



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL DEFECTIVE No. - 176 of 2023

Mohd. Kamil @ Kamil

.....Appellant(s)

Versus

State Of U.P. Thru. Ats Lucknow

.....Respondent(s)

Counsel for Appellant(s)

: Furkan Pathan

Counsel for Respondent(s)

: G.A., Shiv Nath Tilhari

Court No. - 9

HON'BLE RAJESH SINGH CHAUHAN, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

(C. M. Application (IA) No.02 of 2023)

1. Heard Mr. Muzahid Ahmad along with Mr. Furkan Pathan, learned counsels for the appellant and Sri S.N. Tilhari, learned Additional Government Advocate for the respondent.

2. At the very outset, attention has been drawn towards an order dated 12.09.2025 passed by the Hon'ble Supreme Court in Petitioner(s) for Special Leave to Appeal (Crl.) No.(s) 10654-10655 of 2025, which reads as under:-

"SUPREME COURT OF INDIA

Record of Proceedings

Petitioner(s) for Special Leave to Appeal (Crl.) No.(s) 10654-10655 of 2025

*Mohd. Kamil @ Kamil(Petitioner(s)). vs. State of U.P.
...(Respondent(s))*

IA No.207588 of 2025 - Anticipatory Bail

Date: 12.09.2025: This matter was called on for hearing today.

UPON hearing the counsel the Court made the following order.

In the matters filed challenging the validity of the 2nd proviso to Section 21(5) of the NIA Act, 2008, an interim order has already been passed.

Taking note of the above, we request the High Court to decide the matter

pending before it on merit, notwithstanding, the delay that has occasioned. As the matter is pending for nearly two years, we request the High Court to conclude the hearing within a period of three months from the date of receipt of a copy of this order.

The Special Leave Petitions are disposed of in the above terms.

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

3. Since the Hon'ble Supreme Court has observed to decide the matter on merit, notwithstanding, the delay that has occasioned so we hereby condone the delay.

4. Accordingly, the delay is condoned and the application is allowed.

(Order on C. M. Application (IA) No.03 of 2023 i.e. Application for Bail)

5. Heard Mr. Muzahid Ahmad along with Mr. Furkan Pathan, learned counsels for the appellant and Sri S.N. Tilhari, learned Additional Government Advocate for the opposite party.

6. By means of this criminal appeal, the appellant (Mohd. Kamil @ Kamil) has assailed the impugned order dated 03.02.2023 passed by the learned 5th ADJ/ Special Court NIA/ ATS in Case Crime No.04 of 2022, under Sections 121-A & 123 I.P.C. and Sections 13, 18, 18-B, 20 & 38 of Unlawful Activities (Prevention) Act, registered at Police Station-ATS Lucknow, whereby the bail of the present appellant has been rejected.

7. Learned counsel for the appellant has stated that this Court decided six criminal appeals of nine co-accused persons, namely, Criminal Appeal No.2376 of 2023 (Mohammad Aleem @ Abdul Aleem and another vs. State of U.P. through A.T.S. Lucknow), Criminal Appeal No.2377 of 2023 (Lukman vs. State of U.P. through A.T.S. Lucknow), Criminal Appeal No.2378 of 2023 (Mudassir and another vs. State of U.P. through A.T.S. Lucknow), Criminal Appeal No.2379 of 2023 (Mohammad Nadeem and another vs. State of U.P. through A.T.S. Lucknow), Criminal Appeal No.2380 of 2023 (Mohammad Harish and another vs. State of U.P. through A.T.S. Lucknow) and Criminal Appeal No.2381 of 2023 (Qari Shahjad and another vs. State of U.P. through A.T.S. Lucknow) vide common order dated 14.05.2024 which has been annexed as Annexure No.02 of the supplementary affidavit filed on 18.05.2024. All the aforesaid criminal

appeals have been allowed by this Court setting aside the impugned orders granting bail to the aforesaid co-accused persons.

8. This fact has not been disputed by the learned counsel for the respondent.

9. Therefore, learned counsel for the appellant has requested that since the allegations against the present appellant are similar to the allegations of other co-accused persons who have been granted bail while setting aside the impugned orders passed in their cases, therefore, on the basis of principles of parity the present criminal appeal may be allowed and the impugned order may be set aside and the present appellant may be enlarged on bail. He undertakes on behalf of the appellant that the present appellant shall not misuse the liberty of bail, if so granted, and shall cooperate in the trial proceedings properly and shall abide by all terms and conditions of bail order.

10. Though Sri S.N. Tilhari has opposed the present bail application and contention of learned counsel for the appellant addressed on the merits of the appeal but he could not dispute the aforesaid fact that other co-accused persons have been enlarged on bail in their respective appeals setting aside the impugned orders passed against them.

11. Keeping in view the aforesaid facts and circumstances and also considering the principles of parity, we are of the view that the present appellant is entitled to be released on bail by setting aside the impugned order.

12. Accordingly, the present appeal is ***allowed*** and the impugned order dated 03.02.2023 is set aside.

13. Let the appellant (Mohd. Kamil @ Kamil) be released on bail in Case Crime No.04 of 2022, under Sections 121-A & 123 I.P.C. and Sections 13, 18, 18-B, 20 & 38 of Unlawful Activities (Prevention) Act, registered at Police Station-ATS Lucknow with the following conditions:

- (i) The appellant shall furnish a bail bond of Rs.1,00,000/- with appropriate reliable sureties as may be decided by the Special Court;
- (ii) The appellant shall surrender his passport (if he has owned) to the Special Court at the time of furnishing sureties;
- (iii) The appellant shall not interfere in any manner with the further investigation, if any, and shall not make any effort to influence the prosecution witnesses;

(iv) The appellant shall mark regular attendance with such police station and at such periodical intervals as may be determined by the Special Court; and

(v) The appellant shall cooperate in the trial proceedings properly for early conclusion of the trial.

(Abdhesh Kumar Chaudhary,J.) (Rajesh Singh Chauhan,J.)
October15,2025
Suresh/