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IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE ALOK AWASTHI

ON THE 26th OF OCTOBER, 2026

CRIMINAL APPEAL No. 8191 of 2026

CNR No.: MPHC020373822026

MUKESH VIJ

Versus

STATE OF M.P. AND ANR

Appearance:

Shri Vishal Baheti, Sr. Advocate assisted by Shri Aditya Singh and Shri Kinjal Shrivastava, Advocates for the appellant.

Shri Aditya Garg, Government Advocate for the respondent/State.

WITH

CRIMINAL APPEAL No. 8150 of 2026

CNR No.: MPHC020373132026

ANIL MALVIYA

Versus

THE STATE OF MADHYA PRADESH AND ANR

Appearance:

Shri Vishal Baheti, Sr. Advocate assisted by Shri Aditya Singh and Shri Kinjal Shrivastava, Advocates for the appellant.

Shri Aditya Garg, Government Advocate for the respondent/State.

ORDER

Heard.

Both these criminal appeals under Section 14-A(2) of the Scheduled

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Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "the SC/ST Act") are preferred against the order dated 09.09.2026 passed by the 1st Additional Sessions Judge/Special Judge, Dewas in Bail Application Nos. 1074/2026 and 1079/2026, whereby the applications filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of bail on behalf of the appellants, namely Mukesh Vij and Anil Malviya respectively, in connection with FIR/Crime No.176/2026 registered at Police Station Tonkkhurd, District Dewas (M.P.) for the offences punishable under Sections 105, 110 and 3(5) of the Bharatiya Nyaya Sanhita, 2023, Sections 3, 4, 5 and 6 of the Explosive Substances Act, 1908, Sections 5 and 9(b) of the Explosives Act, 1884, Sections 3(1)(h) and 3(2)(v) of the SC/ST Act, Section 25(1)(b) of the Arms Act, 1959 and Section 14(1) of the Child Labour (Prohibition and Regulation) Act, 1986 and Sections 79 and 87 Juvenile Justice (Care and Protection of Children) Act, 2015 were rejected. The appellants – Anil and Mukesh Vij are in custody since 17.05.2026 and 19.05.2026 respectively.

2. According to the prosecution case, on 14.05.2026 at about 11:00 A.M., a massive explosion occurred at an illegal fireworks factory in Village Tokkala, P.S. Tonkkhurd, District Dewas. About 70–75 labourers were filling fireworks with gunpowder and chemicals inside tin sheds. 12 workers died and 19 were seriously injured. Investigation revealed that the unit was being run illegally, without proper fire safety, without required NOCs, and in violation of licence conditions, with large quantities of explosives and chemicals stored far beyond permissible limits. Appellant Mukesh Vij was

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not a distant outsider. Through his firms Vij Technology & Consultants and S.K. Enterprises, he acted as the main financial controller and partner. Crores of rupees moved between his firms and appellant Anil Malviya (the ostensible operator). His firms also supplied chemicals and fireworks materials. Seizures of sulphur, aluminium powder, gunpowder, finished fireworks, electronic scales, bank documents, bills and challans from the factory and Jaydev Warehouse establish his direct role in funding, supplying and enabling the illegal operations.

3. Counsel for the appellants submits that the appellants are innocent and have been falsely implicated in this offence. Appellants have no criminal antecedents. Charge-sheet has already been filed. Investigation is complete. The case of the prosecution against both appellants rests primarily on alleged business and financial transactions through firms. There is no allegation that either appellant were present at the factory on the date of the incident, handled or stored any explosive substance, supervised the manufacturing process, controlled the labourers, or performed any overt act that caused or contributed to the explosion. Sections 105 and 110 of the BNS are not attracted. There is no specific “act” attributed to either appellant by which death was caused or attempted. Mere financial or commercial dealings cannot constitute the actus reus required under these provisions. Section 3(5) of BNS (common intention) requires a clear meeting of minds directed towards the particular criminal act. Commercial association or bank transactions, by themselves, do not establish common intention to cause an explosion or endanger human life. Offences under the Explosive Substances

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Act, 1908 (Sections 3, 4, 5 & 6) require possession, control, causing of explosion, or abetment with the requisite knowledge and intention. No such material exists against either appellant. Supply of money or business association, without proof that it was for an unlawful purpose with knowledge, does not satisfy the ingredients of Section 6. Provisions of the Explosives Act, 1884 (Sections 5 & 9B) require specific contravention of licence conditions or rules by the concerned accused. No licence is alleged to have been issued in the name of either appellant, nor is any prohibited act of manufacture, possession, use or transport attributed to them. Sections 3(1)(h) and 3(2)(v) of the SC/ST Act are not made out. There is no allegation that either appellant employed, compelled or made any SC/ST person do forced or bonded labour, or committed any qualifying offence with knowledge of the caste status of the victims. Provisions of the Child and Adolescent Labour Act and the Juvenile Justice Act require that the accused employed, permitted or exploited children/adolescents. No such nexus is shown against either appellant. Liability cannot be fastened merely on the basis of financial association with the proprietor of the establishment. Both the appellants are persons of fixed place of residence and have deep roots in society. They are not flight risks. The possibility of influencing witnesses is remote, especially when the case against them is essentially documentary in nature. Continued incarceration after filing of the charge-sheet is not warranted. Medical documents concerning the health of the family members of the appellants have been placed on record and may be considered as an additional circumstance. Thus, it is prayed that the impugned order dated 09.09.2026

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be set aside and both the appellants be enlarged on bail.

4. Counsel for the State has opposed the prayer looking to the gravity of the offence and the specific role attributed to both appellants. The explosion on 14.05.2026 killed 12 labourers and injured 19 others in an illegal fireworks unit run without fire safety, without required NOCs, and in violation of licence conditions, with excess explosives stored. Both appellant were not peripheral. Through their firms they acted as principal financial controllers and partners. Crores of rupees were transferred and chemicals/fireworks materials were supplied. Seizures of sulphur, aluminium powder, gunpowder, finished fireworks, bank records, bills and challans fully establish their active role. The plea of "mere financial transactions" is misconceived. The scale, nature and continuity of dealings establish knowledge, abetment and common intention. Offences under BNS, Explosive Substances Act and Explosives Act are clearly attracted. SC/ST Act, Child Labour and Juvenile Justice provisions are rightly invoked in view of the exploitative and hazardous conditions under which vulnerable migrant labourers were engaged. The offence is of extreme gravity involving multiple deaths caused by organised illegal explosives manufacturing. Public safety is seriously involved. Both appellants, being the financial backbone, are in a position to influence poor migrant witnesses. Risk of tampering and absconding cannot be ruled out. Charge-sheet is already filed. No exceptional ground for bail is made out. Medical documents do not disclose any such emergency as would justify release. Hence, the appeals deserve to be dismissed.

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5. Heard learned counsels for the parties at length and perused the case diary.

6. The various Section of the "Acts" under which the police have initiated prosecution against the appellants have already been mentioned. It is clear that the main offence in this case in the accident at the firecracker factory, which resulted in the loss of 12 lives and left 19 individuals injured. The firecrackers were being manufactured inside a tin-roofed shed during the intense heat of May, which demonstrates gross negligence. However, it is clear that the said accident was not the result of any deliberate act by any individual. As far as the other offences that may be established, the law will take its own course. A review of the case diary reveals no documentary evidence indicating that any minor was engaged in the task of manufacturing firecrackers.

7. There can be no dispute that the incident in question is extremely grave and tragic. The loss of 12 human lives and serious injuries suffered by 19 workers have caused immense suffering to the affected families. The workers had gone to the factory to earn their livelihood, and their lives were lost in circumstances which according to the prosecution, could have been avoided by adherence to the prescribed safety standards. This Court is conscious of the magnitude of the tragedy and the serious allegations levelled against the appellants. However, while considering the appeals for grant of bail, the Court is required to strike a balance between the gravity of the accusation and the fundamental right to personal liability. The seriousness of the occurrence is undoubtedly an important consideration, but

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it cannot be the sole consideration for determining whether an accused should remain in custody throughout the trial, at this stage, it is necessary to bear in mind that the object of bail is neither to punish an accused before conviction not to express any opinion regarding the ultimate guilt or innocence of the person concerned. The question before this Court is limited to whether, having regard to the material collected during investigation and the surrounding circumstances, further detention of the appellants are necessary.

8. The allegations against the appellants primarily arise from their respective positions as owner/financer and manger/partner/owner of the factory and their alleged failure to ensure compliance with the prescribed safety requirements. It is true that the owner of an industrial establishment and the person entrusted with the management are expected to exercise due care and ensure compliance with the applicable statutory safeguards, particularly where hazardous and explosive materials are involved. Nevertheless, the question as to whether the appellants committed the offences alleged against them, whether there was a breach of any particular statutory requirement, whether such breach was attributable to either appellant and whether the alleged breach has a causal connection with the explosion are matters which require examination on the basis of the evidence during trial.

9. Mere designation as owner/financer or manager/partner/owner cannot, in every circumstance, automatically establish criminal culpability. The prosecution will have to establish the individual responsibility of each

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appellant in accordance with the ingredients of the offence alleged. At the same time, this Court is not recording any finding that the appellants were free from responsibility or that the prosecution allegations are unfounded. So far the nature of the evidence is concerned, the material relating to the occurrence, including the condition of the factory premises, the nature of the explosive materials, the relevant documents, licensing record and the reports of the technical experts, are stated to have been collected or secured by the investigating agency. The physical circumstances of the explosion are not matters which can be altered by the appellants after the incident. The evidentiary value of the material and the conclusions to be drawn from it are matters to be determined by the Trial Court.

10. It is also relevant that the appellants have been in custody from many months. The investigation into the case has been concluded and the charge-sheet has been produced before the Court. All relevant material, including the factory premises, records and other physical evidence is already in the possession of the investigation agency. Their further custodial interrogation is not required. Their continued incarceration, in the absence of any demonstrated investigative requirement, cannot be justified merely on the basis of seriousness of the allegations.

11. This Court is also conscious of the fact that the allegations concern an industrial establishment dealing with explosive materials and involve questions of public safety. Therefore, grant of bail shall not be construed as permission to resume any activity involving the manufacture, storage or handling of explosives. The appellants shall remain bound by all

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statutory restrictions and directions issued by the competent authorities.

12. The Apex Court in the **State of Rajasthan Vs. Balchand @ Baliay [(1977) 4 SCC 308** has recognized the principle that bail is the rule and jail is an exception, subject to the facts and circumstances of each case. Similarly, in **Kumer Singh Vs. The State of Rajasthan [(2021) 6 SCC 676** , the Apex Court reiterated that the nature of accusation, severity of punishment, nature of supporting evidence, possibility of witness intimidation and the overall circumstances are relevant considerations in deciding a bail application. Applying the aforesaid principles to the facts of the present case, this Court is of the considered view that although the allegations are serious and the consequences of the incident are devastating, the continued detention of the appellants is not shown to be indispensable for the purpose of investigation or trial. The appellants can be subjected to appropriate conditions to safeguard the interests of the prosecution. It is clarified that the observations made herein are confined exclusively to the consideration of the appellants for bail. The same shall not be construed as an expression of opinion of the merits of the prosecutions case. The Trial Court shall independently assess the evidence without being influenced by any observation made in this order. Consequently, without expressing any opinion on the merits of the case, this Court deem fit to allow both the appeals. Consequently, both the appeals are **allowed** by setting-aside the impugned order of the Trial Court in B.A. Nos.1074/2026 and 1079/2026.

13. It is directed that the appellants - **Mukesh Vij and Anil Malviya** shall be released on bail upon their furnishing personal bond in the sum of

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Rs.10,00,000/- (Rupees Ten lacs Only) each with separate solvent surety in the like amount to the satisfaction of the Trial Court, for their regular appearance before the concerned Court on all the dates fixed by the said Court, without any default, during trial.

14. This order shall remain operative subject to compliance of following stringent conditions by the appellant:-

i) Appellants will not leave India without previous permission of the Trial Court/Investigating Officer, as the case may be;

ii) Appellants shall furnish their complete residential addresses, mobile number and e-mail address to the Trial Court and shall intimate any change therein forthwith.

iii) Appellants shall not undertake or participate in any activity involving the manufacture, storage or handling of explosives at the concerned premises under specifically authorised by the competent authority and in compliance with all applicable laws.

i v) Appellants will comply with all the terms and conditions of the bond executed by them.

v) Appellants will not indulge themselves in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be.

vi) Appellants will cooperate in the trial and they shall not

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commit any offence similar to the offence of which they are accused;

vii) Appellants will not seek unnecessary adjournments during the trial;

viii) Appellants shall not involve themselves in any criminal activity in future otherwise, benefit of bail shall immediately be withdrawn.

ix) In case of bail jump, this order shall become ineffective.

x) If there is any violation of condition of bail then the trial Court have power to cancel the bail of the appellants, without reference to this Court.

15. With the aforesaid, both the criminal appeals are allowed and disposed of.

16. A copy of this order be sent to the Trial Court concerned for compliance and information.

Certified copy, as per Rules.

(ALOK AWASTHI)
JUDGE

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