of jurisdictional error, we have made no comment on the grant or denial of bail, as the case may be, in the earlier orders.

9. The order dated 26th November 2025 is confirmed with the stipulation as mentioned in the said order.

The appeal is allowed. Pending applications, if any, shall stand disposed of.

.....**J.**
(SANJAY KAROL)

.....**J.**
PRASANNA B. VARALE

New Delhi;
May 19, 2026