



2026:AHC-LKO:34371

**HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW**

**CRIMINAL MISC. BAIL APPLICATION No. - 2140 of 2026**

Anil Kumar Tiwari

.....Applicant(s)

Versus

Central Bureau Of Investigation Lko.

.....Opposite Party(s)

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Counsel for Applicant(s) : Pranjali Krishna, Suhaib Ashraf  
Counsel for Opposite Party(s) : Aakash Prasad

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**Reserved on :- 17.04.2026  
Delivered on :- 13.05.2026**

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**Court No. - 14**

**HON'BLE SUBHASH VIDYARTHI, J.**

1. Heard Sri Gaurav Mehrotra, Senior Advocate assisted by Sri Pranjali Krishna, Sri Ramendra Yadav, Sri Suhaib Ashraf and Sri Mohd. Kaif Ali Advocates, the learned counsel for the applicant, Sri Aakash Prasad, Advocate assisted by Shri Yash Joshi, Shri Himanshu Singh, Shri Shashwat Dwivedi and Shri Ishan Khanna, Advocates, the learned counsel for the respondent- CBI.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.RC0062025A0033 under Section 61(2) of Bhartiya Nyay Sanhita (B.N.S.) read with Sections 7, 8, 10,13(2) read with 13(1)(a) of the Prevention of Corruption Act, 1988 and Section 316(5) of B.N.S. and substantive offence under Section 7, 13(2) read with 13(1)(a) of the Prevention of Corruption Act, 1988 and 316(5) of B.N.S., Police Station- CBI/ACB, District- Lucknow, pending in the Court of Learned Special Judge, Anti-Corruption, CBI-5, Lucknow.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 30.12.2025 against 7 named persons, including the applicant, and unknown persons, on the basis of an information received from some reliable source that some public servants of Central Goods and Service Tax (CGST), Jhansi, U.P. were indulging in corrupt and illegal activities in connivance with various private persons and they take bribe in exchange of extending favours in cases against them for tax violations. Co-accused Prabha Bhandari, I.R.S., Deputy Commissioner CGST, the applicant Anil Kumar Tiwari, Superintendent and co-accused Ajay Sharma, Superintendent were posted at CGST, Jhansi and they were indulging in such corrupt activities in criminal conspiracy with co-

accused Naresh Kumar Gupta, Advocate, who acts as a middle man on behalf of several firms against whom cases have been made out for tax evasion.

4. A team of the aforesaid officials for CGST, Jhansi, had conducted searches at the office premises and go-downs of M/s Jai Ambe Plywood and M/s Jai Durga Hardware on 18.12.2025 and had seized a huge undeclared stock of material and documents relating to tax evasion. Co-accused Lokesh Tolani, proprietor of M/s Jai Ambe Plywood and Raju Mangtani and Tejpal Mangtani, proprietors of M/S Jai Durga Hardware were trying to get their matter settled through Naresh Kumar Gupta, Advocate, who contacted the applicant for settlement of the matter in lieu of illegal gratification. The applicant informed Naresh Kumar Gupta that there was a lot of undeclared stock of material and incriminating evidences against the parties were found. The applicant also informed that 'Madam' Prabha Bhandari was present at the premises being searched and he assured that he would tender all possible favours. Lokesh Tolani and Raju Mangtani visited the applicant's resident on 19.12.2025 and he facilitated them by arranging return of keys of their offices/go-downs from his office.

5. It was also informed that on 22.12.2025, Naresh Kumar Gupta, Advocate and Tejpal Mangtani visited the residence of co-accused Ajay Sharma, Superintendent. On 23.12.2025, Tejpal Mangtani asked Raju Mangtani to deliver Rs.30 Lakhs towards bribe at the residence of Naresh Kumar Gupta, Advocate. On 25.12.2025, Raju Mangtani requested one Jagdish Bajaj to arrange Rs.40 Lakhs by the next morning as he had to deliver Rs.70 Lakhs and he stated that he had already deposited Rs.30 Lakhs for settling the matter. Lokesh Tolani told Raunak that his firm had been raided by CGST and the Officers of CGST had demanded Rs.1.5 Crores as bribe for reducing the tax to Rs.50 Lakhs.

6. It was also revealed that 'Madam' did not agree to reduce the bribe amount. Tejpal Mangtani had arranged Rs.70 Lakhs to deliver. Ajay Sharma had told that he would inform the place of delivery soon. Naresh Kumar Gupta, Advocate had instructed Raju Mangtani to keep the money ready to be delivered to Sahab and get the matter settled.

7. The search memo states that the search proceedings were conducted by three teams. The first team observed movement of Raju Mangtani on a scooter, along with another person, who was later identified as Krishna, household worker/Driver of Raju Mangtani. Ranu Mangtani was carrying a white color cotton bag on the footrest of the scooter. They went to the

house of Naresh Kumar Gupta Advocate. Naresh Kumar Gupta, Advocate opened his Baleno car and Raju Mangtani kept the white color cotton bag on the back seat of the car. The rider Krishna left the spot. Raju Mangtani and Naresh Kumar Gupta got inside the car and went to Bikanerwala restaurant. Both of them remained seated inside the car.

8. The second team informed that co-accused Ajay Sharma had moved from his residence in a white color Honda Amaze car. Two CBI officials followed him on a scooter while the other team members remained at the residence to secure it. Ajay Sharma also reached Bikanerwala restaurant. He got down from his car after which Naresh Kumar Gupta also alighted from his car. Both of them entered Bikanerwala restaurant whereas Raju Mangtani remained seated on the co-driver seat of the Baleno car.

9. The applicant had left his residence on a motorcycle. He was also being followed and he also reached Bikanerwala restaurant, went inside, joined Ajay Sharma and Naresh Kumar Gupta and got engaged in conversation with each other. Naresh Kumar Gupta came out of the restaurant at about 21:00 hours and sat on the driver's seat of the Baleno car while Raju Mangtani was already sitting inside the car. The car started moving. CBI officials followed the car.

10. Thereafter, Ajay Sharma came out of the restaurant and sat in his Amaze car and started moving in the same direction in which Naresh Kumar Gupta and Raju Mangtani had gone and he was also followed.

11. The applicant Anil Kumar Tiwari moved towards railway station and he was also being followed. The Baleno car stopped near railway tiraha, Raju Mangtani had alighted near the bus stop and was moving on foot. Naresh Kumar Gupta had stopped the Baleno car about 100 metres ahead. Shortly thereafter, Ajay Sharma came towards the same spot in his Amaze car and parked his car in front of Baleno car. Both Naresh Kumar Gupta and Ajay Sharma got down from their respective vehicles. Naresh Kumar Gupta took out the white cotton bag from the rear seat of Baleno car and was seen keeping the white cotton bag on the front co-driver seat of Ajay Sharma's Amaze car. At that time, CBI officials intercepted them and the white cotton bag was recovered from the co-driver seat of the Amaze car of co-accused Ajay Sharma. The amount was counted and found to be Rs.69,94,000/-. All the accused were brought to officer's rest house, MLR Karkhana Indian Railways, Jhansi.

12. Four other officials intercepted the applicant Anil Kumar Tiwari near Jhansi Railway Station and the team brought him to MLR Officer's Rest House where he was challenged that he was in criminal conspiracy with

co-accused Prabha Bhandari and Ajay Sharma Superintendent and had accepted undue advantage of Rs.70 Lakh from Raju Mangtani for settling his GST matter through co-accused Naresh Kumar Gupta.

13. The trap memo states that the applicant was arrested from the officer's rest house, MLR Karkhana, Indian Railways, Jhansi at 06:00 hours on 31.12.2025 on the ground of his involvement in criminal conspiracy with the other accused persons for committing offences under Section 61(2) BNS and Sections 7, 7-A, 8 and 9 of the Prevention and Corruption Act, 1988. The CBI has submitted a charge-sheet on 27.02.2026.

14. The charge-sheet states that Inspector Prashant Vishwakarma had initiated a search proposal on 16.12.2025 through official e-office system based on abnormal e-way bill turnover and discrepancies in tax declarations of the aforesaid firms. The proposal was examined and forwarded by co-accused Ajay Sharma, Superintendent and thereafter it was forwarded by co-accused Prabha Bhandari, Deputy Commissioner. The Competent Authority granted approval for the search. Search authorizations were issued in favour of the applicant, co-accused Ajay Sharma and one Ashish Kumar Awasthi.

15. The charge-sheet further states that the communications intercepted on the date of search (18.12.2025) establish that immediately after detection of irregularities, discussions were initiated regarding settlement of the matter. The applicant was in communication with co-accused Naresh Kumar Gupta, Advocate who acted as an intermediary between the accused public servants and representatives of the firms. Co-accused Prabha Bhandari visited the search premises and remained present there for several hours supervising the proceedings. Despite the seriousness of the discrepancies found, seizure documentation was kept incomplete and blank spaces were left in the seizure memos. The number of pages of seized documents was not recorded. Mandatory post search report required under departmental instructions was not submitted within the prescribed period. This was done purposely to use the seized material later as a tool for demanding and accepting undue advantages. The calls intercepted on 22.12.2025 show that the applicant had instructed his driver to arrange plastic sacks. Four sacks containing business records of the searched firms were recovered from a store room near the garage in the applicant's house.

16. Investigation revealed that three sacks and certain miscellaneous documents mentioned in the seizure list prepared on 18.12.2025 were missing from the official custody. Co-accused Ajay Sharma was the

custodian of the documents at the relevant time. The three missing sacks containing records related to the searched firms, were recovered from a room near the garage in the private residence of the applicant. It establishes that the seized material had been unlawfully removed and retained outside the office at the residence of the applicant. The communications intercepted between 19.12.2025 and 25.12.2025 show structured negotiation of quantified amounts. Conversations between the applicant and co-accused Ajay Sharma routed through Naresh Kumar Gupta repeatedly refer to specific figures such as 'thirty', 'ten' and total 'seventy'. Additional intercepted calls indicate that initially Rs.1.5 Crore was demanded. After a WhatsApp call was received from co-accused Prabha Bhandari, negotiations were stopped. In that conversation, the applicant and co-accused Ajay Sharma expressed frustration and stated that 'Madam' was not agreeing to lower the amount discussed earlier and the matter could not be finalized without her approval. WhatsApp call log confirm that Prabha Bhandari made a call to accused Ajay Sharma. A call between Lokesh Kumar Tolani and Ishpreet Bedi was intercepted in which Lokesh Kumar Tolani mentioned demand of Rs.1.5 Crores and said that 'Madam' was not agreeing. This showed that there was a demand of Rs.1.5 Crore and reduction of amount required her concurrence. This is also reflected in the conversation between the applicant and co-accused Ajay Sharma held on 24.12.2025.

17. The bribe money was recovered from the car of co-accused Ajay Sharma. After recovery of the amount on 30.12.2025, Ajay Sharma made a controlled WhatsApp call to Prabha Bhandari. She did not respond to the call but she returned the call after some time. Ajay Sharma informed her that 70 had been taken. She acknowledged this and instructed that money be used to purchase gold.

18. A copy of the statement of Ramesh Kushwaha, Driver of the applicant, recorded under Section 180 BNSS has been brought on record along with the supplementary affidavit. He stated that on 22.12.2025, the applicant had telephonically instructed him that Inspector Prashant Vishwakarma would come to his home and the driver should get some goods kept in a room constructed near the garage. After some time, Inspector Prashant Vishwakarma reached near the garage and called the driver by making a phone call. The driver unlocked the room constructed near the garage. Prashant Vishwakarma brought out 4-5 sacks from his car and kept in the room. The driver did not know about the contents of sacks. He locked the room and handed over the keys to the applicant's son Raghav.

19. The charge-sheet says that the sequence of events, detection of discrepancies, incomplete seizure formalities, removal of seized documents from lawful custody, structured negotiation of quantified amount, supervisory concurrence, arrangement of money by persons connected with the firms, delivery and recovery of Rs.69,94,000/- and acknowledgment after the recovery form a complete and unbroken chain of circumstances. The coordinated acts of co-accused Prabha Bhandari, the applicant and Ajay Sharma, who are officials of CGST and Naresh Kumar Gupta, Advocate as well as the other accused persons, who are proprietors of the firms, clearly demonstrate that all of them had acted in furtherance of a common design to demand, facilitate and obtain undue advantage in connection with official functions.

20. The respondent-CBI has filed a counter affidavit and a supplementary counter affidavit opposing the bail application. It has inter alia been stated that the applicant Anil Kumar Gupta was physically present at the place of delivery of the bribe money and he had participated in the meeting with the other accused persons for acceptance of bribe money. There are intercepted communications discussing settlement which revealed involvement of the applicant in the conspiracy to take bribe for extending benefits illegally.

21. Sri. Gaurav Mehrotra, the learned Senior Advocate appearing for the applicant, has submitted that as per the prosecution case, Ajay Sharma was the custodian of the records and he had taken the bribe money. The applicant had mentioned all the documents in the search memo and he had not concealed any document. Further, any lapse on the part of the applicant in discharge of his duties during the search may lead to disciplinary proceedings being instituted against him but he cannot be prosecuted.

22. The learned counsel for the applicant has further submitted that Inspector Prashant Vishwakarma was also involved in conducting the searches but he has not been made an accused. He has submitted that the applicant has no criminal history, the investigation already stands concluded, the applicant had co-operated in investigation and the charge-sheet mentions 47 witnesses to be examined during trial. The prosecution sanction and CFSL report are still awaited. The trial would take a very long period to conclude and no useful purpose will be served by keeping the applicant in custody. He has further submitted that being a public servant, there is no reasonable apprehension of the applicant's absconding from the process of law in case he is enlarged on bail.

23. Regarding presence of the applicant in the restaurant, the learned counsel for the applicant has submitted that the restaurant belongs to a relative of the applicant and the applicant was visiting the restaurant by chance.

24. *Per contra*, the learned counsel for the respondent- CBI has submitted that the bribe amount contains shares of all accused persons, including the applicant. The entire operation had taken place at railway tiraha which is near the railway station from where the applicant was arrested. He has submitted that 37 bars of silver were recovered from the applicant's house.

25. *Per contra*, Sri. Aakash Prasad, the learned counsel for the respondent- CBI, has submitted that the applicant was actively supervising and controlling the CGST search proceedings conducted on 18.12.2025. The conversations intercepted on that date clearly establish that he directed sub-ordinate officials regarding the search and discussed the magnitude of undeclared stock and potential tax liability with co-accused Naresh Kumar Gupta, Advocate. The applicant was in continuous conversation with his colleague Ajay Sharma, Superintendent regarding the matter. The applicant had arranged the meeting for handing over of the bribe money in a restaurant which belongs to a family member of the applicant. The applicant was physically present in the restaurant at the time of transfer of bribe money. It is established that the applicant has played a crucial role along with co-accused Prabha Bhandari, Deputy Commissioner CGST. The statement of the applicant's driver establishes that the applicant had concealed the incriminating material collected in search in a room constructed near the garage of his house. He has submitted that four sacks full of documents have been recovered from a room near the garage of the applicant's house and it is established that the applicant has played an active role in extending undue benefits to the persons whose establishments were raided, in evading tax.

26. The learned counsel for the respondent- CBI has submitted that although sanction for prosecution of co-accused Prabha Bhandari is awaited, an order granting sanction for prosecution of the petitioner has already been issued.

27. The learned counsel for the respondent-CBI has submitted that Prashant Vishwakarma was acting on the applicant's instructions and, therefore he has not been made an accused and he has been made a witness.

28. Learned counsel for the applicant has placed reliance on the following judgments in support of his contentions, Sushant Prashar @ Parashar v.

Central Bureau of Investigation Neutral Citation: 2025:AHC-LKO:64856, Neeraj Dutta v. State (Govt of NCT of Delhi) 2023 SCC Online SC 280, Sanjay Chandra v. Central Bureau of Investigation (2012) 1 SCC 40, P. Chidambaram v. Central Bureau of Investigation (2020) 13 SCC 337, State through Central Bureau of Investigation v. Dr. Anup Kumar Srivastava (2017) 15 SCC 560, Delhi Race Club & Ors v. State of UP & Anr. (2024) 10 SCC 690, Manoj Kumar Soni v. State of Madhya Pradesh (2024) 17 SCC 401, P. Kishore v. Secretary to Government of India and Others 2025 SCC Online Mad 3053, P Krishna Mohan reddy v. State of Andhra Pradesh 2025 SCC Online SC 1157, Satendra Kumar Antil v. Central Bureau of Investigation (2021) 10 SCC 51, Parasa Raja Manikyala Rao & Anr. v. State of AP (2003) 12 SCC 306, Baliya @Bala Kishan v. State of MP (2012) 9 SCC 696, Radheyshyam & Ors. v. State of Rajasthan & Anr. Criminal Appeal No. 3020 of 2024.

29. In **Sanjay Chandra v. CBI**: (2012) 1 SCC 40, the Hon'ble Supreme Court held that: -

*“40. The grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to assure that he will submit to the jurisdiction of the court and be in attendance thereon whenever his presence is required.*

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*42. When the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated. Every person, detained or arrested, is entitled to speedy trial, the question is: whether the same is possible in the present case.”*

30. In **P. Chidambaram v. CBI**: (2020) 13 SCC 337, the Hon'ble Supreme Court held that: -

*“21. The jurisdiction to grant bail has to be exercised on the basis of the well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while considering an application for bail:*

*(i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution;*

*(ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses;*

*(iii) reasonable possibility of securing the presence of the accused at*

*the time of trial or the likelihood of his abscondence;*

*(iv) character, behaviour and standing of the accused and the circumstances which are peculiar to the accused;*

*(v) larger interest of the public or the State and similar other considerations.*

*[Vide Prahlad Singh Bhati v. State (NCT of Delhi) [(2001) 4 SCC 280].*

*22. There is no hard-and-fast rule regarding grant or refusal to grant bail. Each case has to be considered on the facts and circumstances of each case and on its own merits. The discretion of the court has to be exercised judiciously and not in an arbitrary manner. At this stage itself, it is necessary for us to indicate that we are unable to accept the contention of the learned Solicitor General that “flight risk” of economic offenders should be looked at as a national phenomenon and be dealt with in that manner merely because certain other offenders have flown out of the country. The same cannot, in our view, be put in a straitjacket formula so as to deny bail to the one who is before the court, due to the conduct of other offenders, if the person under consideration is otherwise entitled to bail on the merits of his own case. Hence, in our view, such consideration including as to “flight risk” is to be made on individual basis being uninfluenced by the unconnected cases, more so, when the personal liberty is involved.”*

31. In **Satender Kumar Antil v. CBI**: (2022) 10 SCC 51, the following principles were laid down for considering grant of bail in economic offences: -

***“Economic offences (Category D)***

*90. What is left for us now to discuss are the economic offences. The question for consideration is whether it should be treated as a class of its own or otherwise. This issue has already been dealt with by this Court in P. Chidambaram v. Directorate of Enforcement [(2020) 13 SCC 791], after taking note of the earlier decisions governing the field. The gravity of the offence, the object of the Special Act, and the attending circumstances are a few of the factors to be taken note of, along with the period of sentence. After all, an economic offence cannot be classified as such, as it may involve various activities and may differ from one case to another. Therefore, it is not advisable on the part of the court to categorise all the offences into one group and deny bail on that basis. Suffice it to state that law, as laid down in the following judgments, will govern the field:*

***Precedents***

***91.P. Chidambaram v. Directorate of Enforcement [(2020) 13 SCC 791:***

*“23. Thus, from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench [Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565] of this Court, it could be deduced that the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of*

*securing fair trial. However, while considering the same the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of “grave offence” and in such circumstance while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provide so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case-to-case basis on the facts involved therein and securing the presence of the accused to stand trial.”*

**92.Sanjay Chandra v. CBI [(2012) 1 SCC 40:**

*“39. Coming back to the facts of the present case, both the courts have refused the request for grant of bail on two grounds : the primary ground is that the offence alleged against the accused persons is very serious involving deep-rooted planning in which, huge financial loss is caused to the State exchequer; the secondary ground is that of the possibility of the accused persons tampering with the witnesses. In the present case, the charge is that of cheating and dishonestly inducing delivery of property and forgery for the purpose of cheating using as genuine a forged document. The punishment for the offence is imprisonment for a term which may extend to seven years. It is, no doubt, true that the nature of the charge may be relevant, but at the same time, the punishment to which the party may be liable, if convicted, also bears upon the issue. Therefore, in determining whether to grant bail, both the seriousness of the charge and the severity of the punishment should be taken into consideration.*

*40. The grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to assure that he will submit to the jurisdiction of the court and be in attendance thereon whenever his presence is required.*

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46. We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge-sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI.”

32. In **Neeraj Dutta v. State (NCT of Delhi)**: (2023) 4 SCC 731, a Constitution Bench of the Hon’ble Supreme Court summarised the following principles: -

**88.1.** (a) *Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13(1)(d)(i) and (ii) of the Act.*

**88.2.** (b) *In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.*

**88.3.** (c) *Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence.*

**88.4.** (d) *In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:*

(i) *if there is an offer to pay by the bribe-giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant.*

(ii) *On the other hand, if the public servant makes a demand and the bribe-giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence under Sections 13(1)(d)(i) and (ii) of the Act.*

(iii) *In both cases of (i) and (ii) above, the offer by the bribe-giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an offence under Section 7 or Sections 13(1)(d)(i) and (ii), respectively of the Act. Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe-giver which is accepted by the*

*public servant which would make it an offence. Similarly, a prior demand by the public servant when accepted by the bribe-giver and in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Sections 13(1)(d)(i) and (ii) of the Act.*

**88.5.** *(e) The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a court of law by way of an inference only when the foundational facts have been proved by relevant oral and documentary evidence and not in the absence thereof. On the basis of the material on record, the court has the discretion to raise a presumption of fact while considering whether the fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is subject to rebuttal by the accused and in the absence of rebuttal presumption stands.*

**88.6.** *(f) In the event the complainant turns “hostile”, or has died or is unavailable to let in his evidence during trial, demand of illegal gratification can be proved by letting in the evidence of any other witness who can again let in evidence, either orally or by documentary evidence or the prosecution can prove the case by circumstantial evidence. The trial does not abate nor does it result in an order of acquittal of the accused public servant.*

**88.7.** *(g) Insofar as Section 7 of the Act is concerned, on the proof of the facts in issue, Section 20 mandates the court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in the said Section. The said presumption has to be raised by the court as a legal presumption or a presumption in law. Of course, the said presumption is also subject to rebuttal. Section 20 does not apply to Sections 13(1)(d)(i) and (ii) of the Act.*

**88.8.** *(h) We clarify that the presumption in law under Section 20 of the Act is distinct from presumption of fact referred to above in sub-para 88.5(e), above, as the former is a mandatory presumption while the latter is discretionary in nature.”*

33. In **Devinder Kumar Bansal v. State of Punjab**: (2025) 4 SCC 493, the Hon’ble Supreme Court held that: -

*“12. Further it is seen that, Section 7 speaks of the “attempt” to obtain a bribe as being in itself an offence. Mere demand or solicitation, therefore, by a public servant amounts to commission of an offence under Section 7 of the PC Act. The word “attempt” is to imply no more than a mere solicitation, which, again may be made as effectually in implicit or in explicit terms.*

*13. Actual exchange of a bribe is not an essential requirement to be prosecuted under this law. Further, those public servants, who do not take a bribe directly, but, through middlemen or touts, and those who take valuable things from a person with whom they have or are likely to have official dealings, are also punishable as per Sections 10 and 11 of the 1988 Act, respectively.”*

34. In **Baliya v. State of M.P.**: (2012) 9 SCC 696, the Hon’ble Supreme Court held that: -

*“17. The offence of criminal conspiracy has its foundation in an agreement to commit an offence or to achieve a lawful object through unlawful means. Such a conspiracy would rarely be hatched in the open and, therefore, direct evidence to establish the same may not be always forthcoming. Proof or otherwise of such conspiracy is a matter of inference and the court in drawing such an inference must consider whether the basic facts i.e. circumstances from which the inference is to be drawn have been proved beyond all reasonable doubt, and thereafter, whether from such proved and established circumstances no other conclusion except that the accused had agreed to commit an offence can be drawn. Naturally, in evaluating the proved circumstances for the purposes of drawing any inference adverse to the accused, the benefit of any doubt that may creep in must go to the accused.”*

35. In **State v. Anup Kumar Srivastava**: (2017) 15 SCC 560, it was held that: -

*“26. Similarly, the law on the issue emerges to the effect that conspiracy is an agreement between two or more persons to do an illegal act or an act which is not illegal by illegal means. The object behind the conspiracy is to achieve the ultimate aim of conspiracy. For a charge of conspiracy means knowledge about indulgence in either an illegal act or a legal act by illegal means is necessary. In some cases, intent of unlawful use being made of the goods or services in question may be inferred from the knowledge itself. This apart, the prosecution has not to establish that a particular unlawful use was intended, so long as the goods or services in question could not be put to any lawful use. Finally, when the ultimate offence consists of a chain of actions, it would not be necessary for the prosecution to establish, to bring home the charge of conspiracy, that each of the conspirators had the knowledge of what the collaborator would do.”*

36. In **Delhi Race Club (1940) Ltd. v. State of U.P.**: (2024) 10 SCC 690, the Hon’ble Supreme Court held that: -

*“18. Each penal section of the Penal Code or of the other laws can be subjected to an analysis by posing and answering the following questions:*

*I. What is the overt act stipulated in the section, which overt act has resulted in an injury?*

*II. What is the state of mind stipulated in respect of the accused and which state of mind must precede or accompany the act of the accused?*

\* \* \*

*42. Whereas, for the criminal breach of trust, the property must have been entrusted to the accused or he must have dominion over it. The property in respect of which the offence of breach of trust has been committed must be either the property of some person other than the accused or the beneficial interest in or ownership of it must be of some other person. The accused must hold that property on trust of*

*such other person. Although the offence i.e. the offence of breach of trust and cheating involve dishonest intention, yet they are mutually exclusive and different in basic concept.”*

37. In **Pinki versus State of Uttar Pradesh**: 2025 INSC 482, the Hon’ble Supreme Court considered precedents regarding the considerations for deciding a bail plea and the relevant passage of the judgment is being reproduced below: -

**“i. Broad Principles for Grant of Bail.**

*53. In Gudikanti Narasimhulu v. Public Prosecutor, High Court of Andhra Pradesh, (1978) 1 SCC 240, Krishna Iyer, J., while elaborating on the content of Article 21 of the Constitution of India in the context of personal liberty of a person under trial, has laid down the key factors that should be considered while granting bail, which are extracted as under: -*

*“7. It is thus obvious that the nature of the charge is the vital factor and the nature of the evidence also is pertinent. The punishment to which the party may be liable, if convicted or conviction is confirmed, also bears upon the issue.*

*8. Another relevant factor is as to whether the course of justice would be thwarted by him who seeks the benignant jurisdiction of the Court to be freed for the time being [Patrick Devlin, *The Criminal Prosecution in England* (Oxford University Press, London 1960) p. 75 — *Modern Law Review*, Vol. 81, Jan. 1968, p. 54.]*

*9. Thus the legal principles and practice validate the Court considering the likelihood of the applicant interfering with witnesses for the prosecution or otherwise polluting the process of justice. It is not only traditional but rational, in this context, to enquire into the antecedents of a man who is applying for bail to find whether he has a bad record — particularly a record which suggests that he is likely to commit serious offences while on bail. In regard to habituals, it is part of criminological history that a thoughtless bail order has enabled the bailee to exploit the opportunity to inflict further crimes on the members of society. Bail discretion, on the basis of evidence about the criminal record of a defendant, is therefore not an exercise in irrelevance.”*

*(Emphasis supplied)*

*54. In Prahlad Singh Bhati v. NCT, Delhi, (2001) 4 SCC 280, this Court highlighted various aspects that the courts should keep in mind while dealing with an application seeking bail. The same may be extracted as follows:*

*“8. The jurisdiction to grant bail has to be exercised on the basis of well-settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing*

*of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the Legislature has used the words “reasonable grounds for believing” instead of “the evidence” which means the court dealing with the grant of bail can only satisfy it (sic itself) as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. [...]*”

*(Emphasis supplied)*

55. *This Court in Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598, speaking through Banerjee, J., emphasised that a court exercising discretion in matters of bail, has to undertake the same judiciously. In highlighting that bail should not be granted as a matter of course, bereft of cogent reasoning, this Court observed as follows:*

*“3. Grant of bail though being a discretionary order — but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.”*

*(Emphasis supplied)*

56. *In Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528, this Court held that although it is established that a court considering a bail application cannot undertake a detailed examination of evidence and an elaborate discussion on the merits of the case, yet the court is required to indicate the prima facie reasons justifying the grant of bail.*

57. *In Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496, this Court observed that where a High Court has granted bail mechanically, the said order would suffer from the vice of non-application of mind, rendering it illegal. This Court held as under with regard to the circumstances under which an order granting bail may be set aside. In doing so, the factors which ought to have guided the Court's decision to grant bail have also been detailed as under:*

*“9. [...] 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;*

*(vii) reasonable apprehension of the witnesses being influenced; and*

*(viii) danger, of course, of justice being thwarted by grant of bail.”*

*(Emphasis supplied)*

\* \* \*

***62. We are absolutely conscious that liberty of a person should not be lightly dealt with, for deprivation of liberty of a person has immense impact on the mind of a person. Incarceration creates a concavity in the personality of an individual. Sometimes it causes a sense of vacuum. Needless to emphasise, the sacrosanctity of liberty is paramount in a civilised society. However, in a democratic body polity which is wedded to the rule of law an individual is expected to grow within the social restrictions sanctioned by law. The individual liberty is restricted by larger social interest and its deprivation must have due sanction of law. In an orderly society an individual is expected to live with dignity having respect for law and also giving due respect to others' rights. It is a well-accepted principle that the concept of liberty is not in the realm of absolutism but is a restricted one. The cry of the collective for justice, its desire for peace and harmony and its necessity for security cannot be allowed to be trivialised. The life of an individual living in a society governed by the rule of law has to be regulated and such regulations which are the source in law subserve the social balance and function as a significant instrument for protection of human rights and security of the collective. This is because, fundamentally, laws are made for their obedience so that every member of the society lives peacefully in a society to achieve his individual as well as social interest. That is why Edmond Burke while discussing about liberty opined, “it is regulated freedom”.***

***63. It is also to be kept in mind that individual liberty cannot be accentuated to such an extent or elevated to such a high pedestal which would bring in anarchy or disorder in the society. The***

*prospect of greater justice requires that law and order should prevail in a civilised milieu. True it is, there can be no arithmetical formula for fixing the parameters in precise exactitude but the adjudication should express not only application of mind but also exercise of jurisdiction on accepted and established norms. Law and order in a society protect the established precepts and see to it that contagious crimes do not become epidemic. In an organised society the concept of liberty basically requires citizens to be responsible and not to disturb the tranquility and safety which every well-meaning person desires. Not for nothing J. Oerter stated: "Personal liberty is the right to act without interference within the limits of the law."*

64. Thus analysed, it is clear that though liberty is a greatly cherished value in the life of an individual, it is a controlled and restricted one and no element in the society can act in a manner by consequence of which the life or liberty of others is jeopardised, for the rational collective does not countenance an anti-social or anti-collective act. [See: Ash Mohammad v. Shiv Raj Singh, (2012) 9 SCC 446].

\* \* \*

72. Modern political scientist and philosopher, also favours certain limitation on liberty, for safeguarding the societal interest and professes the proportionality between the liberty and restriction, thus laying down exception for the personal liberty, in following words:

*"Men are qualified for civil liberty in exact proportion to their disposition to put moral chains upon their own appetites, in proportion as their love to justice is above their rapacity, in proportion as their soundness and sobriety of understanding is above their vanity and presumption, in proportion as they are more disposed to listen to the counsels of the wise and good, in preference to the flattery of knaves. Society cannot exist, unless a controlling power upon will and appetite be placed somewhere; and the less of it there is within, the more there must be without. It is ordained in the eternal constitution of things, that men of intemperate minds cannot be free. Their passions forge their fetters."*

(Emphasis supplied)

73. Thus, certain restrictions or limitations, on the exercise of personal liberty, by the State or other such human agency, are necessary elements, in the interest of liberty of a well-ordered society or societal interest.

74. This Court has also held that unlimited and unqualified liberty cannot be said to be in favour of societal interest. In *Kartar Singh v. State of Punjab*, (1994) 3 SCC 569, this Court observed:

*"Liberty cannot stand alone but must be paired with companion virtue i.e. virtue and morality, liberty and law, liberty and justice, liberty and common good, liberty and responsibility which are concomitants for orderly progress and social stability. Man being a rationale individual has to live in harmony with equal rights of others and more differently for the attainment of antithetic desires. This intertwined network is difficult to delineate within defined*

*spheres of conduct within which freedom of action may be confined. Therefore, liberty would not always be an absolute licence but must arm itself within the confines of law. In other words, there can be no liberty without social restraint. Liberty, therefore, as a social conception is a right to be assured to all members of a society. Unless restraint is enforced on and accepted by all members of the society, the liberty of some must involve the oppression of others. If liberty be regarded a social order, the problem of establishing liberty must be a problem of organising restraint which society controls over the individual. Therefore, liberty of each citizen is borne of and must be subordinated to the liberty of the greatest number, in other words common happiness as an end of the society, lest lawlessness and anarchy will tamper social weal and harmony and powerful courses or forces would be at work to undermine social welfare and order. Thus the essence of civil liberty is to keep alive the freedom of the individual subject to the limitation of social control which could be adjusted according to the needs of the dynamic social evolution.”*

*(Emphasis supplied)*

75. In *Gudikanti Narasimhulu (supra)* this Court observed thus:—

*“After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of ‘procedure established by law’. The last four words of Art. 21 are the life of that human right. The doctrine of Police Power constitutionally validates punitive processes for the maintenance of public order, security of the State, national integrity and the interest of the public generally. Even so, having regard to the solemn issue involved, deprivation of personal freedom, ephemeral or enduring, must be founded on the most serious considerations relevant to the welfare objectives of society, specified in the Constitution.”*

*(Emphasis supplied)*

\* \* \*

78. The final word: **The true test to ascertain whether discretion has been judiciously exercised or not is to see whether the court has been able to strike a balance between the personal liberty of the accused and the interest of the State, in other words, the societal interests. Each bail application should be decided in the facts and circumstances of the case having regard to the various factors germane to the well settled principles of grant or refusal of bail. In the words of Philip Stanhope, “Judgment is not upon all occasions required, but discretion always is”.**

38. The aforesaid passage has been quoted with approval and followed in State of **Karnataka v. Sri Darshan**: 2025 SCC OnLine SC 1702, wherein the Hon’ble Supreme Court further held that:-

**“20.4. Filing of charge sheet or lengthy list of witnesses does not justify grant of bail.**

**20.4.1. It is well settled that the mere filing of a charge-sheet does not confer an indefeasible right to bail. Likewise, the mere prospect of a**

*prolonged trial cannot, by itself, outweigh the gravity of the offence, the incriminating material gathered during investigation, or the likelihood of tampering with witnesses.*

**20.4.2.** *In Kalyan Chandra Sarkar v. Rajesh Ranjan [(2004)7SCC 528], this Court categorically held that:*

*“The High Court could not have allowed the bail application on the sole ground of delay in the conclusion of the trial without taking into consideration the allegation made by the prosecution in regard to the existence of prima facie case, gravity of offence, and the allegation of tampering with the witness by threat and inducement when on bail... non-consideration of the same and grant of bail solely on the ground of long incarceration vitiated the order...”*

**20.4.3.** *In Brijmani Devi v. Pappu Kumar [(2022)4SCC497], this Court held that the possibility of the accused absconding or threatening witnesses had a direct bearing on the fairness of the trial. In serious offences, such apprehensions - when reasonably supported by record - must weigh against the grant of bail.*

**20.4.4.** *Similarly, in Ishwarji Nagaji Mali v. State of Gujarat [Criminal Appeal No. 70 of 2022 dated 18.01.2022], this Court reiterated that the fact that the prosecution case rests on circumstantial evidence is not a valid ground to release the accused on bail, especially where a complete chain of circumstances has been prima facie established during investigation. The Court cancelled the bail granted by the High Court in that case holding that:*

*“6. .... the High Court has not at all adverted to the material collected during the course of the investigation. The High Court has not at all considered the material/evidence collected during the course of the investigation even prima facie and has directed to release respondent no. 2 in such a serious offence of hatching conspiracy to kill his wife, by simply observing that as it is a case of circumstantial evidence, which is a weak piece of evidence, it is not legal and proper to deny bail to respondent no. 2. Merely because the prosecution case rests on circumstantial evidence cannot be a ground to release the accused on bail, if during the course of the investigation the evidence/material has been collected and prima facie the complete chain of events is established. As observed hereinabove, while releasing respondent no. 2 on bail, the learned Single Judge of the High Court has not at all adverted to and/or considered any of the material/evidence collected during the course of the investigation, which is a part of the charge-sheet.*

*7. One another reason given by the High Court to release respondent no. 2 on bail is that the accused has deep root in the society and no apprehension as to flee away or escape trial or tampering with the evidence/witnesses is expressed. In a case of committing the offence under Section 302 read with 120B IPC and in a case of hatching conspiracy to kill his wife and looking to the seriousness of the offence, the aforesaid can hardly be a ground to release the accused on bail.”*

**20.4.5.** *In Rahul Gupta v. State of Rajasthan [Criminal Appeal Nos.*

*1343-44 of 2023 dated 04.05.2023], this Court further emphasized that once the accused has been charge-sheeted after investigation, the High Court must consider the material collected during investigation to determine whether a prima facie case exists and whether bail is justified. The Court quashed the bail order, directing the accused to surrender and remanding the matter to the High Court for fresh consideration, after examining the evidence on record.*

*20.4.6. In the present case, the High Court failed to engage with the incriminating material collected during investigation, despite the seriousness of the offence under Section 302 IPC and the allegation of conspiracy. The mere filing of the charge-sheet, the existence of a long list of witnesses, or the possibility of delay in trial, cannot, by themselves, constitute valid reasons to dilute the gravity of the offence or to disregard the case put forth by the prosecution. As repeatedly held by this Court, such factors are not standalone grounds for the grant of bail in heinous offences involving murder. The reasoning adopted by the High Court to justify the grant of bail is, therefore, contrary to settled legal principles.”*

39. In **Netsity Systems (P) Ltd. v. State (NCT of Delhi)**: 2025 SCC OnLine SC 2079, the Hon'ble Supreme Court was deciding twin appeals against a final order passed by the High Court of Delhi by which the petitions filed against an Order passed by the Additional Sessions Judge upholding the grant of bail to the accused persons by the Additional Chief Metropolitan Magistrate were dismissed by the High Court. The accusation against the accused husband and his co-accused wife was that they had taken Rs. 1,90,00,000/- and promised to transfer certain land in favour of the appellant. However, it was subsequently discovered that the said land had not only been previously mortgaged but had also been sold to a third- party. Both the accused had filed pre-arrest bail applications bearing Bail Applications, which had been dismissed by the Session Court. Thereafter, the private respondents approached the High Court seeking anticipatory bail, which granted them interim protection, which continued for almost four years, during which the matter was referred to mediation. In the course of the mediation proceedings, the private respondents gave an undertaking to pay Rs. 6,25,00,000/- to the appellant. Ultimately, Anticipatory Bail Applications were rejected by the High Court after recording the conduct of the respondents: -

*‘II. As applicants are also previously involved in other cheating cases pertaining to Police Station Preet Vihar, the contention of learned counsel for applicants that since charge-sheet has been filed without arrest, now, no purpose will be served to send the applicants behind the bar is also without merit. In case this plea is accepted, it will amount to giving liberty to an accused in economic offences to first appear before the Court, give an undertaking that he will make payment of the amount due before the court of law including this Court and obtain interim protection on that ground and thereafter,*

after years of enjoying the interim protection, a statement will be made that he will not make the payment being unable to do so and as a matter of right, will ask to be granted bail on the ground that now charge-sheet has been filed and his custody is not required. In this regard, this Court is of the opinion that it would rather amount to giving liberty to an accused to first mislead the Courts by giving an undertaking that payment will be made & thereafter, despite such undertaking for years, as in the present case for more than three years, accused(s), in the meanwhile will wait for the charge-sheet to be filed and enjoy the interim protection and after the charge-sheet is filed, will take a plea that now they are no more required to be sent to judicial custody. This situation will amount to travesty of justice, and taking the court and complainant for a ride.'

The Hon'ble Supreme Court held that: -

*“18. It cannot be lost sight of that the Order dated 09.04.2019 supra was based on the submission by the accused that they were willing to settle and/or compromise the matter and would pay an amount, as might be determined in mediation. However, despite the lapse of close to four years, no fruitful result emerged from the mediation process, and in the end, after the Chargesheet was submitted, the anticipatory bail applications were dismissed. After 09.04.2019, the interim orders were specifically continued, by Orders dated 31.07.2019, 31.01.2020 and 11.10.2022.*

*19. We note that the Order dated 01.02.2023 dismissing the anticipatory bail applications detailed the conduct of the accused and thereafter, considered and dismissed the said petitions on merits. We find the reasoning employed in Order dated 01.02.2023, as recorded by us above, is fully justified in the facts and circumstances. In this backdrop, the ACMM, despite being made aware of the High Court's Order dated 01.02.2023 and even noting the same, proceeded on the simplistic premise that since the Chargesheet had been submitted, no useful purpose would be served by taking the accused into custody, particularly as the stand taken by the IO was that custodial interrogation was not required. Such reasoning, in our view, is untenable, inasmuch as the same glossed over the private respondents' conduct, including undertakings made before a higher Court viz. the High Court.”*

40. Therefore, the mere fact that a charge-sheet has been filed, cannot be a ground to enlarge the applicant on bail and all the facts and circumstances have to be taken into consideration for deciding the plea for release on bail.

41. In Sushant Prashar @ Parashar (supra), the applicant was a public servant and was involved in polluting the examination process being conducted for public recruitment along with other co accused persons. The applicant along with the other co accused persons was charge-sheeted for offences under Section 61(2) read with 112, 316(5) of B.N.S and Section 7, 7-A and 8 of the Prevention of Corruption Act, 1988 and substantive offences under Sections 112 and 316(5) and Section 7 of the

P.C. Act. It was alleged that the applicant was the main accused person behind the entire scam as he had set the paper and had also leaked the same by handing over its copy to a co accused person who in turn handed it over to another co accused person who ultimately distributed it among the prospective candidates. The applicant had allegedly entered into a conspiracy with other co accused persons to leak the question paper with their solutions in his own handwriting a day prior to the actual examination. An amount of Rs. 4.35 Lakhs was recovered from his residence for which he could not give any explanation. However, this Court allowed his bail application *inter alia* on the ground that 16 out of 26 accused persons had already been enlarged on bail and although the applicant was in jail for more than 7 months, even sanction for his prosecution had not been granted.

42. In the present case, Crl. Misc. Bail Application No. 912 of 2026 filed by the co-accused Prabha Bhandari has been rejected by a coordinate Bench of this Court by means of an order dated 10.03.2026. Prabha Bhandari had challenged the rejection order dated through S.L.P. (Crl.) No. 5163/2026, which was dismissed as withdrawn by means of the following order passed on 01.04.2026: -

*“1. Heard learned counsel for the parties.*

*2. After some arguments, learned senior counsel for the petitioner deeks permission to withdraw the present Special Leave Petition at this stage.*

*3. Permission granted.*

*Accordingly, the present Special Leave Petition stands dismissed as withdrawn.”*

43. When we consider the facts of the case in light of the law laid down in the case mentioned above, what comes to light is that the F.I.R. alleges that Co-accused Prabha Bhandari, I.R.S., Deputy Commissioner CGST, the applicant Anil Kumar Tiwari, Superintendent and co-accused Ajay Sharma, Superintendent were posted at CGST, Jhansi and they were indulging in corrupt and illegal activities in connivance with various private persons and they take bribe in exchange of extending favours in cases against them for tax violations, in criminal conspiracy with co-accused Naresh Kumar Gupta, Advocate, who acts as a middle man on behalf of several firms against whom cases have been made out for tax evasion. A team of the aforesaid officials for CGST had conducted searches at the office premises and go-downs of M/s Jai Ambe Plywood and M/s Jai Durga Hardware on 18.12.2025 and had seized a huge undeclared stock of material and documents relating to tax evasion.

Proprietors of the firms were trying to get their matter settled through Naresh Kumar Gupta, Advocate, who contacted the applicant for settlement of the matter in lieu of illegal gratification. The applicant informed Naresh Kumar Gupta that there was a lot of undeclared stock of material and incriminating evidences against the parties were found. The applicant also informed that 'Madam' Prabha Bhandari was present at the premises being searched and he assured that he would tender all possible favours. Lokesh Tolani and Raju Mangtani – proprietors of the firm, visited the applicant's resident on 19.12.2025 and the applicant facilitated them by arranging return of keys of their offices/go-downs from his office.

44. The meeting place for handing over the bribe money of Rs.70,00,000/- was Bikanerwala Restaurant. The applicant was present in the restaurant and he had engaged in conversation with co-accused persons Ajay Sharma and Naresh Kumar Gupta. After sometime, the accused persons came out of the restaurant. Naresh Kumar Gupta transferred the bribe money to the car of co-accused Ajay Sharma. At that time, CBI officials intercepted them and the white cotton bag was recovered from the co-driver seat of the Amaze car of co-accused Ajay Sharma. The amount was counted and found to be Rs.69,94,000/-. Another team of four CBI officials intercepted the applicant Anil Kumar Tiwari near Jhansi Railway Station and the team brought him to MLR Officer's Rest House where he was challenged that he was in criminal conspiracy with co-accused Prabha Bhandari and Ajay Sharma Superintendent and had accepted undue advantage of Rs.70 Lakh from Raju Mangtani for settling his GST matter through co-accused Naresh Kumar Gupta. The applicant was arrested from the officer's rest house at 06:00 hours on 31.12.2025 on the ground of his involvement in criminal conspiracy with the other accused persons for committing offences under Section 61(2) BNS and Sections 7, 7-A, 8 and 9 of the Prevention of Corruption Act, 1988.

45. The charge-sheet submitted on 27.02.2026 states that the applicant was in communication with co-accused Naresh Kumar Gupta, Advocate who acted as an intermediary between the accused public servants and representatives of the firms. Co-accused Prabha Bhandari visited the search premises and remained present there for several hours supervising the proceedings. Despite the seriousness of the discrepancies found, seizure documentation was kept incomplete and blank spaces were left in the seizure memos. The number of pages of seized documents was not recorded. Mandatory post search report required under departmental

instructions was not submitted within the prescribed period. This was done purposely to use the seized material later as a tool for demanding and accepting undue advantages. Three sacks and certain miscellaneous documents mentioned in the seizure list prepared on 18.12.2025 were missing from the official custody. The three missing sacks containing records related to the searched firms, were recovered from a room near the garage in the private residence of the applicant.

46. The communications intercepted between 19.12.2025 and 25.12.2025 show structured negotiation of quantified amounts. Conversations between the applicant and co-accused Ajay Sharma routed through Naresh Kumar Gupta repeatedly refer to specific figures such as 'thirty', 'ten' and total 'seventy'. Additional intercepted calls indicate that initially Rs.1.5 Crore was demanded. After a WhatsApp call was received from co-accused Prabha Bhandari, negotiations were stopped. In that conversation, the applicant and co-accused Ajay Sharma expressed frustration and stated that 'Madam' was not agreeing to lower the amount discussed earlier and the matter could not be finalized without her approval. WhatsApp call log confirm that Prabha Bhandari made a call to accused Ajay Sharma. A call between Lokesh Kumar Tolani and Ishpreet Bedi was intercepted in which Lokesh Kumar Tolani mentioned demand of Rs.1.5 Crores and said that 'Madam' was not agreeing. This showed that there was a demand of Rs.1.5 Crore and reduction of amount required her concurrence. This is also reflected in the conversation between the applicant and co-accused Ajay Sharma held on 24.12.2025.

47. The applicant's driver Ramesh Kushwaha has stated in his statement recorded under Section 180 BNSS that on 22.12.2025, the applicant had telephonically instructed him that Inspector Prashant Vishwakarma would come to his home and the driver should get some goods kept in a room constructed near the garage. After some time, Inspector Prashant Vishwakarma reached near the garage and called the driver by making a phone call. The driver unlocked the room constructed near the garage. Prashant Vishwakarma brought out 4-5 sacks from his car and kept in the room. The driver did not know about the contents of sacks. He locked the room and handed over the keys to the applicant's son Raghav.

48. The charge-sheet says that the sequence of events, detection of discrepancies, incomplete seizure formalities, removal of seized documents from lawful custody, structured negotiation of quantified amount, supervisory concurrence, arrangement of money by persons connected with the firms, delivery and recovery of Rs.69,94,000/- and acknowledgment after the recovery form a complete and unbroken chain

of circumstances. The coordinated acts of co-accused Prabha Bhandari, the applicant and Ajay Sharma, who are officials of CGST and Naresh Kumar Gupta, Advocate as well as the other accused persons, who are proprietors of the firms, clearly demonstrate that all of them had acted in furtherance of a common design to demand, facilitate and obtain undue advantage in connection with official functions.

49. The aforesaid facts prima facie make out the applicant's involvement in commission of the alleged offences and I do not find force in the submission of Sri. Gaurav Mehrotra, that Ajay Sharma was the custodian of the records and he had taken the bribe money, as even those public servants, who do not take a bribe directly, can be tried and convicted in case their involvement in commission of the offence is established. As per the prosecution case, the bribe amount contains shares of all accused persons, including the applicant. 37 bars of silver were recovered from the applicant's house. The entire operation had taken place at railway tiraha which is near the railway station from where the applicant was arrested.

50. It is not a case of mere lapse in discharge of official duties by the applicant and it makes out a case for his trial for commission of the alleged offences.

51. The conversations intercepted on that date clearly establish that the applicant had discussed the magnitude of undeclared stock and potential tax liability with co-accused Naresh Kumar Gupta, Advocate. He was in continuous conversation with his colleague Ajay Sharma, Superintendent regarding the matter. The applicant is said to have arranged the meeting for handing over of the bribe money in a restaurant which belongs to his family member. The applicant was physically present in the restaurant at the time of transfer of bribe money. Prima facie it is established that the applicant has played a crucial role along with co-accused Prabha Bhandari, Deputy Commissioner CGST, whose bail application stands rejected. An order granting sanction for prosecution of the petitioner has already been issued.

52. Having considered the facts of the case in light of the law laid down by the Hon'ble Supreme Court, I am of view that the facts of the case do not warrant exercise of discretion of this Court by enarging the applicant on bail.

53. The bail application is **rejected**.

**May 13, 2026**

-Amit K-

**(Subhash Vidyarthi,J.)**