

Judgment reserved on 29.07.2026

Delivered on 12.08.2026

HIGH COURT OF UTTARAKHAND AT NAINITAL

Bail Cancellation Application No. 1 of 2026

Chandra Shekhar.

.....Applicant.

Versus

State of Uttarakhand
and another.

.....Respondents.

Present:

Mr. A.S. Rawat, learned Sr. Advocate with Mr. S.K. Pandey, learned counsel for the applicant.

Mr. Himanshu Sain, learned AGA for the State.

Mr. Aditya Singh, learned counsel for the complainant.

Hon'ble Mr. Justice Rakesh Thapliyal, J.

1. The instant bail cancellation application is preferred by the applicant Chandra Shekhar, son of Kesh Ram, under Section 483 (3) of BNSS, 2023 for challenging the order dated 22.12.2025 passed by the Addl. Sessions Judge, Ramnagar, District - Nainital whereby respondent no. 2 Mahesh Chandra Tamta, son of Shankar Lal, who is facing trial for the offences punishable under Section 307, 120 B read with Section 34 IPC, arising out of FIR No. 395 of 2019, registered at Police Station - Ramnagar, District - Nainital, is enlarged on bail.

2. Brief facts of the present case are that a first information report was lodged by one Hemant Shekhar, son of present applicant on 02.10.2019 bearing FIR No. 395 of 2019, registered at Police Station - Ramnagar, District - Nainital against two unknown persons for the offences punishable under Section 307 read with 34 IPC. This FIR was investigated and subsequently on 12.01.2020, a charge sheet was filed against Irshad Ali, Kamran Ahmad and Adnan Magrub. "Kamran" and "Adnan Magrub" charge sheeted as absconders. Subsequently, another charge sheet 16 A of 2020 was also filed on 29.08.2020 against the respondent no. 2 for the offence punishable under

Section 307, 120B of IPC and thereafter, charges were framed on 18.12.2024 for the offence punishable under Section 307, 34, 120B of IPC.

3. Respondent no. 2, herein, who was charge sheeted, approached this Court and preferred an application under Section 482 Cr.P.C. i.e. C482 No. 323 of 2020 in order to challenge the charge sheet as well as the cognizance order, however, the Coordinate Bench by judgment and order dated 05.08.2022 dismissed the petition, against which, a Special Leave to Appeal (Criminal) No. 6823 of 2022 was preferred before the Hon'ble Apex Court and Hon'ble Apex Court disposed of the said SLP with liberty to take steps for discharge in the appropriate proceedings.

4. Apart from this, the respondent no. 2 also preferred Anticipatory Bail Application before this Court wherein anticipatory bail was granted on 29.09.2023, but subsequently, Anticipatory Bail Cancellation Application was moved number as ABCA No. 01 of 2025 and the Coordinate Bench cancelled the anticipatory bail by order dated 25.06.2025, relevant extract of which are being extracted herein below:

"3. As per the charge sheets dated 13.01.2020 and 29.08.2020, the Respondent No. 2 was arrayed as an accused, alongside co-accused Adnan Marghoob, Kamran Ahmad, and Irshad Ali. It is alleged that Respondent No. 2 conspired with Adnan and others, who in turn hired the two assailants. Recovery of arms and the motorcycle used in the offence was allegedly effected at the instance of co-accused Adnan. Call Detail Records (CDRs), CCTV footage, and other circumstantial material were also collected during the investigation.

4. *Learned Counsel for the Applicant submits that Respondent No. 2 absconded during the investigation and failed to cooperate with the trial court proceedings, resulting in the initiation of proceedings under Sections 82 and 83 CrPC. It is further contended that Respondent No. 2 misused the liberty granted to him by this Court, employed dilatory tactics, and persistently obstructed the trial by filing frivolous applications.*

5. *It is pointed out that Respondent No. 2 did not cross-examine prosecution witnesses despite repeated opportunities and refused to cooperate with the trial court's directions. Even after the supply of documents under Section 207 CrPC, Respondent No. 2 continued to file fresh applications under Section 91 CrPC and sought discharge under Section 227 CrPC, all of which were dismissed.*

6. *It is urged that the conduct of Respondent No. 2 obstructs the course of justice and justifies cancellation of the anticipatory bail granted earlier.*

7. *Per contra, learned Counsel for Respondent No. 2 submits that the Respondent has abided by the conditions of anticipatory bail and has appeared before the trial court in compliance with the directions. It is argued that the trial delays are not solely attributable to Respondent No. 2 and that he is within his legal rights to avail remedies under the law, including seeking discharge and supply of documents.*

8. *Learned Counsel also contends that no violation of any express bail condition has occurred, and that cancellation of bail at this stage would amount to pre-trial*

punishment. It is emphasized that the High Court had previously considered all relevant facts, including the charge sheet, while granting anticipatory bail.

9. The fundamental issue for consideration in the present matter is whether Respondent No. 2, Mahesh Chandra Tamta @ Mahesh Chandra Agri, has misused the liberty granted to him by this Court vide order dated 29.09.2023, and whether the facts and circumstances arising after the grant of anticipatory bail warrant its cancellation under Section 483(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

10. The factual matrix reflects that the FIR in question relates to a serious offence under Section 307 IPC, wherein the Applicant, an injured victim was shot in broad daylight by two assailants allegedly acting on the instructions of Respondent No. 2. The State has alleged a criminal conspiracy between the Respondent and co-accused, backed by documentary and electronic evidence, including CDRs, CCTV footage, recovery memos, and statements recorded under Section 161 CrPC.

11. The charge-sheet filed on 29.08.2020 specifically names Respondent No. 2 as a conspirator who orchestrated the attack on account of a land dispute. The material on record, including disclosure statements and corroborative witness testimony, prima facie connects the Respondent to the offence. While this Court had, at the relevant time, exercised its discretion to grant anticipatory bail, the subsequent conduct of the Respondent must now be tested on the anvil of fair trial and judicial process.

12. *After securing anticipatory bail, Respondent No. 2 did not approach the trial court in a manner expected of a person seeking equitable relief. The record reveals a pattern of calculated delay. Although charges were framed against him on 18.12.2024, his cross examination of prosecution witnesses has either been avoided or refused despite several opportunities.*

13. *The orders passed by the learned trial court clearly record that the accused was afforded repeated opportunities to cross-examine PW1, PW-2, and PW-3, with full access to the judicial file; however, he declined to avail the same. On 15.04.2024, 27.04.2024, and 17.05.2024, his Counsel expressly refused to cross-examine the witnesses despite having complete access to the records. Consequently, the trial court was constrained to close the right of cross-examination.*

14. *While the right to a fair trial includes access to prosecution documents under Section 207 CrPC, the misuse of that right to obstruct proceedings cannot be condoned. The record discloses that even after the Hon'ble Court's direction dated 16.05.2024 in Criminal Misc. Application No. 694 of 2024, Respondent No. 2 adopted a tactic of filing serial applications, citing the non-supply of documents, and inconsistently expanding the list of required documents between High Court and trial court pleadings.*

15. *Respondent No. 2 then filed an application under Section 91 CrPC for additional documents during the stage of charge framing, which was dismissed as not maintainable. Undeterred, he moved a discharge application under Section 227 CrPC, and upon its*

rejection, filed two further applications under Section 340 CrPC and the Contempt of Courts Act on the same date. Thereafter, he sought repeated adjournments to avoid arguments even on those applications. This conduct leaves no doubt that his participation in trial proceedings is neither sincere nor bona fide.

16. Moreover, the certified order sheets of the trial court show that Respondent No. 2 has sought exemption from appearance on at least 10 occasions since 03.10.2023. The Applicant has also placed on record photographs suggesting that the Respondent was physically fit and socially active during the period when the medical exemption was claimed.

5. Being aggrieved with the order dated 25.06.2025 passed by the Coordinate Bench in ABCA No. 01 of 2025, respondent no. 2 approached the Hon'ble Supreme Court by way of filing Special Leave to Appeal (Criminal) No. 11619 of 2025 wherein on 11.11.2025 the Hon'ble Supreme Court passed the following order:

"1. Heard learned counsel for the parties.

2. Petitioner was granted anticipatory bail by the High Court vide order dated 29.09.2023 in a case pursuant to FIR No. 395 of 2019, under Sections 307, 120-B and 34 of the IPC registered at Police Station Ramnagar, District Nainital,.

3. The aforesaid order of anticipatory bail was cancelled by the order impugned dated 25.06.2025 on one of the grounds that the petitioner had been adopting dilatory tactics and is not allowing the trial to proceed.

4. In the facts and circumstances of the case, we do not deem it proper to interfere with the bail cancellation order passed by the High Court.

5. However, we permit the petitioner to co-operate with the trial and not to adopt dilatory tactics and if the Court is satisfied with the bonafides of the petitioner in pursuing the trial, it will be open for the Trial Court to consider the bail application, if any, moved afresh by the petitioner after a period of three months.

6. The petitioner is directed to surrender before the Trial Court within a period of two weeks from today.

7. Special Leave Petition stands disposed of accordingly. Pending application(s), if any, shall stand disposed of."

6. Against the order dated 11.11.2025, respondent no. 2 moved a Misc. Application and the Hon'ble Supreme Court on 24.11.2025 passed the following order:

"1. Heard learned counsel for the parties.

2. The time allowed for surrendering to the applicant vide order dated 11.11.2025 by this Court is extended by two weeks and no more.

3. Accordingly, I.A. No. 300466/2025 is allowed and the miscellaneous application stands disposed of."

7. Subsequently, another Misc. Application No. 2442 of 2025 along with I.A. No. 313782 of 2025 was moved by respondent no. 2 for extension of time from surrendering and on 11.12.2025, the Hon'ble Supreme Court passed the following order:

"1. Since the review petition filed by the applicant/petitioner has already been dismissed by

this Court, we find no substance in the present miscellaneous application and the same stands rejected.

2. *However, the time granted to the applicant/petitioner for surrendering stands extended by a further period of one week from today, whereupon, the bail application, if any, shall be considered most expeditiously, in accordance with law.*

3. *Accordingly, I.A. No. 313782/2025 and the miscellaneous application stand dismissed."*

8. Thereafter, respondent no. 2 moved an application on 18.12.2025 through his counsel seeking permission to surrender through video conferencing with this condition that such surrender through video conferencing be treated to be valid and his judicial custody to be treated as "Symbolic Custody" in "Hospital". In this application, respondent no. 2 also highlighted his several ailments like he is unable to move by enclosing certificate of Doctor. He also cited certain judgments of the Hon'ble Supreme Court including Supreme Court's Guidelines of Video Conferencing. In addition to this, he also give reference of the decision of Hon'ble Supreme Court in *Suo Motu Writ Petition (Civil) No. 05 of 2020* and also the Modal Rules for Video Conferencing. This application was seriously objected by the prosecution through ADGC (Criminal) who filed the objection on 20.12.2025 by submitting that respondent no. 2 is deliberately avoiding the Trial Court proceeding and also not complying with the directions of Hon'ble Supreme Court whereby he was granted sufficient time to surrender.

9. Subsequently, the learned Addl. Sessions Judge refused to grant permission to appear through V.C., by rejecting the application since no supporting documents were placed.

10. Thereafter, respondent no. 2 filed an another application seeking bail on 22.12.2025 along with discharge summary report of Susheela Tiwari Government Hospital along with an application for surrender by putting his presence in Ambulance.

11. The learned Sessions Judge allowed both the applications on the same date i.e. on 22.12.2025 by accepting his surrender application and also enlarged him on bail.

12. Being aggrieved with the order granting bail to respondent no. 2 instant bail cancellation application is moved under Section 483 (3) on the ground that bail application moved by respondent no. 2, was premature and as such grant of bail is in complete disobedience of the order of Hon'ble Supreme Court dated 11.11.2025 passed in SLP (Crl.) No. 11619 of 2025 whereby the respondent no. 2 was directed to surrender within two weeks and cooperate with the trial and not to adopt dilatory tactics and if the Court is satisfied with the bonafides of the petitioner in pursuing the trial, it will be open for the Trial Court to consider the bail application, if any, moved afresh after a period of three months.

13. It is argued by the learned counsel for the applicant that the trial court committed illegality while granting bail to the respondent no. 2 on the first day of his surrender which completely against the letter and spirit of the order of Hon'ble Supreme Court dated 11.11.2025. Learned counsel further argued that the Trial Court exceeded it's power and jurisdiction

while entertaining the bail application of respondent no. 2 on the very same day of surrender. It is further argued that the respondent no. 2 was in fact, not suffering from any such serious disease and at the most, he is suffering from piles (haemorrhoids) which is not so serious and even as per discharge summary of Hospital, respondent no. 2 was discharged in a healthy condition and there was no serious ailment and the trial court entertained his bail application in a very haste manner by ignoring the dictum of Hon'ble Supreme Court.

14. Detailed objection has been filed by the respondent no. 2 by raising a preliminary objection that once the bail is granted, it cannot be cancelled merely because superior court might have taken a different view or because of the gravity of the offence. It is contended in paragraph 3 of the objection that cancellation of bail requires cogent material demonstrating, misuse of bail, after released, on tempering with evidence or witnesses or involvement in fresh criminal activity, flight risk or bail order being so patently perverse as to be nullity in law. In reference to the medical ailment, in paragraph 10 (ii) of the objection, respondent no. 2 states as under:

"10 (ii) Medical Condition: Haemorrhoids in a chronic or advanced stage can cause severe pain, rectal bleeding, difficulty in movement, and inability to sit for prolonged periods and apart from that he is suffering from Sciatica pain, which result in the Sharp, burning, or electric shock-like pain starting in the lower back or buttock, radiating down the thigh and leg and is caused by compression or irritation of the sciatic nerve, often from a herniated disc (A "slipped" disc pressing on nerve roots) resulting in the Narrowing of the spinal canal and

Piriformis Syndrome. At the midnight of the 16.12.2025, following the onset of acute sciatica pain, the Objector required hospitalization for further medical evaluation and treatment and was admitted to "Massh Manas, Super Speciality Hospital, Noida". The objector is a Law abiding citizen he has great respect towards the Hon'ble Apex Court Decision and in compliance of the same on 17.12.2025 he had taken Discharge from the "Massh Manas, Super Speciality Hospital, Noida" despite he had having acute pain, still he opted to travel RAMNAGAR for surrender in the compliance of order dated 11.12.2025 of Hon'ble Apex Court, but during travel his condition got worst and there was excessive bleeding from Haemorrhoids and pain He was taken in to emergency of Susheela Tiwari Hospital on 17.12.2025 and got admitted there, a government medical institution of the same district, and the discharge summary forms a contemporaneous record of a public authority carrying a presumption of authenticity. The notation "satisfactory on discharge" is standard clinical terminology indicating stabilisation after treatment and does not diminish the seriousness of the condition prior to admission. That on 22.12.2025 the objector has taken an discharge from the hospital and had surrender before the court and after getting bail due to his sever condition again admitted KBR Hospital, Kashipur and on date fixed 23.12.2025 marked his attendance at Court and re-admitted on 26.12.2025 at "Massh Manas, Super Speciality Hospital, Noida" and got discharged from there on 29.12.2025. The Applicant has placed no medical opinion on record to contradict the medical conditioning the answering respondent, and any lay interpretation of the medical

condition is legally untenable. It is also pertinent that the learned Court, in its order, recorded that the Objector was produced before the Court in an ambulance, which further supports the genuine medical condition."

15. Mr. Aditya Singh, learned counsel for respondent no. 2, submits that by the subsequent order of the Hon'ble Supreme Court dated 11.12.2025 all the previous orders passed on 11.11.2025 and 24.11.2025 are diluted, therefore, rider of the first order of Hon'ble Supreme Court, which is reflected from paragraph 5 will not come into the way and the trial court has rightly grant bail to respondent no. 2 since in the last order dated 11.12.2025 the Hon'ble Apex Court directed to surrender within one week and the bail application, if any, shall be considered most expeditiously in accordance with law. He submits that since by the last order, Hon'ble Supreme Court granted further one week time to surrender and simultaneously directed to decide the bail application, if any, as expeditiously as possible, therefore, the trial court has rightly enlarged the respondent no. 2 on bail, since bail application was moved immediately after surrender, which was allowed on the same day, which is in conformity with the direction of the Hon'ble Supreme Court.

16. In response to the arguments as advanced by Mr. Aditya Singh, Mr. A. S. Rawat, learned Sr. Advocate for the applicant submits that arguments as advanced by Mr. Aditya Singh are completely misconceived. He submits that the three months embargo on moving a regular bail application by the order of Supreme Court vide order dated 11.11.2025 was a substantive condition that remained entirely untouched by subsequent

order since then was neither reviewed nor modified and remain intact.

17. Mr. Rawat further argued that the order of Hon'ble Supreme Court dated 11.11.2025 are in two folds. First relates to surrender and second relates to embargo of moving regular bail application after three months that too only after after satisfaction of Trial Court whether respondent is sincere in pursuing the trial court proceedings.

He submits that by the second order dated 24.11.2025 the Hon'ble Supreme Court only extended time to surrender by two weeks and subsequently, by last order dated 11.12.2025 one week further time was granted to surrender. Mr. Rawat submits that in last order dated 11.12.2025, the Hon'ble Supreme Court clearly observed in paragraph 1 that review petition has already been dismissed and in para 2 only a week's time was further granted to surrender and in such an eventuality, the bail application, if any, shall be considered most expeditiously. He submits that on close scrutiny of the orders of Hon'ble Supreme Court, it is very clear that embargo in moving bail application by Supreme Court by it's order dated 11.11.2025 remain intact, which was neither recalled, modified nor reviewed, which itself is reflected from paragraph 1 of the last order dated 11.12.2025.

18. Heard learned counsel for the parties at length and perused the record.

19. Argument as advanced by Mr. Aditya Singh, who appears for respondent no. 2, is nothing but an attempt to misinterpret the doctrine of merger and is completely misconceived. The Hon'ble Supreme Court divides it's

directions in two distinct compartments one is time limit for surrender and another is restraining the respondent no. 2 from seeking bail for a period of three months. So far as time line, as fixed for filing of bail application after three months from surrender was never been disturbed by the Hon'ble Supreme Court. The direction issued by the last order of Hon'ble Supreme Court is to decide the application for bail expeditiously and it simply dictates for disposal. Thus, this Court is of the firm opinion that the trial court committed patent illegality in enlarging the respondent no. 2 on bail by accepting his surrender application on the same day. Even otherwise, final order of the Hon'ble Supreme Court explicitly observed that review of the earlier order had been rejected and as such three months waiting period for considering the bail application shall remain undisturbed.

Furthermore, the direction of the Superior Court to decide the application "expeditiously" cannot be construed as a license to bypass the condition of maintainability. The term "expeditiously" means to entertain legally maintainable application and it cannot validate the application which is completely premature. By entertaining and granting the regular bail to respondent no. 2 prior to the expiry of three months, the trial court has committed grave judicial error, misinterpreted the clear mandate of Hon'ble Supreme Court and in excess of it's jurisdiction. It is well settled law that non compliance of the specific pre-condition laid down by the Hon'ble Supreme Court undermines the judicial discipline and constitute a valid ground for cancellation of bail.

20. In view of the detailed discussion and reasons recorded above, the instant Bail Cancellation Application is allowed with the following direction:

- i. The regular bail granted to the respondent no. 2 vide order dated 22.12.2025 passed by the learned Addl. Session Judge is recalled and cancelled with immediate effect.
- ii. The respondent no. 2 is directed to surrender forthwith to the Trial Court failing which the police authorities particularly the SSP concerned is directed to take respondent no. 2 into custody immediately.
- iii. The respondent no. 2 shall be at liberty to move a fresh application for regular bail strictly upon expiration of the three month period as originally mandated by the Hon'ble Supreme Court.
- iv. On moving bail application on expiration of the three months period as mandated by the Hon'ble Supreme Court, the concerned Trial Court shall decide the bail application, after considering the bonafide of respondent no. 2 in pursuing the Trial Court proceeding.
- v. Registry shall send copy of this order to the concerned Trial Court as well as to Senior Superintendent of Police, Nainital for strict compliance.

(Rakesh Thapliyal, J.)
12.08.2026

SKS