2025 INSC 1483

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. OF 2025
[Arising out of SLP (Crl.) Nos. 6647 - 6650 of 2025]

LAKSHMANAN …APPELLANT(S)

VERSUS

STATE THROUGH THE DEPUTY SUPERINTENDENT OF POLICE & ORS. ETC. … RESPONDENT(S)

J U D G M E N T

R. MAHADEVAN, J.

1. Leave granted.

2. The instant Criminal Appeals have been preferred by the appellant / defacto complainant, aggrieved by the judgment dated 09.04.2025 passed by the Madurai Bench of Madras High Court[1] in Criminal Appeal (MD) Nos. 359, 346, 360 and 326 of 2025. *Vide* the impugned judgment, the High Court allowed the said criminal appeals, thereby enlarging the respondents / accused persons on bail subject to certain conditions, and directed the Principal District Judge,

[1] Hereinafter shortly referred to as "the High Court"

Madurai, to conduct joint trial of the cases *viz*., Crime No. 39 of 2020 (Special S.C. No.25 of 2021) and Crime No. 202 of 2022 (P.R.C. No. 17 of 2023), after completing the required committal formalities.

3. Briefly, the facts are that on 24.02.2020, the appellant, Lakshmanan, along with his friend Suresh (deceased), was brutally assaulted by A1 (Gopalakrishnan) and other accused persons using deadly weapons, while they were surveying and fencing agricultural land situated at Sambiranipatti Village, Melur Taluk, Madurai District. During the assault, the appellant, a member of a Scheduled Caste community, was subjected to caste-based abuse. Pursuant to the same, an FIR in Crime No. 39 of 2020 was registered on the file of Melavalavu Police Station under Sections 147, 148, 447, 341, 294(b), 323, 324, 307, and 379 of the Indian Penal Code, 1860[2] and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2015[3] against various persons including the respondents / accused. Pending investigation, the respondents / accused were enlarged on bail *vide* order dated 09.09.2020 passed by the Special Court (PCR), Madurai. Upon completion of the investigation, the respondent police filed the final report and the case was taken cognizance as Special S.C. No. 25 of 2021 for offences under Sections 147, 148, 149, 447, 341, 294(b), 325, 324, 307 and 379 IPC read with Section 3(2)(va) of the SC/ST (POA) Act. However, the progress of the trial was

[2] For short, "IPC"
[3] For short, "the SC/ST (POA) Act"

hindered due to the continued non-cooperation of the accused persons. Aggrieved, the appellant filed Criminal Original Petition (MD) Nos. 10559 and 10561 of 2020 under Section 439(2) of the Code of Criminal Procedure, 1973[4] before the High Court seeking cancellation of bail granted to the accused persons on 09.09.2020. The deceased co-victim Suresh also filed Criminal Miscellaneous Petition (MD) No. 8218 of 2021 praying to implead him in Criminal Original Petition (MD) No. 10561 of 2020. While so, on 18.12.2022, A1 (Gopalakrishnan), A2 (Karmegam), A4 (Malaichamy) and A11 (Ajithbalan), who were on bail in connection with Crime No. 39 of 2020, committed murder of Suresh (deceased). Consequently, a second FIR in Crime No. 202 of 2022 was registered against the respondents / accused for offences under Sections 147, 148, 341, 302 and 506(ii) IPC. The respondents / accused also obtained bail in Crime No. 202 of 2022. By a common order dated 31.03.2023, the High Court allowed the Criminal Original Petitions filed by the appellant, thereby cancelling the bail granted to the respondents / accused on 09.09.2020 in connection with Crime No. 39 of 2020 and directing them to surrender before the Committal Court within two weeks. In compliance of the same, the respondents / accused surrendered before the Committal Court. Later, the accused persons preferred various petitions seeking bail in Crime No. 39 of 2020, which were dismissed by the trial Court. The dismissal of the bail petitions was challenged before the High Court under Section 14A(2) of the

[4] For short, "Cr.P.C"

SC/ST (POA) Act by filing Criminal Appeal (MD) Nos. 112, 185, 188 and 189 of 2024. In the meanwhile, the defacto complainant in Crime No. 202 of 2022 by name, Jeya Gowsalya, wife of the deceased Suresh, filed Criminal Original Petition (MD) No. 16237 of 2023 seeking cancellation of bail granted to the accused persons. By a common judgment dated 06.09.2024, the High Court dismissed the criminal appeals filed by the respondents / accused and allowed the Criminal Original Petition filed by the defacto complainant in Crime No. 202/2022. Subsequently, the respondents / accused approached the trial Court praying to be enlarged on bail in Crime No. 39 of 2020, which were dismissed. Challenging the dismissal of their bail petitions, they filed Criminal Appeal (MD) Nos. 359, 346, 360 and 326 of 2025. The High Court *vide* the impugned judgment dated 09.04.2025, allowed the appeals thereby granting bail to the accused persons. Aggrieved by the same, the appellant / defacto complainant in Crime No. 39 of 2020 is before us with the present appeals.

4. The learned senior counsel appearing for the appellant / defacto complainant submitted that the High Court erred in granting bail to the respondents / accused without considering the specific, detailed, and reasoned objections raised by the defacto complainant in Crime No. 202 of 2022. It was submitted that Section 15A(5) of the SC/ST (POA) Act mandates that the victim or their counsel must be afforded a meaningful opportunity of being heard before the grant of bail. The failure of the Court to engage with or consider the

victim's objections constitutes a serious procedural irregularity and has resulted in a miscarriage of justice.

4.1. It was pointed out that this very lapse had earlier been noticed by the High Court, which, by its judgment dated 31.03.2023, cancelled the bail granted to the respondents / accused in Crime No. 39 of 2020, after recording findings regarding misuse of bail and intimidation of witnesses. Therefore, the subsequent grant of bail, ignoring the earlier cancellation orders and without any fresh or substantial change in circumstances is wholly unjustified and contrary to settled principles.

4.2. The learned senior counsel further submitted that the accused persons particularly, A1, A2, A4 and A11, were involved in a violent and premeditated attack on the appellant and his friend Suresh while they were lawfully fencing agricultural land. The assault involved the use of deadly weapons and was accompanied by caste-based abuse directed at the appellant, who belongs to a Scheduled Caste community. The offence thus squarely falls within Section 3(2)(va) of the SC/ST (POA) Act, warranting strict scrutiny at the stage of bail.

4.3. It was further submitted that while the accused persons were on bail in Crime No. 39 of 2020, they brutally murdered Suresh, the prime injured eyewitness, in broad daylight, leading to the registration of Crime No. 202 of 2022. This subsequent murder clearly demonstrates a proven history of misuse

of bail, witness elimination, and deliberate obstruction of the judicial process. The High Court, while granting bail, failed to appreciate the gravity of this development and its direct bearing on the question of continued liberty.

4.4. The learned senior counsel submitted that the respondents / accused did not raise any fresh or substantial grounds warranting reconsideration of bail. On the contrary, the record reflects that they had misused bail by committing a capital offence, namely, the murder of a co-victim and key witness; repeatedly attempted to stall trial proceedings; posed a grave and continuing threat to the appellant and other prosecution witnesses; and suppressed material facts, including prior bail cancellation orders and their criminal antecedents, while seeking bail.

4.5. It was further contended that the continued liberty of the accused poses a serious threat to the remaining witnesses, including the defacto complainant, undermines the confidence of the marginalised community, deters future victims from coming forward, and erodes public faith in the criminal justice system's ability to protect the vulnerable.

4.6. The learned senior counsel also assailed the High Court's direction for a joint trial of Crime No. 39 of 2020 and Crime No. 202 of 2022, submitting that the High Court misapplied the settled principle of law that separate trials are the rule and joint trials are the exception. The learned senior counsel further

submitted that the two crimes are distinct and independent in nature: Crime No. 39 of 2020 pertains to caste-based violence and attempt to murder, whereas Crime No.202 of 2022 relates to the murder of an injured eyewitness while the accused were on bail in the earlier case. Clubbing the cases merely on the ground that they arose from a sequence of events is legally impermissible and prejudicial.

4.7. It was further argued that the earlier cancellation of bail in both Crime No. 39 of 2020 and Crime No. 202 of 2022 was based on well-founded findings of witness intimidation, tampering with evidence, and deliberate obstruction of judicial proceedings. Despite this, the accused managed to secure bail by concealing critical facts and manipulating judicial processes.

4.8. The learned senior counsel submitted that the accused persons took advantage of bail granted to them to commit further grave offence of murder and hence, they cannot claim the benefit of the principle that “bail is the rule and jail is the exception”.

4.9. With these submissions, the learned senior counsel prayed that the instant criminal appeals be allowed and that the bail granted to the respondents / accused be set aside.

5. To buttress the contentions advanced on the side of the appellant / defacto complainant, the learned counsel appearing for Respondent No. 1 made detailed submissions. The learned counsel submitted that during the pendency of Special S.C. No. 25 of 2021 and while the respondents / accused were on bail granted by the trial Court, they entered into a criminal conspiracy along with twelve other accused and brutally assaulted Suresh, one of the primary witnesses in Special S.C. No.25 of 2021, using deadly weapons. The attack resulted in his instantaneous death at the spot and was carried out with the sole object of preventing him from deposing against the accused in the said case.

5.1. It was further submitted that the impugned judgment failed to consider the merits of the case and completely ignored the earlier detailed and reasoned orders passed by the High Court in Criminal Appeal (MD) No. 499 of 2023 dated 01.06.2023, Criminal Appeal (MD) No. 1026 of 2023 dated 03.01.2024, Criminal Appeal (MD) Nos. 112, 185, 188 and 189 of 2024, and Criminal Original Petition (MD) No. 16237 of 2023 dated 06.09.2024. In all the aforesaid proceedings, the High Court had examined the seriousness of the offences, the conduct of the accused before the trial Court, and the threat posed to witnesses, and had consistently recorded findings that the accused were not entitled to bail in order to ensure witness protection and a fair trial. However, the impugned judgment contains no discussion on these aspects and grants bail in a perfunctory manner, thereby warranting interference by this Court.

5.2. The learned counsel submitted that the conduct of the accused before the trial Court was a crucial factor which ought to have been considered while deciding the bail applications. The accused deliberately interfered with the proceedings in Crime No. 202 of 2022 before the Judicial Magistrate, Melur. Pursuant to the order passed by the High Court in Criminal Original Petition (MD) No. 16237/2023 dated 13.01.2024, A1 (Gopalakrishnan), A2 (Karmegam) and A11 (Ajithbalan) were specifically directed to cooperate and complete the proceedings in P.R.C. No. 17/2023. Only in furtherance of the said direction committal proceedings were completed. Even during those proceedings, the accused repeatedly refused to receive copies under Section 207 Cr.P.C. on several occasions.

5.3. It was further submitted that A1, A2, A3, A4 and A11 created disturbances during trial proceedings and even threatened witnesses who were about to depose against them inside the courtroom itself. This serious misconduct was recorded in the e-Courts proceedings in Special S.C. No. 25 of 2021 on 14.10.2024. In light of these facts, the learned counsel submitted that if the respondents / accused are released on bail, there would be no possibility of conducting a fair trial in either case as there is a clear and continuing attempt by the accused to tamper with evidence and intimidate witnesses.

5.4. It was also pointed out that A1 (Gopalakrishnan), A2 (Karmegam) and A3 (Malaikolunthu) were detained under Act 14, pursuant to the

recommendation of the sponsoring authority and the order of the competent District Magistrate, who, after considering their imminent threat to society declared them as “Goondas”. A1, A2 and A3 are habitual offenders, and A3 is a history sheeter. These vital facts, however, were not taken into consideration by the High Court while granting bail.

5.5. The learned counsel further submitted that the High Court, on several earlier occasions, had heard the matter at length and passed detailed orders with specific observations that the offences committed by the accused were heinous in nature and that one of the injured witnesses in the earlier case was subsequently murdered on the very same motive, namely, to tamper with evidence and create fear among witnesses who were to depose against the accused.

5.6. It was contended that the High Court, while passing the impugned judgment, granted bail without any meaningful discussion or proper consideration of the merits of the case and solely on the reasoning that, if released, the accused would be able to contest the case effectively. Such reasoning, it was submitted, is wholly insufficient in a case involving grave offences, witness intimidation, and prior misuse of bail.

5.7. It was also submitted that subsequent to the impugned judgment, the respondents / A1, A2 and A11 filed Criminal Original Petition (MD) No. 9049

of 2025 before the High Court seeking bail in connection with Crime No. 202 of 2022. After an elaborate hearing, the said petition was dismissed by order dated 09.07.2025. Therefore, the respondents / A1, A2, A3, A4 and A11 are not entitled to any relief, particularly in view of their direct involvement in causing the death of one of the injured witnesses in the earlier case.

6. *Per contra*, the learned counsel appearing for Respondent Nos. 3 to 7 / accused contended that the appellant / defacto complainant has approached this Court with *mala fide* intentions, seeking cancellation of the bail granted to the accused for extraneous and vindictive reasons.

6.1. It was submitted that the appellant and his associates had encroached upon government lands and water bodies and fraudulently sold the same to innocent purchasers by creating fake documents. Respondent No. 3 / A1 (Gopalakrishnan) had earlier filed Writ Petition No. 8286 of 2012 before the Madras High Court seeking removal of encroachments from water bodies. Pursuant to the directions of the High Court, the State Government undertook a large-scale eviction drive and removed encroachments from water bodies, resulting in the restoration of more than 3,000 acres of such lands in Madurai District alone. As a consequence, the appellant and his associates developed personal enmity towards the respondents / accused and their family members and started filing false and vexatious cases against them.

6.2. According to the learned counsel, the respondents / accused have no criminal antecedents and were not involved in any murder. Despite this, they have been suffering prolonged incarceration as undertrial prisoners, and further stated that the trial has not commenced till date. It was further submitted that A1 (Gopalakrishnan) is a social worker who enjoys immense respect not only among the villagers but across the entire Taluk, and it is highly improbable that such a person would commit an offence under Section 302 IPC.

6.3. It was alleged that the appellant and his associates are part of a land mafia involved in large-scale encroachments of government lands and water bodies. According to the learned counsel, the murder of the witness was orchestrated by the appellant's group to falsely implicate the respondents / accused, including A1 (Gopalakrishnan), in retaliation for his public interest litigation and efforts to remove encroachments.

6.4. The learned counsel further submitted that the appellant and his associates have serious criminal antecedents and that several criminal cases have been registered against them. It was contended that the case under Section 307 IPC (Crime No. 39 of 2020) was falsely foisted, that the FIR was registered without proper investigation, and that the appellant misused his influence and financial resources to lodge false complaint against the respondents/ accused.

6.5. It was further submitted that the alleged incident in Crime No. 39 of 2020 took place in the year 2020 and that A3 (Malaikolunthu) and A4 (Malaichamy)

were not present at the scene of occurrence and they have undergone substantial periods of incarceration as undertrial prisoners.

6.6. The learned counsel specifically emphasized that although the appellant initially lodged a complaint alleging murder against nine persons, the name of A3 (Malaikolunthu) did not figure therein. Even after the FIR was altered during investigation and the number of accused was expanded to sixteen, A3 (Malaikolunthu) was not implicated. Ultimately, the final report in Crime No. 202 of 2022 was filed against sixteen accused, and at no stage was it submitted that the name of A3 was included as an accused in the Section 302 IPC case. It was also highlighted that A3 (Malaikolunthu) was not present at the scene of occurrence in the earlier Section 307 IPC case.

6.7. It was submitted that the police completed the investigation in Crime No. 202 of 2022 in the year 2022 and filed the final report. Out of the sixteen accused, thirteen have already been granted bail by the trial Court, the High Court and even this Court. All thirteen accused have been on bail for more than two years and have neither violated any bail conditions nor threatened or intimidated any witnesses.

6.8. The learned counsel reiterated that A1 (Gopalakrishnan) had consistently acted in public interest by filing writ petitions for protection of water bodies, including W.P. No. 2078 of 2016, wherein he challenged illegal constructions

on Tallakulam Kanmoi. A Division Bench of the High Court had directed the authorities not to extend or undertake any new construction over the said water body. Because of these actions, the appellant and his associates allegedly harbour deep-seated animosity towards A1 and fear that, if released on bail, he may initiate further legal proceedings leading to additional removal of illegal encroachments.

6.9. It was further contended that the appellant selectively sought cancellation of bail only in the Section 307 IPC case (Crime No. 39 of 2020) and did not challenge the bail granted in the Section 302 IPC case (Crime No. 202 of 2022), which itself demonstrates ulterior motives.

6.10. The learned counsel also submitted that the Section 307 IPC case pertains to an incident of the year 2020, that the accused have already spent several years in custody as undertrial prisoners, and that they have fully cooperated with the investigation and judicial proceedings. The delay in trial, according to the learned counsel, is attributable to the non-appearance of prosecution witnesses and not to any conduct of the accused.

6.11. On these grounds, the learned counsel prayed to dismiss the criminal appeals filed by the appellant / defacto complainant.

7. We have heard the learned counsel appearing for the parties and perused the materials available on record.

8. This Court, by order dated 05.05.2025 granted an order of interim stay of the directions issued in paragraph 34 of the impugned judgment, relating to the joint trial of the cases in Crime No. 39 of 2020 and Crime No. 202 of 2022.

9. Evidently, there was a civil dispute between the appellant / defacto complainant and the respondents / accused. As a result, multiple civil proceedings came to be instituted between the parties, the details of which have been narrated in the impugned judgment. The prior cases involving the respondents / accused have been tabulated by the High Court. However, we do not propose to delve into those aspects as the appellant / defacto complainant in the present appeals has questioned only the grant of bail to the respondents / accused in connection with Crime No. 39 of 2020.

10. The records reveal that the civil dispute between the parties subsequently culminated in the registration of criminal case in Crime No. 39 of 2020 registered for offences under sections 147, 148, 447, 341, 294(b), 323, 324, 307 and 379 IPC and Section 3(2)(va) of the SC/ST (POA) Act. The respondents / accused were originally granted bail in the said case. During the period, when they were on bail, they are alleged to have murdered the prime injured witness, Suresh, resulting in the registration of a second FIR in Crime No. 202 of 2022

for offences under sections 147, 148, 341, 302, 506(ii), 294(b) and 120(b) IPC. Consequent thereto, the bail earlier granted to the respondents / accused in Crime No. 39 of 2020 came to be cancelled. Thereafter, multiple applications seeking bail were filed by the respondents / accused, all of which were dismissed by the trial Court. However, by the impugned judgment, the High Court granted bail to the respondents / accused and also directed the trial Court to conduct joint trial of both cases. Aggrieved by the same, the appellant / defacto complainant has preferred the present appeals.

11. The principal contention advanced by the learned counsel for the appellant is that in terms of Section 15A(5) of the SC/ST (POA) Act, the victim or their counsel must be afforded a meaningful opportunity of being heard while considering a bail application. It is contended that in the present case, such an opportunity was not granted and that the objections raised by the victim were not considered by the High Court at the time of granting bail. On this ground alone, it is urged that the bail granted to the respondents / accused is liable to be cancelled.

11.1. Section 15A(5) of the SC/ST (POA) Act reads as follows:

> *"15A. Rights of victims and witnesses.*
> *...*
> *(5) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing."*

11.2. It is well settled that bail can be cancelled on the ground of violation of Section 15A(5) of the SC/ST (POA) Act. However, such cancellation is warranted only where there is a complete denial of the victim's statutory right to be heard. Section 15A(5) confers a mandatory procedural right upon the victim or their dependent to participate in bail proceedings. This position stands authoritatively settled by this Court in ***Hariram Bhambhi v. Satyanarayan and another***[5] , wherein one of us (B.V. Nagarathna, J.) was a member of the Bench. In that case, the order of the High Court granting bail for offences under Sections 302 and 201 IPC was challenged on the ground that notice was not issued to the victim, thereby violating the victim's rights under Section 15A(3) of the SC/ST (POA) Act. This Court, after an exhaustive analysis of Section 15A, held that sub-sections (3) and (5) are mandatory in nature. The Court emphasized that Section 15A embodies the principle of *audi alteram partem* for victims of caste-based atrocities and that notice under sub-section (3) is intended to facilitate the right to be heard under sub-section (5). The Court further approved the view taken by the Gujarat High Court in ***Hemal Ashwin Jain v. Union of India***[6], which categorically held that failure to provide the victim an opportunity of being heard in bail proceedings constitutes a failure of justice, rendering the order legally unsustainable. This Court ultimately concluded that the victim or dependent is an active stakeholder in proceedings under the SC/ST

[5] 2021 SCC OnLine SC 1010
[6] 2020 SCC OnLine Guj 3285

(POA) Act and that compliance with Sections 15A(3) and 15A(5) is mandatory. The following paragraphs are pertinent in this regard:

> *"13. Section 15A of the SC/ST Act contains important provisions that safeguard the rights of the victims of caste-based atrocities and witnesses. Sub-sections (3) and (5) of Section 15A specifically make the victim or their dependent an active stakeholder in the criminal proceedings. These provisions enable a member of the marginalized caste to effectively pursue a case and counteract the effects of defective investigations. ...*
>
> *14. Sub-section (3) of Section 15A confers a statutory right on the victim or their dependents to reasonable, accurate, and timely notice of any court proceeding including a bail proceeding. In addition, sub-section (3) requires a Special Public Prosecutor or the State Government to inform the victim about any proceeding under the Act. Sub-section (3) confers a right to a prior notice, this being evident from the use of the expression "reasonable, accurate, and timely notice of any court proceeding including any bail proceeding". Sub-section (5) provides for a right to be heard to the victim or to a dependent....*
>
> *15. The provisions of sub-section (3) which stipulate the requirement of notice and of sub-section (5) which confers a right to be heard must be construed harmoniously. The requirement of issuing a notice facilitates the right to be heard.*
>
> *...*
>
> *17. The Gujarat High Court in Hemal Ashwin Jain v. Union of India observed that:*
>
> > *"37. The victims, even today, have no semblance of rights at the investigation stage and a feeble position at the trial stage of a criminal prosecution.*
> >
> > *.....*
> >
> > *53. We are also not impressed by the argument of Mr. Popat that Section 15A(3) of the Amendment Act should be construed as directory and not mandatory. As is evident from a plain reading of the section quoted above, the victim must be served with notice of the bail application and must be provided an opportunity to be heard and advance argument. When a statute specifically provides a right to the victim/dependent to be heard at any proceedings in respect of bail, and if the court fails to provide such opportunity, then there is an inherent failure of justice. This procedure, in our opinion, cannot be bypassed. The non-compliance of the provision of Section 15A(3) of the Amendment Act would render an order null and void. If Section 15A(3) of the Amendment Act is to be construed as directory, then the very object and purpose with which such provision is enacted would got frustrated.*

> *61. In such circumstances referred to above, we hold that Section 15A(3) of the Amendment Act is mandatory and not directory"*
>
> *(emphasis supplied)*

> *18. The finding of the Gujarat High Court that the requirement of issuing notice of a court proceeding to a victim or a dependent under Section 15A(3), in order to provide them an opportunity of being heard, is mandatory, finds echo in multiple High Court decisions including a decision of the Rajasthan High Court. We find ourselves in agreement with the proposition and hold that sub-sections (3) and (5) of Section 15A are mandatory in nature."*

11.3. Thus, it is beyond cavil that Section 15A(5) incorporates the principle of *audi alteram partem* for victims under the SC/ST (POA) Act. Where such a right is conferred, the Court must provide the victim or their dependent an opportunity of audience, either personally or through counsel, including the Special Public Prosecutor. The statutory right to be heard presupposes that the victim is made aware of the proceedings and is not excluded therefrom.

11.4. At the same time, the scope of Section 15A(5) must be correctly understood. The provision guarantees an opportunity to be heard, not a right to a favourable outcome or to a detailed adjudication of every objection raised by the victim. Once the victim has been notified, permitted to participate, and allowed to place objections on record, the statutory mandate stands satisfied.

11.5. Cancellation of bail on the ground of violation of Section 15A(5) is justified only in cases where no notice of the bail proceedings was served upon the victim, the victim was completely excluded from the proceedings, or the

victim was denied any opportunity of audience. In such circumstances, the violation strikes at the root of jurisdiction and renders the bail order legally unsustainable. However, bail cannot be cancelled merely because the court did not accept the victim's submissions, the bail order does not specifically deal with or rebut each objection raised, or the victim alleges that the hearing was "mechanical" despite having been granted an opportunity.

11.6. Courts, particularly at the stage of bail, are required only to form a *prima facie* view and bail orders are not expected to contain elaborate or exhaustive reasoning. Section 15A(5) does not mandate a detailed analysis or express rejection of every submission advanced by the victim.

11.7. Applying the aforesaid principles to the facts of the present case, it is evident that the respondents are accused *inter alia* under Section 3(2)(va) of the SC/ST (POA) Act. The victim was admittedly aware of the bail proceedings. Objections to the grant of bail were raised by the appellant and the same mentioned in the High Court's bail order. There is no allegation that notice was not served, that the appellant was excluded from the proceedings, or that an opportunity of hearing was denied.

11.8. The grievance of the appellant is essentially directed against the manner in which the High Court dealt with the objections, namely, that the objections were not analysed or individually addressed. This, however, pertains to the

quality of reasoning, not to the absence of hearing. Such a grievance does not constitute a violation of Section 15A(5) of the SC/ST (POA) Act.

11.9. Since the victim was heard and permitted to participate in the bail proceedings, the core statutory requirement under Section 15A(5) stood complied with. In the absence of any procedural illegality, perversity or complete denial of the right of audience, the bail order cannot be cancelled on this ground alone.

11.10. Accordingly, no violation of Section 15A(5) of the SC/ST (POA) Act is made out. The appellant having been afforded an opportunity of hearing, the High Court's failure to expressly engage with each objection does not render the hearing illusory or illegal. Consequently, no ground exists for cancellation of bail on the basis of Section 15A(5) of the SC/ST (POA) Act.

12. However, the present case squarely warrants annulment of the impugned bail order, even while this Court remains conscious of the settled principle that an order granting bail should not be lightly or routinely interfered with. It is well settled that the power to set aside or annul a bail order operates in a field distinct from cancellation of bail. Cancellation of bail is ordinarily premised on supervening circumstances or post-bail misconduct, whereas annulment is justified where the very order granting bail is vitiated by perversity, illegality, arbitrariness or non-application of mind. This Court in ***Shabeen Ahmad v. the***

State of Uttar Pradesh and another[7], has lucidly explained the circumstances in which an order granting bail may be interfered with in exercise of its constitutional jurisdiction. The relevant paragraphs of the said decision are extracted below for proper appreciation:

> *"18. We also find it necessary to express our concern over the seemingly mechanical approach adopted by the High Court in granting bail to the Respondent accused. .... A superficial application of bail parameters not only undermines the gravity of the offence itself but also risks weakening public faith in the judiciary's resolve to combat the menace of dowry deaths. It is this very perception of justice, both within and outside the courtroom, that courts must safeguard, lest we risk normalizing a crime that continues to claim numerous innocent lives. These observations regarding grant of bail in grievous crimes were thoroughly dealt with by this Court in Ajwar v. Waseem[8] in the following paras:*
>
> > *"26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. [Refer:* Chaman Lal *v.* State of U.P. [Chaman Lal *v.* State of U.P., *(2004) 7 SCC 525 : 2004 SCC (Cri) 1974]*; Kalyan Chandra Sarkar *v.* Rajesh Ranjan [Kalyan Chandra Sarkar *v.* Rajesh Ranjan, *(2004) 7 SCC 528 : 2004 SCC (Cri) 1977]*; Masroor *v.* State of U.P. [Masroor *v.* State of U.P., *(2009) 14 SCC 286 : (2010) 1 SCC (Cri) 1368]*; Prasanta Kumar Sarkar *v.* Ashis Chatterjee [Prasanta Kumar Sarkar *v.* Ashis Chatterjee, *(2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765]*; Neeru Yadav *v.* State of U.P. [Neeru Yadav *v.* State of U.P., *(2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527]*; Anil Kumar Yadav *v.* State (NCT of Delhi) [Anil Kumar Yadav *v.* State (NCT of Delhi), *(2018) 12 SCC 129 : (2018) 3 SCC (Cri) 425]*; Mahipal *v.* Rajesh Kumar [Mahipal *v.* Rajesh Kumar, *(2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558].]*

[7] (2025) 4 SCC 172
[8] (2024) 10 SCC 768

27. It is equally well settled that bail once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse order of bail is always open to interference by the superior court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by the same Court that has granted the bail. Bail can also be revoked by a superior court if it transpires that the courts below have ignored the relevant material available on record or not looked into the gravity of the offence or the impact on the society resulting in such an order. In P v. State of M.P. [P v. State of M.P., (2022) 15 SCC 211] decided by a three-Judge Bench of this Court [authored by one of us (Hima Kohli, J.)] has spelt out the considerations that must weigh with the Court for interfering in an order granting bail to an accused under Section 439(1) CrPC in the following words: (SCC p. 224, para 24)

> *"24. As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial* [Dolat Ram *v.* State of Haryana, *(1995) 1 SCC 349 : 1995 SCC (Cri) 237]. To put it differently, in ordinary circumstances, this Court would be loathe to interfere with an order passed by the court below granting bail but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court."*

Considerations for setting aside bail orders

28. The considerations that weigh with the appellate court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that may have occurred after granting relief to the accused, the conduct of the accused while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner. We may add that this list is only illustrative and not exhaustive. However, the court must be cautious that at the stage of granting bail, only a prima facie case needs to be examined and detailed reasons relating to the merits of the case that may cause prejudice to the accused, ought to be avoided. Suffice it is to state that the bail order should reveal the factors that have been considered by the Court for granting relief to the accused."

12.1. The impugned judgment passed by the High Court suffers from such fatal infirmities. A determinative factor completely ignored by the High Court is that the respondents / accused were earlier enlarged on bail by the trial Court, and that such bail was subsequently cancelled owing to grave supervening circumstances. These included the death of Suresh, a material witness in Crime No. 39 of 2020 and registration of Crime No. 202 of 2022, indicating intimidation of witnesses and attempts to derail the trial. These facts were not peripheral or collateral. They went to the root of the issue of misuse of liberty and threat to the fairness of trial. The High Court, however, failed even to advert to these aspects, let alone analyse their impact on the entitlement of the respondents / accused to bail. The omission to consider prior cancellation of bail and demonstrated abuse of liberty renders the impugned judgment manifestly perverse.

12.2. The FIR discloses commission of serious offences alleged under Sections 147, 148, 447, 341, 294(b), 323, 324, 307 and 379 IPC read with Section 3(2)(va) of the SC/ST (POA) Act. The allegations involve formation of an unlawful assembly, use of deadly weapons, armed assault resulting in injuries necessitating hospitalisation and commission of offences with knowledge of the victim's Scheduled Caste status. The High Court's judgment does not reflect any meaningful evaluation of the nature and gravity of the offences, the severity of punishment prescribed, or the societal impact of releasing the accused,

particularly in offences under the SC/ST (POA) Act, where intimidation of victims and witnesses is a recurring concern. The absence of such analysis, in a case involving Section 307 IPC and offences under the SC/ST (POA) Act, betrays a clear non-application of mind.

12.3. The criminal antecedents of the respondents / accused were expressly placed before the High Court and were recorded in the impugned judgment. However, the High Court failed to draw any conclusion from them or assess their relevance to the likelihood of reoffending, intimidation of witnesses, or obstruction of justice. Recording antecedents without evaluating their impact amounts to an empty formality and does not satisfy the judicial obligation to apply mind to relevant considerations.

12.4. It is significant to point out that the High Court appears to have been influenced by the existence of a civil dispute between the parties. It is trite law that pendency of civil litigation neither dilutes criminal liability nor overrides considerations of gravity, antecedents, or witness safety. Reliance on the civil nature of the dispute, without addressing the serious criminal dimensions of the case, constitutes a misdirection in law. On the other hand, the impugned judgment contains formulaic observations, unaccompanied by any reasoned linkage between the facts of the case and the legal standards governing grant of bail. There is no explanation as to how release on bail, in the backdrop of prior

cancellation, death of a material witness, and allegations of witness intimidation, is compatible with a fair and uninfluenced trial.

12.5. In sum the High Court granted bail to the respondents / accused ignoring prior cancellation of bail and abuse of liberty, failing to consider the death of a material witness and the threat to the fairness of trial, disregarding the gravity and seriousness of the offences, including those under the SC/ST (POA) Act, overlooking criminal antecedents placed on record, and relying on irrelevant considerations such as pendency of civil disputes. Applying the settled principles governing annulment of bail orders, the impugned judgment is vitiated by perversity, arbitrariness, and non-application of mind. Consequently, the judgment of the High Court granting bail to the respondents / accused deserves to be set aside.

13. While granting bail to the respondents / accused, the High Court issued a direction to the Principal District Judge, Madurai to have joint trial of Crime No. 39 of 2020 (Special S.C. No. 25 of 2021) and Crime No. 202 of 2022 (P.R.C. No. 17 of 2023), after completing the necessary committal formalities. According to the learned senior counsel for the appellant, the said direction is wholly erroneous and contrary to the provision of the Bharatiya Nagarik Suraksha Sanhita, 2023[9] as well as the Cr.P.C. as the offences involved in the

[9] For short, "BNSS"

two cases are distinct and different in nature, do not form part of the same transaction and do not satisfy the statutory requirements for a joint trial.

13.1. Section 219 Cr.P.C permits joinder of charges only where a person is accused of more than one offence of the same kind, committed within a period of twelve months, and punishable under the same provisions of the Indian Penal Code or a special or local law, subject to a maximum of three offences. This provision constitutes a limited exception to the general rule contained in Section 218 Cr.P.C., which mandates separate trials for distinct offences. For better appreciation, Section 219 Cr.P.C. reads as follows:

> ***"219. Three offences of same kind within year may be charged together**.—(1) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial for, any number of them not exceeding three.*
>
> *(2) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code (45 of 1860) or of any special or local laws:*
>
> *Provided that, for the purposes of this section, an offence punishable under Section 379 of the Indian Penal Code (45 of 1860) shall be deemed to be an offence of the same kind as an offence punishable under Section 380 of the said Code, and that an offence punishable under any section of the said Code, or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence."*

13.2. Section 242 BNSS which is in *pari materia* with Section 219 Cr.P.C., similarly permits joinder of offences of the same kind committed within twelve months, punishable under the same provision of the BNSS or a special or local

law, subject to a maximum of five offences. The BNSS, like the Cr.P.C., treats joinder of charges as an exception and not as the rule. The said provision is extracted below for ease of reference:

> ***"242. Offences of same kind within year may be charged together**.—(1) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial for, any number of them not exceeding five.*
>
> *(2) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Bharatiya Nyaya Sanhita, 2023 or of any special or local law:*
>
> *Provided that for the purposes of this section, an offence punishable under sub-section (2) of Section 303 of the Bharatiya Nyaya Sanhita, 2023 shall be deemed to be an offence of the same kind as an offence punishable under Section 305 of the said Sanhita, and that an offence punishable under any section of the said Sanhita, or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence.*

13.3. In ***Mamman Khan v. State of Haryana***[10]**,** this Court exhaustively examined the principles governing joint and separate trials. It was reiterated that separate trial is the norm, and joint trial is permissible only where the offences form part of the same transaction or where the statutory conditions under Sections 219 to 223 Cr.P.C (and corresponding BNSS provisions) are satisfied. This Court further held that even where statutory conditions permitting a joint trial are fulfilled, the conduct of a joint trial is a matter of judicial discretion and not compulsion. The decision must ordinarily be taken at the beginning of the

[10] 2025 SCC OnLine SC 1975

trial, and must be guided by two paramount considerations, namely, whether a joint trial would cause prejudice to the accused and whether it would result in delay or wastage of judicial time. It was also emphasised that evidence recorded in one trial cannot be automatically imported into another and that procedural complications may arise if distinct trials are improperly clubbed. The following paragraphs are apposite in this context:

> ***"16.*** *The principles governing the conduct of joint or separate trials have been elaborately dealt with by this Court in Nasib Singh v. State of Punjab (supra), after a survey of earlier decisions. The relevant paragraphs are extracted below:*
> *"B. Power to direct joint trial*
> *...*
> *35. Chapter 17 CrPC, 1973 deals with "the charge". Part A comprising of Sections 211 to 217 is titled "form of charges". Part B comprising of Sections 218 to 224 is titled "joinder of charges".*
> *...*
> *43. The Bench held that holding a separate trial is the rule and a joint trial is the exception. However, in case the accused persons commit different offences forming a part of the same transaction, a joint trial would be the rule unless it is proved that joint trial would cause difficulty: (Cheemalapati Ganeswara Rao case[11], AIR pp. 1861-862, para 30)*
> > *"30. ... No doubt, as has been rightly pointed out in this case, separate trial is the normal rule and joint trial is an exception. But while this principle is easy to appreciate and follow where one person alone is the accused and the interaction or intervention of the acts of more persons than one does not come in, it would where the same act is committed by several persons, be not only inconvenient but injudicious to try all the several persons separately. This would lead to unnecessary multiplicity of trials involving avoidable inconvenience to the witnesses and avoidable expenditure of public time and money. No corresponding advantage can be gained by the accused persons by following the procedure of separate trials. Where, however, several offences are alleged to have been committed by several accused persons it may be more reasonable to follow the normal rule of separate trials. But here, again, if those offences are alleged not to be wholly unconnected but as forming part of the same transaction the only consideration that will*

[11] State of A.P. v. Cheemalapati Ganeswara Rao, AIR 1963 SC 1850 : (1963) 2 Cri LJ 671

justify separate trials would be the embarrassment or difficulty caused to the accused persons in defending themselves."

...

48. The Court in Chandra Bhal case[12] observed that a separate trial on the charge of causing the homicidal death of one 'L' was not contrary to law even if a joint trial of this offence together with others was permissible. The Court also observed that this matter was required to be considered by the trial court at the beginning of the trial and is not to be determined on the basis of the result of the trial. The Court further observed that its attention was not drawn to any material on record suggesting that prejudice had been caused to the appellant as a result of a separate trial. It was finally held that the plea of self defence and the argument that both the offences were committed during the course of the same transaction was rejected by both the courts below, and that the court would not interfere with concurrent findings of fact.

49. The judgment in Chandra Bhal case therefore lays down three significant principles on joint trials:

49.1. A separate trial is not contrary to law even if a joint trial for the offences along with other offences is permissible.

49.2. The possibility of a joint trial has to be decided at the beginning of the trial and not on the basis of the result of the trial.

49.3. The true test is whether any prejudice has been sustained as a result of a separate trial. In other words, a retrial with a direction of a joint trial would be ordered only if there is a failure of justice.

50. In Essar Teleholdings Ltd. v. CBI[13], R.F. Nariman, J., speaking for a three-Judge Bench reiterated the principles which have been enunciated in Chandra Bhal. Further, it was held that even if the conditions stipulated in Section 223 CrPC to conduct a joint trial have been fulfilled, it may not be desirous to direct a joint trial if a joint trial would (i) prolong the trial; (ii) cause unnecessary wastage of judicial time; and (iii) confuse or cause prejudice to the accused, who had taken part only in some minor offence.

51. From the decisions of this Court on joint trial and separate trials, the following principles can be formulated:

51.1. Section 218 provides that separate trials shall be conducted for distinct offences alleged to be committed by a person. Sections 219-221 provide exceptions to this general rule. If a person falls under these exceptions, then a joint trial for the offences which a person is charged with may be conducted. Similarly, under Section 223, a joint trial may be held for persons charged with

---

[12] Chandra Bhal v. State of U.P., (1971) 3 SCC 983 : 1972 SCC (Cri) 290

[13] (2015) 10 SCC 562 : (2016) 1 SCC (Cri) 1

different offences if any of the clauses in the provision are separately or on a combination satisfied.
51.2. While applying the principles enunciated in Sections 218-223 on conducting joint and separate trials, the trial court should apply a two-pronged test, namely, (i) whether conducting a joint/separate trial will prejudice the defence of the accused; and/or (ii) whether conducting a joint/separate trial would cause judicial delay.
51.3. The possibility of conducting a joint trial will have to be determined at the beginning of the trial and not after the trial based on the result of the trial. The appellate court may determine the validity of the argument that there ought to have been a separate/joint trial only based on whether the trial had prejudiced the right of accused or the prosecutrix.
51.4. Since the provisions which engraft an exception use the phrase "may" with reference to conducting a joint trial, a separate trial is usually not contrary to law even if a joint trial could be conducted, unless proven to cause a miscarriage of justice.
51.5. A conviction or acquittal of the accused cannot be set aside on the mere ground that there was a possibility of a joint or a separate trial. To set aside the order of conviction or acquittal, it must be proved that the rights of the parties were prejudiced because of the joint or separate trial, as the case may be."

From the above, the following propositions stand reiterated:
(i) Separate trial is the rule under Section 218 Cr. P.C.; a joint trial may be permissible where the offences form part of the same transaction or the conditions in Sections 219 - 223 Cr. P.C. are satisfied, but even then it is a matter of judicial discretion;
(ii) The decision to hold a joint or separate trial must ordinarily be taken at the outset of the proceedings and for cogent reasons;
(iii) The two paramount considerations in such decision making are whether a joint trial would cause prejudice to the accused, and whether it would occasion delay or wastage of judicial time;
(iv) Evidence recorded in one trial cannot be imported into another, which may give rise to serious procedural complications if the trial is bifurcated; and
(v) An order of conviction or acquittal cannot be set aside merely because a joint or separate trial was possible; interference is justified only where prejudice or miscarriage of justice is shown."

13.4. In the present case, it is revealed that Crime No. 39 of 2020 and Crime No. 202 of 2022 arise from separate FIRs, pertain to distinct occurrences, were registered in different years, and involve different factual allegations, witnesses,

and evidentiary foundations. The offences cannot be characterised as being of the "same kind" nor can they be said to form part of the same transaction.

13.5. The High Court while issuing the impugned direction, did not examine the dates of the alleged offences, the time gap between the incidents, the nature and scope of the offences, the roles attributed to the accused or the stage of proceedings in the respective cases. No finding was recorded as to how the statutory requirements for a joint trial were satisfied.

13.6. The determination of whether a joint or separate trial should be conducted lies primarily within the domain of the trial Court to be exercised at the threshold of trial upon a reasoned assessment of prejudice, convenience, and judicial economy. By issuing a direction for a joint trial at the stage of consideration of bail, the High Court pre-empted and curtailed the statutory discretion vested in the trial Court. Further, the grant of such a substantive procedural direction at the bail stage travels beyond the limited scope of bail jurisdiction. The High Court could not have directed a joint trial of two distinct cases without following due process of law or recording cogent reasons in consonance with Sections 218 to 223 Cr.P.C and the corresponding provisions of the BNSS.

13.7. In view of the above, the direction issued by the High Court for joint trial of Crime No. 39 of 2020 and Crime No. 202 of 2022 is legally unsustainable,

contrary to the statutory scheme and binding precedents, and the impugned judgment warrants interference by this Court on this aspect as well.

14. Accordingly, the criminal appeals are allowed and the impugned judgment of the High Court is set aside. Consequently, the bail granted to the respondents / accused stands cancelled. The respondents / accused are directed to surrender before the jurisdictional trial Court within a period of two weeks from today. In the event of their failure to do so, the trial Court shall take appropriate steps in accordance with law to secure their custody. Needless to state, the trial Court shall conduct the trial independently, purely on merits, and in accordance with law.

15. Pending application(s), if any, shall stand closed.

……J.
[B.V. NAGARATHNA]

……J.
[R. MAHADEVAN]

NEW DELHI;
DECEMBER 19, 2025.