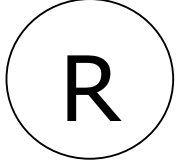




CNR: KAHC010469262025

NC: 2026:KHC:44907
CRL.P No.10339/2025
AND CONNECTED MATTERS



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 20TH DAY OF AUGUST, 2026
BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CRIMINAL PETITION NO.10339/2025

C/W

CRIMINAL PETITION NO.10314/2025

CRIMINAL PETITION NO.10321/2025

CRIMINAL PETITION NO.15550/2025

CRIMINAL PETITION NO.16275/2025

CRIMINAL PETITION NO.16338/2025

CRIMINAL PETITION NO.16367/2025

IN CRL.P No.10339/2025:

BETWEEN:

1. ABDUL JABBAR
S/O KUNHEEDU, BROTHER
OF DECEASED ASHRAF
AGED ABOUT 36 YEARS
RESIDING AT NO. TRRA-4
THRIKKOVIL ROAD
CHALIKKAVOTTOM
KANAYANNUR ERNAKULAM
KERALA 682 028.

...PETITIONER

(BY SRI. CLITON ROZARIO, ADV., FOR
SMT. MAITREYI KRISHNAN, ADV.,)

AND:

1. MR. SACHIN
S/O RAJARAM

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA



CNR: KAHC010469262025

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AND CONNECTED MATTERS

AGED ABOUT 25 YEARS
R/AT KUDUPU VILLAGE
MANGALURU
DAKSHINA KANNADA.

2. STATE OF KARNATAKA
THROUGH MANGALUR RURAL
POLICE STATION, MANGALURU
DAKSHINA KANNADA DISTRICT.

...RESPONDENTS

(BY SRI. ARUNA SHYAM, SR. COUNSEL FOR
SRI. SUYOG HERELE E, ADV., FOR R1
SRI. B.N. JAGADEESHA, SPP-I A/W
SRI. RANJITH KUMAR, HCGP FOR R2)

- - -

THIS CRL.P IS FILED U/S 439(1)(b) CR.PC (FILED U/S
483(1)(b) BNSS), PRAYING TO CANCEL THE BAIL ORDER
DATED 05.06.2025 IN CRL.MISC.NO.423/2025 PASSED BY THE
II ADDL. DISTRICT AND SESSIONS JUDGE D.K. MANGALURU
(PLACED AS ANNEXURE-A). DIRECT HIS IMMEDIATE RE-
ARREST & ETC.

IN CRL.P NO. 10314/2025:

BETWEEN:

1. ABDUL JABBAR
S/O KUNHEEDU, BROTHER
OF DECEASED ASHRAF
AGED ABOUT 36 YEARS
RESIDING AT NO. TRRA-4
THRIKKOVIL ROAD
CHALIKKAVOTTOM
KANAYANNUR ERNAKULAM
KERALA 682 028.

...PETITIONER

(BY SRI. CLIFTON ROZARIO, ADV., FOR
SMT. MAITREYI KRISHNAN, ADV.,)



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AND CONNECTED MATTERS

AND:

1. MR. RAHUL
S/O RAMESH POOJARY
AGED ABOUT MAJOR
R/AT NO.3-18-158/4
NEAR PADAVU SCHOOL
KADRI, MANGALURU 575004.
2. STATE OF KARNATAKA
THROUGH MANGALURU RURAL P.S
MANGALUR, D.K.
3. MR. K. SUSHANTH
S/O UMESH AMIN
AGED 25 YEARS
R/AT MAHALAKSHMI NIVASA
KUDUPU KATTE
NEAR KUDUPU SCHOOL
THIRUVALI, KUDUPU
VILLAGE AND POST
MANGALURU TALUK
D.K. - 575028.

...RESPONDENTS

(BY SRI. ARUNA SHYAM, SR. COUNSEL FOR
SRI. RENSURE PRITHESH D'SOUZA, ADV., FOR R1
SRI. B.N. JAGADEESHA, SPP-I A/W
SRI. RANJITH KUMAR, HCGP FOR R2
SRI. M.R. BALAKRISHNA, ADV., FOR R3)

- - -

THIS CRL.P IS FILED U/S 439(2) CR.PC (FILED U/S 483(3) OF BNSS), PRAYING TO SET ASIDE THE BAIL ORDER DATED 31.05.2025 IN CRL. MISC. NO.394/2025 AND CRL. MISC. NO.395/2025 PASSED BY THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE, D.K. MANGALURU (PLACED AS ANNEXURE - A). CANCEL THE BAIL GRANTED TO RESPONDENTS 1 AND 2. DIRECT THEIR IMMEDIATE RE-ARREST & ETC.



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IN CRL.P NO.10321/2025:

BETWEEN:

1. ABDUL JABBAR
S/O KUNHEEDU, BROTHER OF
DECEASED ASHRAF
AGED ABOUT 36 YEARS
R/AT NO. TRRA-4, THRIKKOVIL ROAD
CHALIKKAVOTTOM,
KANAYANNUR
ERNAKULAM,
KERALA - 682 028.

...PETITIONER

(BY SRI. CLIFTON ROZARIO, ADV., FOR
SMT. MAITREYI KRISHNAN, ADV.,)

AND:

1. MR. DEEKSHITH
S/O DEVAPPA POOJARY
AGED ABOUT 28 YEARS
R/AT 6-13/2/1, NIDDEL HOUSE
ALAPE, PADIL, MANGALURU
DAKSHINA KANNADA
DISTRICT-575028.
2. STATE OF KARNATAKA
THROUGH MANGALURU
RURAL POLICE STATION, MANGALURU
DAKSHINA KANNADA DISTRICT
REP. BY SPP HIGH COURT
BANGALORE-01.
3. SANDEEP BASAVARAJAPPA HAVERI
S/O BASAVARAJ
AGED ABOUT 23 YEARS
R/AT 1-4/4, LOUIS COMPOUND



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AND CONNECTED MATTERS

BYTHURLI, KUDUPU,
THIRUVAIL
DAKSHINA KANNADA – 575028.

...RESPONDENTS

(BY SRI. ARUNA SHYAM, SR. COUNSEL FOR
SRI. RENSPRE PRITHESH D'SOUZA, ADV., FOR R1
SRI. B.N. JAGADEESHA, SPP-I A/W
SRI. RANJITH KUMAR, HCGP FOR R2
SRI. ASHWIN JOYSTON KUTINHA, ADV., FOR R3)

- - -

THIS CRL.P IS FILED U/S 439(2) CR.PC (FILED U/S 483(3) OF BNSS), PRAYING TO SET ASIDE THE BAIL ORDER DATED 05.06.2025 IN CRL.MISC.NO.442/2025 PASSED BY THE II ADDL.DIST. AND SESSIONS JUDGE, D.K. MANGALURU (PLACED AS ANNEXURE -A). CANCEL THE BAIL GRANTED TO RESPONDENT NO.1. DIRECT HIS IMMEDIATE RE-ARREST & ETC.

IN CRL.P NO.15550/2025:

BETWEEN:

1. ABDUL JABBAR
S/O KUNHEEDU
BROTHER OF DECEASED ASHRAF
AGED ABOUT 36 YEARS
RESIDING AT NO. TRRA-4
THRIKKOVIL ROAD
CHALIKKAVOTTOM
KANAYANNUR ERNAKULAM
KERALA 682 028.

...PETITIONER

(BY SRI. CLIFTON ROZARIO, ADV., FOR
SMT. MAITREYI KRISHNAN, ADV.,)



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CRL.P No.10339/2025
AND CONNECTED MATTERS

AND:

1. MR. ADARSH
S/O VIJAY KUMAR
AGED ABOUT 27 YEARS
R/AT NO.1-45, MANDARA ROAD
NEAR KUDUPU TEMPLE, KUDUPU POST
AND VILLAGE, THIRUVAIL
DAKSHINA KANNADA DIST-575004.

2. STATE OF KARNATAKA
REP. BY MANGALURU RURAL
POLICE STATION, MANGALURU
DAKSHINA KANNADA -575005
REP. BY SPP HIGH COURT
BUILDING, BANGALORE-01.

...RESPONDENTS

(BY SRI. B.N. JAGADEESHA, SPP-I A/W
SRI. RANJITH KUMAR, HCGP FOR R2
R1 SERVED)

- - -

THIS CRL.P IS FILED U/S.439(2) (FILED U/S.483(3)
BNSS) CR.P.C. PRAYING TO ALLOW THE PRESENT
PETITION AND CANCEL THE BAIL GRANTED TO
RESPONDENT NO.1/ACCUSED NO.18 IN
CRL.MISC.NO.426/2025 DATED 06.06.2025 ON THE FILE
OF THE II ADDL DISTRICT AND SESSIONS JUDGE D.K.,
MANGALURU & ETC.

IN CRL.P NO.16275/2025:

BETWEEN:

1. STATE OF KARNATAKA
BY MANGALURU RURAL POLICE STATION
REP. BY STATE PUBLIC PROSECUTOR



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AND CONNECTED MATTERS

HIGH COURT BUILDING
BENGALURU -560 001.

...PETITIONER

(BY SRI. B.N. JAGADEESHA, SPP-I A/W
SRI. RANJITH KUMAR, HCGP)

AND:

1. ADARSH
S/O VIJAYA KUMAR
AGED ABOUT 27 YEARS
R/A NO. 1-45, MANDARA ROAD
NEAR KUDUPU TEMPLE
KUDUPU POST AND VILLAGE, THIRUVAIL
DAKSHINA KANNADA DISTRICT.

...RESPONDENT

(BY SRI. V.R. BALARAJ, ADV.,)

- - -

THIS CRL.P IS FILED U/S 439(2) CR.P.C. (FILED U/S 483 (3) BNSS) PRAYING TO CANCEL THE ORDER GRANTING BAIL TO RESPONDENT / ACCUSED VIDE ORDER DATED 06.06.2025 PASSED BY THE LEARNED II ADDL. DISTRICT AND SESSIONS JUDGE, D.K. MANGALURU IN CRL .MISC. NO.426/2025 FOR THE OFFENCE P/U/S 103(2), 115(2), 189(2), 191(1), 191(3), 240 R/W 190 OF BNS 2023 IN CR.NO.37/2025 REGISTERED BY MANGALURU RURAL POLICE & ETC.

IN CRL.P NO.16338/2025:

BETWEEN:

1. STATE OF KARNATAKA
BY MANGALURU RURAL POLICE
STATION, MANGALURU
REP. BY STATE PUBLIC PROSECUTOR



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HIGH COURT BUILDING
BENGALURU-560001.

...PETITIONER

(BY SRI. B.N. JAGADEESHA, SPP-I A/W
SRI. RANJITH KUMAR, HCGP)

AND:

1. SACHIN
S/O RAJARAM
AGED ABOUT 25 YEARS
R/AT KUDUPU VILLAGE
MANGALURU, D.K.

...RESPONDENT

(BY SRI. ARUNA SHYAM, SR. COUNSEL FOR
SRI. SUYOG HERELE E, ADV.,)

- - -

THIS CRL.P IS FILED U/S 439(2) CR.PC (FILED U/S 483(3) OF BNSS), PRAYING TO CANCEL THE ORDER GRANTING BAIL TO RESPONDENT/ACCUSED VIDE ORDER DATED 05.06.2025 PASSED BY THE LEARNED II ADDL. DISTRICT AND SESSIONS JUDGE, D.K. MANGALURU IN CR. MISC NO.423/2025 FOR THE OFFENCES P/U/S 103(2), 115(2), 189(2), 191(1), 191(3), 240 R/W 190 OF BNS 2023 IN CR NO.37/2025 REGISTERED BY MANGALURU POLICE STATION & ETC.

IN CRL.P NO.16367/2025:

BETWEEN:

1. STATE OF KARNATAKA
BY ASST. COMMISSIONER OF POLICE
MANGALURU POLICE STATION
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU -560 001.

...PETITIONER

(BY SRI. B.N. JAGADEESHA, SPP-I A/W
SRI. RANJITH KUMAR, HCGP)



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AND CONNECTED MATTERS

AND:

1. DEEKSHITH
S/O DEVAPPA POOJARY
AGED ABOUT 26 YEARS
R/AT 6-13/2/1, NIDDEL HOUSE
ALAPE, PADIL, MANGALURU.
2. SANDEEP BASAVARAJAPPA HAVERI
S/O BASAVARAJ
AGED ABOUT 23 YEARS
R/AT 1-4/4, LOUIS COMPOUND
BYTHURLI, KUDUPU
THIRUVALI, D.K-575028.

...RESPONDENTS

(BY SRI. ARUNA SHYAM, SR. COUNSEL FOR
SRI. RENSURE PRITHESH D'SOUZA, ADV.,
FOR R1 & R2)

- - -

THIS CRL.P IS FILED U/S 439(2) CR.PC (FILED U/S 483(3) OF BNSS), PRAYING TO CANCEL THE ORDER GRANTING BAIL TO RESPONDENT/ACCUSED VIDE ORDER DATED 05.06.2025 PASSED BY THE LEARNED II ADDL. DISTRICT AND SESSIONS JUDGE, D.K. MANGALURU IN CR. MISC. NO.442/2025 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 103(2), 115(2), 189(2), 191(1), 191(3), 240 READ WITH SECTION 190 OF BHARATIYA NYAYA SANHITA, 2023 IN CR.NO. 37/2025 REGISTERED BY MANGALURU RURAL POLICE & ETC.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED ON 03.08.2026, COMING ON FOR PRONOUNCEMENT OF ORDER, THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL



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CAV ORDER

Criminal Petition Nos.16338/2025 and 10339/2025 are filed by the State and the next of kin of the deceased respectively, seeking to cancel the order of bail dated 05.06.2025 passed in Crl.Misc.No.423/2025 by the II Additional District and Sessions Judge, D.K., Mangaluru (hereinafter referred to as the '**Sessions Court**').

Criminal Petition Nos.16367/2025 and 10321/2025 are filed by the State and the next of kin of the deceased respectively, seeking to cancel the order of bail dated 05.06.2025 passed in Crl.Misc.No.442/2025 by the Sessions Court.

Criminal Petition Nos.16275/2025 and 15550/2025 are filed by the State and the next of kin of the deceased respectively, seeking to cancel the order of bail dated 06.06.2025 passed in Crl.Misc.No.426/2025 passed by the Sessions Court.

Criminal Petition No.10314/2025 is filed by the next of kin of the deceased seeking to cancel the order of bail



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dated 31.05.2025 in Crl.Misc.No.394/2025 and Crl.Misc.No.395/2025 passed by the Sessions Court.

2. For the purpose of convenience, the parties shall be referred to as follows:

- a) The petitioner in Crl.P.No.15550/2025, Crl.P.No.10321/2025, Crl.P.No.10314/2025, Crl.P.No.10339/2025 shall be referred to as the 'next of kin of the deceased'.
- b) The petitioner in Crl.P.No.16367/2025, Crl.P.No.16275/2025 and 16338/2025 shall be referred to as 'the State'
- c) The respondent No.1 in Crl.P.No.15550/2025, Crl.P.No.10321/2025, Crl.P.No.10314/2025, Crl.P.No.10339/2025 and the respondents in Crl.P.No.16367/2025, Crl.P.No.16275/2025 and 16338/2025 shall be referred to as 'the accused'.

3. The brief facts leading to the filing of these petitions are that on 27.04.2025 in a cricket match



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organized by the 'Amazing Friends Konguru, Kulashekara', the deceased-Ashraf came by raising the slogan 'Pakistan, Pakistan'. The accused and other people followed the deceased-Ashraf and assaulted him resulting in his death. Subsequently, a complaint was filed by one Sri.Deepak Kumar and the police registered a FIR against the accused and other persons for the offences punishable under Section 103(2), 115(2), 189(2), 190, 191(1), 191(3) and 240 of the Bharatiya Nyaya Sanhita, 2023 (for short 'the BNS'). The accused were arrested and were remanded into judicial custody. The accused filed petitions under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short the 'BNSS') seeking to grant regular bail in Crime No.37/2025. The Sessions Court considered the said petitions and allowed the same. Being aggrieved, the next of kin of the deceased as well as the State have filed these petitions seeking cancellation of bail.



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4. Sri.Clifton D'Rozario, learned counsel appearing for the next of kin of the deceased submits that as per the guidelines of the Hon'ble Supreme Court in the case of **TEHSEEN S POONAWALLA Vs. UNION OF INDIA AND OTHERS¹**, the victim(s) or the next of kin of the deceased in cases of mob lynching shall be given timely notice of any Court proceedings and the same shall be entitled to be heard at the trial in respect of applications such as bail, discharge, release and parole filed by the accused persons. However, in the instant case, there was no notice to the next of kin of the deceased and the non-issuance of such notice vitiates the order granting bail. It is submitted that the Hon'ble Supreme Court has also directed the State Governments to prepare a lynching/mob violence victim compensation scheme and also provide for interim relief to the victim or the next of kin of the victim, however, in the instant case, no scheme for interim compensation has been formulated by the State Government. Hence, the

¹ (2018) 9 SCC 501



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State Government must be directed to formulate a scheme for interim compensation to the victim or next of kin of the deceased and also for grant of compensation to the next of kin of the deceased in the instant case. It is further submitted that the crimes in which the accused are involved are heinous in nature and hence, the Sessions Court ought not to have granted bail solely on the ground of parity with other co-accused; or on the ground that the name of the accused was not initially found in the FIR but was subsequently implicated during the course of the investigation; or on the ground that the accused did not have any previous antecedents. It is also submitted that in view of the procedural lapse by the Sessions Court, the order granting bail may be set-aside and the accused may be directed to surrender and the Sessions Court may be further directed to re-consider the bail application on merits after giving an opportunity to the next of kin of the victim to file his objections. In support of his contentions,



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he places reliance on the following decisions of the Hon'ble Supreme Court:

- a) JAGJEET SINGH AND OTHERS Vs. ASHISH MISHA AND ANOTHER²**
- b) NATIONAL FEDERATION OF INDIAN WOMEN (NFIW) Vs. UNION OF INDIA AND OTHERS³**
- c) Y Vs. STATE OF RAJASTHAN AND ANOTHER⁴**
- d) MANIK MADHUKAR SARVE AND OTHERS Vs. VITTHAL DAMUJI MEHER AND OTHERS⁵**
- e) KIRAN @ HOLO MAFATBHAI PARMAR Vs. STATE OF GUJARAT⁶**
- f) SAGAR Vs. STATE OF U.P. AND ANOTHER⁷**

Hence, he seeks to allow the petitions.

5. Sri.B.N.Jagadeesh, learned State Public Prosecutor-I appearing for the State submits that the Sessions Court has not considered the fact that the crime

² (2022) 9 SCC 321

³ W.P.(Civil).Nos.719/2023.

⁴ (2022) 9 SCC 269

⁵ (2024) 10 SCC 753

⁶ SLP (Criminal) Diary No.32284/2025 dated

⁷ 2025 SCC Online SC 2584



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in which the accused are involved is heinous in nature and solely on the ground of parity with co-accused, non-implication in the FIR and lack of criminal antecedents, has proceeded to grant bail to the accused. It is submitted that the crime committed by the accused is mob-lynching due to which it is not necessary that the name of each person has to be mentioned in the FIR and can be implicated during subsequent investigation and in the instant case, the chargesheet filed clearly indicates the involvement of the accused, hence, the order of bail ought to be set aside. It is further submitted that as per the guidelines of the Hon'ble Supreme Court referred *supra*, the next of kin of the deceased ought to have been issued timely notice specially when there is a hearing for bail application of the accused and non-compliance of such process vitiates the order of bail. It is also submitted that the State has filed a memo along with documents indicating the compliance of the directions of the Hon'ble Supreme Court in the case of **TEHSEEN S POONAWALA**



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referred *supra*. It is contended that if this Court is not inclined to set aside the order of bail, then it may add an additional condition directing the accused to present themselves before the police station every month to avoid the attempt of tampering the witness. It is further contended that the Sessions Court may also be directed to dispose of the case within 6 months as per the guidelines of the Hon'ble Supreme Court in the case of **TEHSEEN S POONAWALA** referred *supra*. Hence, he seeks to allow the petitions.

6. *Per contra*, Sri.Aruna Shyam, learned Senior counsel appearing for the accused in Crl.P.Nos.10339/2025, 16338/2025, 16367/2025, 10321/2025 and 10314/2025, Sri.M.R.Balakrishna, learned counsel appearing for the respondent No.3 in Crl.P.No.10314/2025, Sri.Ashwin Joyston Kutinha, learned counsel appearing for the respondent No.3 in Crl.P.No.10321/2025 and Sri.V.R.Balaraj, learned counsel



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appearing for the respondent in Crl.P.No.16275/2025 support the impugned order passed by the Sessions Court and submit that the charge sheet in the instant case has already been filed, hence, the need for custodial interrogation does not arise. It is submitted that the State has challenged the order granting bail to the accused Nos.4 and 11 by this Court before the Hon'ble Supreme Court and the same came to be rejected, hence, the question of setting aside the order of granting bail does not arise. It is further submitted that a detailed guidelines may be issued directing the State to formulate a scheme for interim compensation to the victim or the next of his kin in cases involving mob violence/lynching and also further direction may be issued to the Sessions Court to issue notice to the victim or the next of his kin in cases of mob lynching. It is also submitted that setting aside of the order of bail involves the liberty of the accused, hence, it would not be appropriate at this stage to ask them to surrender. Hence, they seek to dismiss the petitions.



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7. I have heard the arguments of the learned counsel appearing for the next of kin of the deceased, the learned State Public Prosecutor-I appearing for the State, the learned Senior counsel and other learned counsels appearing for the accused and meticulously perused the material available on record. I have given my anxious consideration to the submissions advanced on both the sides.

8. The material on record indicates that a friends club called the 'Amazing Friends Konguru, Kulashekara' organized a cricket play at Kallurti Temple, Kudupu, on 27.04.2025. On the said day, during the match at 3 p.m., the deceased-Ashraf came by raising a slogan 'Pakistan, Pakistan'. On seeing the deceased-Ashraf, various cricket players, other audience along with the accused followed him and the deceased-Ashraf ran on seeing the people approaching him and fell on the center of the road. The accused and the other people surrounded him at the



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center of the road, kicked and assaulted him. The deceased-Ashraf suffered blunt injuries on his body and eventually succumbed to those injuries. Subsequent to the death of the deceased-Ashraf, based on the complaint by one Sri.Deepak Kumar, the police registered a FIR against the accused and other persons for the offences punishable under Section 103(2), 115(2), 189(2), 190, 191(1), 191(3) and 240 of the BNSS. The accused were arrested as per the FIR and were remanded to judicial custody. The accused filed petitions under Section 483 of the BNSS, seeking to grant regular bail in Crime No.37/2025. The Sessions Court considered the said applications and allowed the same in Crl.Misc.Nos.426/2025 and 442/2025 on the ground of parity that the co-accused in another petition had also been granted bail. In Crl.Misc.No.423/2025, the petition was allowed on the ground that the name of the accused was not in the complaint or the FIR, but was subsequently implicated during the course of investigation. Further, in



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Crl.Misc.No.394/2025 and Crl.Misc.No.395/2025, the petitions were allowed on the ground that the accused do not have any criminal antecedents.

9. To appreciate the various contentions raised by the learned counsels, it would be useful to refer to the decision of the Hon'ble Supreme Court in the case of **TEHSEEN S POONAWALLA** referred *supra*. The relevant portion is extracted below:

"15. *At the very inception, while delving into the rivalised submissions advanced at the Bar, it is necessary to understand that a controversy of the present nature deserves to be addressed with enormous sensitivity. We had issued certain directions as an interim measure and there has been some compliance but we are of the considered opinion that the situations that have emerged and the problems that have arisen need to be totally curbed. The States have the onerous duty to see that no individual or any core group take law into their own hands. Every citizen has the right to intimate the police about the infraction of law. As stated earlier, an accused booked for an offence is entitled to fair and speedy trial under the*



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constitutional and statutory scheme and, thereafter, he may be convicted or acquitted as per the adjudication by the judiciary on the basis of the evidence brought on record and the application of legal principles. There cannot be an investigation, trial and punishment of any nature on the streets. The process of adjudication takes place within the hallowed precincts of the courts of justice and not on the streets. No one has the right to become the guardian of law claiming that he has to protect the law by any means. It is the duty of the States, as has been stated in Nandini Sundar v. State of Chhattisgarh [Nandini Sundar v. State of Chhattisgarh, (2011) 7 SCC 547 : (2011) 2 SCC (L&S) 762] , to strive, incessantly and consistently, to promote fraternity amongst all citizens so that the dignity of every citizen is protected, nourished and promoted. That apart, it is the responsibility of the States to prevent untoward incidents and to prevent crime.

18. *Lynching is an affront to the rule of law and to the exalted values of the Constitution itself. We may say without any fear of contradiction that lynching by unruly mobs and barbaric violence arising out of incitement and instigation cannot be allowed to become the order of the day. Such*



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vigilantism, be it for whatever purpose or borne out of whatever cause, has the effect of undermining the legal and formal institutions of the State and altering the constitutional order. These extra-judicial attempts under the guise of protection of the law have to be nipped in the bud; lest it would lead to rise of anarchy and lawlessness which would plague and corrode the nation like an epidemic. The tumultuous dark clouds of vigilantism have the effect of shrouding the glorious ways of democracy and justice leading to tragic breakdown of the law and transgressing all forms of civility and humanity. Unless these incidents are controlled, the day is not far when such monstrosity in the name of self-professed morality is likely to assume the shape of a huge cataclysm. It is in direct violation of the quintessential spirit of the rule of law and of the exalted faiths of tolerance and humanity.

19. *Mob vigilantism and mob violence have to be prevented by the Governments by taking strict action and by the vigil society who ought to report such incidents to the State machinery and the police instead of taking the law into their own hands. Rising intolerance and growing polarisation expressed through spate of incidents of mob*



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violence cannot be permitted to become the normal way of life or the normal state of law and order in the country. Good governance and nation building require sustenance of law and order which is intricately linked to the preservation of the marrows of our social structure. In such a situation, the State has a sacrosanct duty to protect its citizens from unruly elements and perpetrators of orchestrated lynching and vigilantism with utmost sincerity and true commitment to address and curb such incidents which must reflect in its actions and schemes.

24. *Lynching and mob violence are creeping threats that may gradually take the shape of a Typhon-like monster as evidenced in the wake of the rising wave of incidents of recurring patterns by frenzied mobs across the country instigated by intolerance and misinformed by circulation of fake news and false stories. There has been an unfortunate litany of spiralling mob violence and agonised horror presenting a grim and gruesome picture that compels us to reflect whether the populace of a great Republic like ours has lost the values of tolerance to sustain a diverse culture. Besides, bystander apathy, numbness of the mute spectators of the scene of the crime, inertia of the*



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law-enforcing machinery to prevent such crimes and nip them in the bud and grandstanding of the incident by the perpetrators of the crimes including in the social media aggravates the entire problem. One must constantly remind oneself that an attitude of morbid intolerance is absolutely intolerable and agonisingly painful.

40. *In view of the aforesaid, we proceed to issue the following guidelines:*

A. Preventive Measures:

40.1. *The State Governments shall designate, a senior police officer, not below the rank of Superintendent of Police, as Nodal Officer in each district. Such Nodal Officer shall be assisted by one of the DSP rank officers in the district for taking measures to prevent incidents of mob violence and lynching. They shall constitute a special task force so as to procure intelligence reports about the people who are likely to commit such crimes or who are involved in spreading hate speeches, provocative statements and fake news.*

40.2. *The State Governments shall forthwith identify districts, sub-divisions and/or villages where instances of lynching and mob violence have been reported in the recent past, say, in the last five years. The process of identification should be*



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done within a period of three weeks from the date of this judgment, as such time period is sufficient to get the task done in today's fast world of data collection.

40.3. *The Secretary, Home Department of the States concerned shall issue directives/advisories to the Nodal Officers of the districts concerned for ensuring that the officers in-charge of the police stations of the identified areas are extra cautious if any instance of mob violence within their jurisdiction comes to their notice.*

40.4. *The Nodal Officer, so designated, shall hold regular meetings (at least once a month) with the local intelligence units in the district along with all Station House Officers of the district so as to identify the existence of the tendencies of vigilantism, mob violence or lynching in the district and take steps to prohibit instances of dissemination of offensive material through different social media platforms or any other means for inciting such tendencies. The Nodal Officer shall also make efforts to eradicate hostile environment against any community or caste which is targeted in such incidents.*

40.5. *The Director General of Police/the Secretary, Home Department of the States concerned shall take regular review meetings (at*



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least once a quarter) with all the Nodal Officers and State Police Intelligence heads. The Nodal Officers shall bring to the notice of the DGP any inter-district coordination issues for devising a strategy to tackle lynching and mob violence related issues at the State level.

40.6. *It shall be the duty of every police officer to cause a mob to disperse, by exercising his power under Section 129 CrPC, which, in his opinion, has a tendency to cause violence or wreak the havoc of lynching in the disguise of vigilantism or otherwise.*

40.7. *The Home Department of the Government of India must take initiative and work in coordination with the State Governments for sensitising the law-enforcement agencies and by involving all the stakeholders to identify the measures for prevention of mob violence and lynching against any caste or community and to implement the constitutional goal of social justice and the Rule of Law.*

40.8. *The Director General of Police shall issue a circular to the Superintendents of Police with regard to police patrolling in the sensitive areas keeping in view the incidents of the past and the intelligence obtained by the office of the Director General. It singularly means that there should be*



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seriousness in patrolling so that the anti-social elements involved in such crimes are discouraged and remain within the boundaries of law thus fearing to even think of taking the law into their own hands.

40.9. *The Central and the State Governments should broadcast on radio and television and other media platforms including the official websites of the Home Department and Police Department of the States that lynching and mob violence of any kind shall invite serious consequence under the law.*

40.10. *It shall be the duty of the Central Government as well as the State Governments to take steps to curb and stop dissemination of irresponsible and explosive messages, videos and other material on various social media platforms which have a tendency to incite mob violence and lynching of any kind.*

40.11. *The police shall cause to register FIR under Section 153-A IPC and/or other relevant provisions of law against persons who disseminate irresponsible and explosive messages and videos having content which is likely to incite mob violence and lynching of any kind.*

40.12. *The Central Government shall also issue appropriate directions/advisories to the State*



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Governments which would reflect the gravity and seriousness of the situation and the measures to be taken.

B. Remedial Measures:

40.13. *Despite the preventive measures taken by the State Police, if it comes to the notice of the local police that an incident of lynching or mob violence has taken place, the jurisdictional police station shall immediately cause to lodge an FIR, without any undue delay, under the relevant provisions of IPC and/or other provisions of law.*

40.14. *It shall be the duty of the Station House Officer, in whose police station such FIR is registered, to forthwith intimate the Nodal Officer in the district who shall, in turn, ensure that there is no further harassment of the family members of the victim(s).*

40.15. *Investigation in such offences shall be personally monitored by the Nodal Officer who shall be duty-bound to ensure that the investigation is carried out effectively and the charge-sheet in such cases is filed within the statutory period from the date of registration of the FIR or arrest of the accused, as the case may be.*



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40.16. *The State Governments shall prepare a lynching/mob violence victim compensation scheme in the light of the provisions of Section 357-A CrPC within one month from the date of this judgment. In the said scheme for computation of compensation, the State Governments shall give due regard to the nature of bodily injury, psychological injury and loss of earnings including loss of opportunities of employment and education and expenses incurred on account of legal and medical expenses. The said compensation scheme must also have a provision for interim relief to be paid to the victim(s) or to the next of kin of the deceased within a period of thirty days of the incident of mob violence/lynching.*

40.17. *The cases of lynching and mob violence shall be specifically tried by designated court/Fast Track Courts earmarked for that purpose in each district. Such courts shall hold trial of the case on a day-to-day basis. The trial shall preferably be concluded within six months from the date of taking cognizance. We may hasten to add that this direction shall apply to even pending cases. The District Judge shall assign those cases as far as possible to one jurisdictional court so as to ensure expeditious disposal thereof. It shall be the duty of the State Governments and the Nodal Officers in*



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particular to see that the prosecuting agency strictly carries out its role in appropriate furtherance of the trial.

40.18. *To set a stern example in cases of mob violence and lynching, upon conviction of the accused person(s), the trial court must ordinarily award maximum sentence as provided for various offences under the provisions of the IPC.*

40.19. *The courts trying the cases of mob violence and lynching may, on application by a witness or by the Public Prosecutor in relation to such witness or on its own motion, take such measures, as it deems fit, for protection and for concealing the identity and address of the witness.*

40.20. *The victim(s) or the next of kin of the deceased in cases of mob violence and lynching shall be given timely notice of any court proceedings and he/she shall be entitled to be heard at the trial in respect of applications such as bail, discharge, release and parole filed by the accused persons. They shall also have the right to file written submissions on conviction, acquittal or sentencing.*

40.21. *The victim(s) or the next of kin of the deceased in cases of mob violence and lynching shall receive free legal aid if he or she so chooses and engage any advocate of his/her choice from*



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amongst those enrolled in the legal aid panel under the Legal Services Authorities Act, 1987.

C. Punitive Measures:

40.22. *Wherever it is found that a police officer or an officer of the district administration has failed to comply with the aforesaid directions in order to prevent and/or investigate and/or facilitate expeditious trial of any crime of mob violence and lynching, the same shall be considered as an act of deliberate negligence and/or misconduct for which appropriate action must be taken against him/her and not limited to departmental action under the service rules. The departmental action shall be taken to its logical conclusion preferably within six months by the authority of the first instance.*

40.23. *In terms of the ruling of this Court in Arumugam Servai v. State of T.N. [Arumugam Servai v. State of T.N., (2011) 6 SCC 405 : (2011) 2 SCC (Cri) 993] , the States are directed to take disciplinary action against the officials concerned if it is found that (i) such official(s) did not prevent the incident, despite having prior knowledge of it, or (ii) where the incident has already occurred, such official(s) did not promptly apprehend and institute criminal proceedings against the culprits.*



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41. *The measures that are directed to be taken have to be carried out within four weeks by the Central and the State Governments. Reports of compliance be filed within the said period before the Registry of this Court.*

42. *We may emphatically note that it is axiomatic that it is the duty of the State to ensure that the machinery of law and order functions efficiently and effectively in maintaining peace so as to preserve our quintessentially secular ethos and pluralistic social fabric in a democratic set-up governed by rule of law. In times of chaos and anarchy, the State has to act positively and responsibly to safeguard and secure the constitutional promises to its citizens. The horrendous acts of mobocracy cannot be permitted to inundate the law of the land. Earnest action and concrete steps have to be taken to protect the citizens from the recurrent pattern of violence which cannot be allowed to become "the new normal". The State cannot turn a deaf ear to the growing rumblings of its People, since its concern, to quote Woodrow Wilson, "must ring with the voices of the people". The exigencies of the situation require us to sound a clarion call for earnest action to strengthen our inclusive and all-embracing social order which would, in turn,*



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reaffirm the constitutional faith. We expect nothing more and nothing less."

10. It would further be useful to refer to the decision of the Hon'ble Supreme Court in the case of **JAGJEET SINGH AND OTHERS** referred *supra*, the relevant portion of the same is extracted below:

"35. *We find ourselves in agreement with the learned Senior Counsel for the appellants that the High Court has completely lost sight of the principles enumerated above, which conventionally govern a court's discretion when deciding the question whether or not to grant bail. Instead of looking into aspects such as the nature and gravity of the offence; severity of the punishment in the event of conviction; circumstances which are peculiar to the accused or victims; likelihood of the accused fleeing; likelihood of tampering with the evidence and witnesses and the impact that his release may have on the trial and the society at large; the High Court has adopted a myopic view of the evidence on the record and proceeded to decide the case on merits.*

36. *The High Court has taken into account several irrelevant considerations, whilst*



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simultaneously ignoring judicial precedents and established parameters for grant of bail. It has been ruled on numerous occasions that an FIR cannot be treated as an encyclopaedia of events. While the allegations in the FIR, that the accused used his firearm and the subsequent post-mortem and injury reports may have some limited bearing, there was no legal necessity to give undue weightage to the same. Moreover, the observations on merits of a case when the trial has yet to commence, are likely to have an impact on the outcome of the trial proceedings.

37. Keeping all these factors cumulatively in mind, we have no difficulty in answering Question (B) also in the affirmative. It is held that the order under challenge does not conform to the relevant considerations.

C. Whether interference is warranted by this Court

38. As a natural and consequential corollary to the findings under Questions (A) and (B) above, the impugned order of the High Court dated 10-2-2022 [Ashish Mishra v. State of U.P., 2022 SCC OnLine All 232] (as corrected on 14-2-2022 [Ashish Mishra v. State of U.P., 2022 SCC OnLine



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All 233]) cannot be sustained and has to be set aside. Ordered accordingly.

39. *As a sequel thereto, bail bonds of the respondent-accused are cancelled and he is directed to surrender within a week.*

40. *Having held so, we cannot be oblivious to what has been urged on behalf of the respondent-accused that cancellation of bail by this Court is likely to be construed as an indefinite foreclosure of his right to seek bail. It is not necessary to dwell upon the wealth of case law which, regardless of the stringent provisions in a penal law or the gravity of the offence, has time and again recognised the legitimacy of seeking liberty from incarceration. To put it differently, no accused can be subjected to unending detention pending trial, especially when the law presumes him to be innocent until proven guilty. Even where statutory provisions expressly bar the grant of bail, such as in cases under the Unlawful Activities (Prevention) Act, 1967, this Court has expressly ruled that after a reasonably long period of incarceration, or for any other valid reason, such stringent provisions will melt down, and cannot be measured over and above the right of liberty guaranteed under Article 21 of the Constitution (see Union of India v. K.A.*



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Najeeb [Union of India v. K.A. Najeeb, (2021) 3 SCC 713, paras 15 and 17]).

41. *We are, thus, of the view that this Court on account of the factors like:*

(i) irrelevant considerations having impacted the impugned order granting bail;

(ii) the High Court exceeding its jurisdiction by touching upon the merits of the case;

(iii) denial of victims' right to participate in the proceedings; and

(iv) the tearing hurry shown by the High Court in entertaining or granting bail to the respondent-accused;

can rightfully cancel the bail, without depriving the respondent-accused of his legitimate right to seek enlargement on bail on relevant considerations.

42. *We are thus inclined to allay the apprehension in the mind of the learned Senior Counsel for the respondent-accused that the cancellation of bail by this Court shall amount to denial bail to the respondent-accused till conclusion of the trial.*

43. *This Court is tasked with ensuring that neither the right of an accused to seek bail pending*



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trial is expropriated, nor the "victim" or the State are denuded of their right to oppose such a prayer. In a situation like this, and with a view to balance the competing rights, this Court has been invariably remanding the matter(s) back to the High Court for a fresh consideration. [Naresh Pal Singh v. Raj Karan, (1999) 9 SCC 104, para 12 : 1999 SCC (Cri) 466; Brij Nandan Jaiswal v. Munna, (2009) 1 SCC 678, paras 12 and 13 : (2009) 1 SCC (Cri) 594; Hari Om Yadav v. Dinesh Singh Jaat, 2013 SCC OnLine SC 610, para 6.] We are also of the considered view that ends of justice would be adequately met by remitting this case to the High Court for a fresh adjudication of the bail application of the respondent-accused, in a fair, impartial and dispassionate manner, and keeping in view the settled parameters which have been elaborated in paras 29 to 32 of this order."

11. It would also be useful to refer to the decision of the Hon'ble Supreme Court in the case of **Y Vs. STATE OF RAJASTHAN AND ANOTHER**⁸, the relevant portion of the said decision is extracted below:

⁸ (2022) 9 SCC 269



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"8. This Court has, in a catena of judgments, outlined the considerations on the basis of which discretion under Section 439CrPC has to be exercised while granting bail. In Gurcharan Singh v. State (Delhi Admn.) [Gurcharan Singh v. State (Delhi Admn.), (1978) 1 SCC 118 : 1978 SCC (Cri) 41] this Court has held as to the various parameters which must be considered while granting bail. This Court held as follows : (SCC pp. 127-28, para 24)

"24. ... Even so, the High Court or the Court of Session will have to exercise its judicial discretion in considering the question of granting of bail under Section 439(1)CrPC of the new Code. The overriding considerations in granting bail to which we adverted to earlier and which are common both in the case of Section 437(1) and Section 439(1)CrPC of the new Code are the nature and gravity of the circumstances in which the offence is committed; the position and the status of the accused with reference to the victim and the witnesses; the likelihood, of the accused fleeing from justice; of repeating the offence; of jeopardising his own life being faced with a grim prospect of possible conviction in the case; of tampering with witnesses; the history of the case as well as of its investigation and other relevant grounds which, in view of so many valuable factors, cannot be exhaustively set out."

9. The above factors do not constitute an exhaustive list. The grant of bail requires the consideration of various factors which ultimately depends upon the specific facts and circumstances of the case before the Court. There is no



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straitjacket formula which can ever be prescribed as to what the relevant factors could be. However, certain important factors that are always considered, inter alia, relate to prima facie involvement of the accused, nature and gravity of the charge, severity of the punishment, and the character, position and standing of the accused [see State of U.P. v. Amarmani Tripathi [State of U.P. v. Amarmani Tripathi, (2005) 8 SCC 21 : 2005 SCC (Cri) 1960 (2)]].

10. *At the stage of granting bail the Court is not required to enter into a detailed analysis of the evidence in the case. Such an exercise may be undertaken at the stage of trial.*

11. *Once bail has been granted, the appellate court is usually slow to interfere with the same as it pertains to the liberty of an individual. A Constitution Bench of this Court in Bihar Legal Support Society v. Chief Justice of India [Bihar Legal Support Society v. Chief Justice of India, (1986) 4 SCC 767 : 1986 SCC (Cri) 537] observed as follows : (SCC p. 770, para 3)*

"3. ... It is for this reason that the Apex Court has evolved, as a matter of self-discipline, certain norms to guide it in the exercise of its discretion in cases where special leave petition are filed against orders granting or refusing bail or anticipatory bail. ... We reiterate this policy



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principle laid down by the bench of this Court and hold that this Court should not ordinarily, save in exceptional cases, interfere with orders granting or refusing bail or anticipatory bail, because these are matters in which the High Court should normally be the final arbiter.”
(emphasis supplied)

12. *The above principle has been consistently followed by this Court. In Prasanta Kumar Sarkar v. Ashis Chatterjee [Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765] this Court held as under : (SCC p. 499, paras 9-10)*

“9. We are of the opinion that the impugned order [Ashish Chatterjee v. State of W.B., CRM No. 272 of 2010, order dated 11-1-2010 (Cal)] is clearly unsustainable. 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;*



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(vii) reasonable apprehension of the witnesses being influenced; and
(viii) danger, of course, of justice being thwarted by grant of bail.

10. It is manifest that if the High Court does not advert to these relevant considerations and mechanically grants bail, the said order would suffer from the vice of non-application of mind, rendering it to be illegal."

13. In Mahipal v. Rajesh

Kumar [Mahipal v. Rajesh Kumar, (2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558] this Court followed the holding in Prasanta Kumar Sarkar [Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765] and held as follows : (Mahipal case [Mahipal v. Rajesh Kumar, (2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558] , SCC p. 126, para 17)

"17. Where a court considering an application for bail fails to consider relevant factors, an appellate court may justifiably set aside the order granting bail. An appellate court is thus required to consider whether the order granting bail suffers from a non-application of mind or is not borne out from a prima facie view of the evidence on record. It is thus necessary for this Court to assess whether, on the basis of the evidentiary record, there existed a prima facie or reasonable ground to believe that the accused had committed the crime, also taking into account the seriousness of the crime and the severity of the punishment."

14. Recently, a three-Judge Bench of this Court in Jagjeet Singh v. Ashish Mishra [Jagjeet Singh v. Ashish Mishra, (2022) 9 SCC 321] , has



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reiterated the factors that the Court must consider at the time of granting bail under Section 439CrPC, as well as highlighted the circumstances where this Court may interfere when bail has been granted in violation of the requirements under the abovementioned section. This Court observed as follows : (SCC para 27)

"27. We may, at the outset, clarify that power to grant bail under Section 439CrPC, is one of wide amplitude. A High Court or a Sessions Court, as the case may be, are bestowed with considerable discretion while deciding an application for bail. But, as has been held by this Court on multiple occasions, this discretion is not unfettered. On the contrary, the High Court or the Sessions Court must grant bail after the application of a judicial mind, following well-established principles, and not in a cryptic or mechanical manner."

15. *It is worth noting that what is being considered in this case relates to whether the High Court has exercised the discretionary power under Section 439CrPC in granting bail appropriately. Such an assessment is different from deciding whether circumstances subsequent to the grant of bail have made it necessary to cancel the same. The first situation requires the Court to analyse whether the order granting bail was illegal, perverse, unjustified or arbitrary. On the other hand, an application for cancellation of bail looks at*



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whether supervening circumstances have occurred warranting cancellation.

16. *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 held as follows : (SCC p. 513, para 12)*

"12. We have referred to certain principles to be kept in mind while granting bail, as has been laid down by this Court from time to time. It is well settled in law that cancellation of bail after it is granted because the accused has misconducted himself or of some supervening circumstances warranting such cancellation have occurred is in a different compartment altogether than an order granting bail which is unjustified, illegal and perverse. If in a case, the relevant factors which should have been taken into consideration while dealing with the application for bail have not been taken note of, or bail is founded on irrelevant considerations, indisputably the superior court can set aside the order of such a grant of bail. Such a case belongs to a different category and is in a separate realm. While dealing with a case of second nature, the court does not dwell upon the violation of conditions by the accused or the supervening circumstances that have happened subsequently. It, on the contrary, delves into the justifiability and the soundness of the order passed by the court."

17. *In the present case, it is necessary to determine whether the High Court while granting*



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bail to Respondent 2-accused has properly exercised its discretion under Section 439CrPC by following various parameters laid down by this Court. A bare perusal of the impugned order [Omprakash v. State of Rajasthan, 2021 SCC OnLine Raj 3499] passed by the High Court does not suggest that the Court has considered any of the relevant factors for grant of bail."

12. The learned counsels for the next of kin of the deceased and the State contend that the guidelines issued in the **TEHSEEN S PONNAWALLA** referred *supra* by the Hon'ble Supreme Court clearly indicate that the victim or the next of kin of the victim must be given timely notice of any Court proceedings and he/she shall be entitled to be heard at the trial in respect of applications such as bail, discharge, release and parole filed by the accused persons. In the instant case, it is not in dispute that the Sessions Court has neither issued notice nor heard the next of kin of the victim, while considering the application for regular bail, hence, it is contended that as a result, the order of grant of bail stands vitiated. To consider the same, it



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would be important to understand the distinction between setting aside an order of bail and cancellation of bail. The findings of the Hon'ble Supreme Court in the case of **Y** referred *supra* indicates that in order to set aside an order granting bail, the Court has to analyze whether the order granting bail was illegal, perverse, unjustified or arbitrary, whereas on the other hand, in order to cancel a grant of bail, it needs to look at whether supervening circumstances have occurred warranting cancellation such as if there was any violation of bail conditions. In the instant case, the case clearly falls within the first category as there is no allegation against the accused for non-compliance of any bail conditions nor that he has committed any crime warranting such cancellation of bail. The challenge to the order of bail, in the instant case, is on the ground that the Sessions Court has failed to comply with the procedure of issuing notice and hearing the next of kin of the deceased.



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13. The Hon'ble Supreme Court in the case of **JAGJEET SINGH AND OTHERS** referred *supra* clearly indicates that denial of the right of victim(s) or the next of kin of the deceased to participate in the proceedings can be a ground to cancel the bail without depriving the respondent-accused of his legitimate right to seek enlargement on bail on relevant considerations.

14. The decision of the Hon'ble Supreme Court in the case of **SAGAR** referred *supra* states that parity with the co-accused cannot be the sole ground to grant bail and the role of the accused in each case has to be looked into. The said decision will not aid the learned counsel for the next of kin of the deceased as though the ground of parity cannot be mechanically applied to co-accused while granting them bail, the Court must investigate the role of the accused. However, in the instant case, the crime of mob violence and lynching is collective in nature, and no specific role can be assigned to an accused and the facts



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and charges against the co-accused to whom bail was granted by this Co-ordinate Bench and the accused in the instant case are one and the same. Hence, the contention that the ground of parity cannot apply to the accused, is required to be rejected.

15. Keeping in mind the aforesaid propositions of law, I am of the considered view that the Sessions Court has committed a grave error in failing to issue timely notice to the next of kin of the deceased and also failed to provide an opportunity to the next of kin of the deceased to object the application seeking regular bail filed by the accused. However, I am not inclined to set aside the order granting bail for the following reasons:

- a) The charge sheet has already been filed – The material on record clearly indicates that the chargesheet in the instant case has already been filed, hence, no question of custodial interrogation would arise.



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- b) The Co-ordinate Bench of this Court has granted bail after considering the objections of the next kin of the victim – The Co-ordinate Bench in Crl.P.Nos.1258/2025, 1431/2025, 6850/2026, 1487/2026 and 14203/2025 has considered the application filed by the accused for granting the regular bail, also heard the objections of the next of kin of the victim and proceeded to grant bail. The petitions in the aforesaid cases as well as the instant case arise out of the same set of facts and charges. Hence, denying bail to the accused herein would amount to disparity.
- c) The Hon'ble Supreme Court has rejected the appeal filed by the State challenging the grant of bail to accused Nos.4 and 11 – The SLP(Crl)No.13498/2026 filed by the State against the accused No.4 and SLP(Crl)No.13907/2026 filed by the State against the accused No.11. It is to be noted that the grant of



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bail to the accused No.4 by the Co-ordinate Bench of this Court was without hearing the next of kin of the deceased and the same has been affirmed by the Hon'ble Supreme Court.

d) Further delay in disposal of the cases - The Hon'ble Supreme Court in **TEHSEEN S POONAWALLA** referred *supra* has clearly laid down the time limit of 6 months for disposal of cases involving mob violence/lynching. Hence, setting aside the order for grant of bail and ordering for re-consideration of the same by the Sessions Court after hearing the next of kin of the deceased would further delay the disposal of the cases.

e) Liberty to be curtailed only in exceptional circumstances - It is trite law that the liberty of an individual must not be curtailed unless it is absolutely necessary. In the instant case, though bail has been granted without following the due procedure, neither



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the petitioner nor the State are alleging that the accused have violated the conditions of bail or have committed any further crime. Hence, I am of the view that the liberty of the accused cannot be curtailed merely on the ground of procedural lapse by the Court specially when there is no allegation of violation of bail conditions or misconduct.

16. Insofar as the contention of the learned State Public Prosecutor-I appearing for the State to include an additional condition in the bail conditions to make themselves present before the Police Station to prevent witness tampering is concerned, I am of the view that the same is required to be rejected as there is no allegation against the accused either for violation of the existing bail conditions or for tampering of any witness.

17. The learned counsel appearing for the next of kin of the deceased also contends that the guidelines in **TEHSEEN S POONAWALLA** referred *supra* clearly



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indicate that the State shall formulate a scheme for computation of the compensation for the victim and the said scheme must also have provision for interim relief to be paid to the victim(s) or to the next of kin of the deceased within a period of thirty days of the incident of mob violence or lynching, however, no such scheme for granting interim compensation has been formulated by the State. The learned State Public Prosecutor-I for the State has filed a memo along with documents indicating a detailed point-wise compliance report on each of the directions issued by the Hon'ble Supreme Court under paragraph 40 of **TEHSEEN S POONAWALLA** referred *supra*, specifically indicating compliance in respect of Crime No.37/2025 registered by Mangaluru Rural Police station. The relevant chart produced by the State is extracted below:

S.N.	Points	Compliance
a.	Appointment of the District Nodal Officer and constitution of the Special Task Force	District Nodal Officer has been appointed and Special Task Force has been constituted vide this office circular



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	(Para 40.1)	No.LAW(1)/16/2027 dtd:03.09.2018
b.	Identification of vulnerable districts, sub-divisions and villages (Para 40.2)	Yes – Identified and report already sent vide this office letter No.LAW(1)/16/2027 dtd 05.09.2023
c.	Issuance of advisories and preventive measure by the Home Department and Police Authorities (Para 40.3)	Yes – Preventive measures on Mob Lynching has been issued vide this office Circular No.LAW(1)/16/2027 dtd 03.08.2018
d.	Monthly meetings of the Nodal Officer and quarterly review meetings by the Director General of Police/Home Department (Para 40.4 and 40.5)	Conducted
e.	Patrolling in vulnerable areas based on intelligence and past incidents (Para 40.8)	Police patrolling in sensitive areas is done regularly
f.	Preventive patrolling, public awareness programmes and monitoring of Social media platforms (Para 40.10)	Complied. Circular no:L&O/MISC/06/2026 dtd:07.02.2026 pertaining to guidelines for registration of FIRs in cases arising out of social media posts have been issued.
g.	Registration of FIRs against persons disseminating inflammatory content (Para 40.11)	
h.	Immediate registration of FIR in the present case, intimation to the Nodal Officer, Supervision of	The mob lynching which happened under Mangaluru Rural PS limits on 27.04.2025 was first reported as UDR on the same day. During



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	investigation and timely filing of the chargesheet (Para 40.13)	interrogation, it was disclosed as mob lynching case, after which FIR was immediately registered on 28.04.2025 and taken up for investigation, was timely completed and charge sheet was submitted on 25.07.2025
i.	Implementation of the Victim compensation scheme, including payment of interim relief within the prescribed period (Para 40.16)	Government Order has been issued vide No.HD 01 CRR 2023 dtd: 27.09.2023. However, in the present case victim's compensation is rejected for the reasons cited by District Legal Services Authority.
j.	Conduct of expeditious trial, witness protection measures, victim participation in judicial proceedings and provision of free legal aid; and (Para 40.17 & 40.21)	Regarding this, letter No.LAW(1)/16/2017-18 dtd: 20.08.2018 has been sent to Government for taking action at their end. Free legal aid scheme details are being shared with the victims and their kins.
k.	Action taken, if any, against officials for non-compliance with the direction of the Hon'ble Supreme Court (Para 40.23)	Police Inspector Sri.Shivakumar who was I/c of Mangaluru Rural PS was suspended vide order dated 01.05.2025 for not reporting the factual information to the higher officer within the stipulated time and for negligence in registration of FIR and at present department enquiry has been initiated against him

18. The aforesaid table as well as the perusal of the memo along with the documents indicate the compliance



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of the specific guidelines along with the actions taken by the State in its compliance. The Government Order No. HD 1 CRR 2023 dated 27.09.2023 at Annexure-7 along with the memo indicates the compensation to be provided to the victims or the next of kin of the victims. However, it is to be noticed that the said order does not contain any provision for grant of interim compensation to the victim or the next of his/her kin as per the guidelines in the case of **TEHSEEN S POONAWALLA**, referred *supra*. Hence, I am of the considered view that the State is required to be directed to formulate a scheme to inculcate the provision for interim compensation to the victims or the next of their kin in consonance with the guidelines in the case of **TEHSEEN S POONAWALLA**, referred *supra*.

19. Mob lynching represents a grave threat to the rule of law, human rights, and social fabric, as it replaces legal justice with brutal, collective lawlessness driven by prejudice, intolerance and hate. To effectively curb this



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alarming phenomenon, the Parliament in the BNS has introduced Section 103(2), which explicitly criminalizes mob-driven violence by stipulating that when a group of five or more persons acting in concert commits murder on the grounds of race, caste, community, sex, place of birth, language, personal belief or similar factors, every member of the group shall face stringent punishment, including the death penalty or imprisonment for life, alongside a mandatory fine.

20. However, it is rightly contended by the learned counsels that the procedure as laid down by the Hon'ble Supreme Court in the case of **TEHSEEN S PONNAWALLA** referred *supra*, has not been followed by the Trial Court as well as the Sessions Court and the other stake holders in various cases. Hence, it would be appropriate to re-iterate the guidelines issued in the case of **TEHSEEN S POONAWALLA** referred *supra* as follows:



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- a) The State Government shall ensure that a Nodal Officer is appointed in each District. Such Nodal Officer shall be assisted by a DSP rank officer in the District for taking measures against mob violence and lynching. The said Officers shall constitute a special task force to procure intelligence about the people who are likely to commit such crimes or who are involved in spreading hate speeches, provocative statements and fake news.
- b) The State Government shall identify Districts, subdivisions and/or villages where instances of lynching and mob violence have been reported in the recent past i.e. 5 years and the said identification must be completed within 3 weeks from the date of this judgment.
- c) The Secretary, Home Department of the State shall issue appropriate directions to the Nodal Officers to ensure extra vigilance and caution to be maintained



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by the Officers in-charge of the police stations in the identified areas.

- d) The State Government shall ensure that the Nodal Officers conduct a review meeting i.e. once every month to gather intelligence to identify the existence of the tendencies of vigilantism, mob violence or lynching in the District and take steps to prohibit instances of dissemination of offensive material through different social media platforms or any other means for inciting such tendencies.
- e) The Director General of Police/the Secretary, Home Department of the State shall conduct regular review meetings i.e. once in 3 months with all the Nodal Officers and the State police intelligence heads and the Nodal Officers shall bring to the notice of the DGP with regard to any inter-district co-ordination issues for devising a strategy to tackle lynching and mob violence related issues at the State level.



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- f) The State Government shall ensure that the Police Officers exercise their power under Section 148 of BNSS, to disperse a mob, which in his opinion, tends to cause violence or wreak havoc of lynching in the guise of vigilantism or otherwise.
- g) The Director General of Police shall issue a circular to the Superintendents of Police with regard to police patrolling in the sensitive areas to ensure that anti-social elements involved in such crimes are discouraged.
- h) The State Government shall broadcast on radio, television and other media platforms including the official websites of the Home Department of the State that lynching and mob violence of any kind shall invite serious consequences under the law.
- i) The State Government shall take steps to curb and stop dissemination of irresponsible and explosive messages, videos and other material on various



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social media platforms which have a tendency to incite mob violence and lynching of any kind.

- j) The State Government shall direct the police to register FIR under Section 196 of BNS and/or other relevant provisions of law against persons who disseminate irresponsible and explosive messages and videos having content which is likely to incite mob violence and lynching of any kind.
- k) The State Government shall ensure that despite the preventive measures, if it comes to the notice of the police that an incident of mob violence or lynching has taken place, then the jurisdictional police shall immediately cause to lodge an FIR, without any undue delay, under the relevant provisions of the BNS and/or other provisions of law.
- l) The Station House Officer, in whose police station the FIR is registered, shall ensure that the Nodal Officer is informed of the said incident, who in turn



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shall ensure that there is no further harassment of the family members of the victim(s).

- m) The Nodal Officer is duty bound to personally oversee the investigation into such offences and he/she shall ensure that the charge sheet in such cases is filed within the statutory period from the date of registration of the FIR or arrest of the accused.
- n) The State Government shall formulate a victim compensation scheme and ensure that the said scheme shall contain provision for interim relief to be paid to the victim(s) or to the next of kin of the deceased within a period of thirty days of the incident of mob violence/lynching.
- o) The cases of lynching and mob violence shall be specifically tried by the designated Court/Fast Track Courts earmarked for that purpose in each District. Such Courts shall hold trial of the case on a day-to-day basis. The trial shall preferably be concluded



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within six months from the date of taking cognizance and the said time-limit shall also apply to the pending cases.

- p) The District Judge shall assign cases involving mob violence as far as possible to one jurisdictional Court to ensure expeditious disposal thereof. It shall be the duty of the State Governments and the Nodal Officers to see that the prosecuting agency strictly carries out its role in appropriate furtherance of the trial.
- q) The Courts to set a stern example in cases of mob violence and lynching, upon conviction of the accused person(s) must ordinarily award maximum sentence as provided for various offences under the provisions of the BNS.
- r) The Courts shall ensure that the victim(s) or the next of kin of the deceased in cases of mob violence and lynching shall be given timely notice of any Court proceedings and he/she shall be entitled to be



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heard at the trial in respect of applications such as bail, discharge, release and parole filed by the accused persons.

- s) The Courts shall ensure that the victim(s) or the next of kin of the deceased in cases of mob violence and lynching shall be given sufficient opportunity to file written submissions on conviction, acquittal or sentencing.
- t) The Courts shall ensure that the victim(s) or the next of kin of the deceased in cases of mob violence and lynching shall receive free legal aid if he or she so chooses and engage any advocate of his/her choice from amongst those enrolled in the legal aid panel under the Legal Services Authorities Act, 1987.
- u) The Courts shall ensure that the victim(s) or the next of kin of the deceased in cases of mob violence and lynching shall, on an application by a witness or



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by the Public Prosecutor in relation to such witness or on its own motion, take such measures, as it deems fit, for protection and for concealing the identity and address of the witness.

- v) The Nodal Officers appointed in each District shall ensure that timely notice has been issued on the victim(s) or the next of kin of the deceased with regard to any Court proceedings and also provide any assistance in order to ensure that the victim(s) or the next of kin of the deceased are enabled to make their submissions in the Court proceedings.
- w) The State Government shall ensure that wherever it is found that a Police Officer or an Officer of the District administration has failed to comply with the aforesaid directions in order to prevent and/or investigate and/or facilitate expeditious trial of any crime of mob violence and lynching, the same shall be considered as an act of deliberate negligence and/or misconduct for which appropriate action



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must be taken against him/her and not limited to departmental action under the service rules. The authority of first instance before whom such a departmental action is taken shall endeavour to conclude the said proceedings within a period of 6 months.

- x) The State Government shall take disciplinary action against the officials concerned, if it is found that (i) such an official(s) did not prevent the incident despite prior knowledge, or (ii) where the incident has already taken place, he/she has failed to promptly apprehend and institute proceedings against the culprit(s).

21. In view of the aforesaid findings and the guidelines to be followed by the Trial Court and Sessions Court and other stake holders, I proceed to pass the following:



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ORDER

- (i) The Criminal petitions are ***dismissed***.
- (ii) The Registrar General/Registrar (Judicial) is directed to circulate this order to all the Principal District Judges and the Sessions Judges for mandatory compliance of the guidelines enumerated in the aforesaid order.
- (iii) The State Government is directed to formulate a scheme for grant of interim compensation to the victim or the next of kin of the victim within 3 months of passing of this order and file compliance report before this Court.
- (iv) The Registrar (Judicial) shall issue necessary circular to the concerned branches in the High Court with a direction to raise objections, if the victim is not arrayed as a party in cases involving mob violence or lynching.
- (v) The Principal District Judges shall issue necessary circular to the concerned branches with a



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direction to raise objections, if the victim is not arrayed as a party in cases involving mob violence or lynching.

(vi) The Sessions Court shall endeavor to complete the trial and pronounce the judgment in a time bound manner as stipulated by the Hon'ble Supreme Court in the case of the **TEHSEEN S POONAWALLA** referred *supra*.

No order as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

RV
List No.: 1 Sl No.: 1