THE HIGH COURT OF ORISSA : CUTTACK

No.XI-28/2025/14044/ Dated 26.08.2025

From

Asanta Kumar Das,
Registrar General

To

The District & Sessions Judge,..... (All)

Sub:- Forwarding of judgment dtd. 18th July, 2025 delivered in Criminal Appeal No(s).3053 of 2025 (arising out of SLP (Crl.) No(s).2254 of 2025) [2025 INSC 871] (Kaushal Singh Vrs The State of Rajashtan) by the Supreme Court of India regarding disclosure of criminal antecedents in bail applications.

Sir,

With reference to the subject cited above, I am directed to forward herewith a copy of the judgment dtd. 18th July, 2025 delivered in Criminal Appeal No(s).3053 of 2025 (arising out of SLP (Crl.) No(s).2254 of 2025) [2025 INSC 871] (Kaushal Singh Vrs The State of Rajashtan) by the Supreme Court of India regarding disclosure of criminal antecedents in bail applications for your information and to request you to communicate the same to all the Judicial Officers working in your respective judgeships for their information and guidance.

Yours faithfully,

25.08.2025

REGISTRAR GENERAL

Encl:- As above.

2025 INSC 871

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2025
(Arising out of SLP (Crl.) No (s). 2254 of 2025)

KAUSHAL SINGH ....APPELLANT(S)

VERSUS

THE STATE OF RAJASTHAN ....RESPONDENT(S)

J U D G M E N T

Mehta, J.

1. Heard.

2. Leave granted.

3. The appellant, being a Judicial Officer of the District Judge Cadre[1] in the judicial services of the State of Rajasthan, has approached this Court

[1] Hereinafter referred to as the "appellant-Judicial Officer".

through this appeal by special leave in order to assail the strictures passed against him in order dated 3rd May, 2024[2] passed by a learned Single Judge of the High Court of Judicature for Rajasthan Bench at Jaipur[3] while deciding the S.B. Criminal Miscellaneous Bail Application No. 4677 of 2024.

4. The chronological list of events, relevant and essential for disposal of the appeal are noted hereinbelow.

5. First Information Report[4] No. 224 of 2022 was registered at Police Station Gegal, District Ajmer on 23rd October, 2022 against various accused persons including Sethu @ Angrej and Sethu @ Haddi, for the offences punishable under Sections 147, 323, 341, 325, 307, 427 read with section 149 of Indian Penal Code, 1860[5].

6. Sethu @ Haddi was arrested on 21st November, 2022 whereas Sethu @ Angrej was arrested on 25th November, 2022 in connection with the aforesaid FIR. The High Court granted bail to Sethu @ Haddi *vide* order dated 16th December, 2022.

---

[2] Hereinafter referred to as the "impugned order".
[3] Hereinafter referred to as the "High Court".
[4] For short 'FIR'.
[5] For short, "IPC".

7. It may be mentioned here that while passing the order dated 16th December, 2022, the High Court observed that the allegation of inflicting the lethal injury was against the accused Sethu @ Angrej from whom the case of the applicant therein (Sethu @ Haddi) was different.

8. At this stage, we are persuaded to note that the said FIR does not bear any reference to the offence under Section 307 IPC simpliciter being invoked in the case. As per the formal FIR, the offences under the various other sections of IPC mentioned above were applied against the accused in the said case. However, subsequent to the procurement of the medical reports, the Investigation Officer added offences punishable under Sections 325 and 307 IPC to the case. The report under Section 173(2) CrPC came to be filed against the accused persons nominated in FIR No. 224 of 2022 for the offences under Sections 147, 341, 323, 325, 307 and 427 read with Section 149 of IPC *vide* chargesheet dated 20th December, 2022.

9. The accused Sethu @ Angrej moved an application for bail which was dismissed by the Judicial Magistrate, Court No. 2, Ajmer on 17th

December, 2022. Thereafter, said accused applied for bail under Section 439 of the Code of Criminal Procedure, 1973[6] and fortuitously, the same came to be listed before the appellant-Judicial Officer who was holding the charge of the Sessions Court in the capacity of a Link Officer. As many as three separate bail applications arising out of FIR No. 224 of 2022, to be specific, Bail Application Case No. 1244 of 2022 (*Sachin Sen and Anr. v. State of Rajasthan*); Bail Application Case No. 1246 of 2022 (*Tarachand alias Taru v. State of Rajasthan*) and Bail Application Case No. 1247 of 2022 (*Sethu alias Angrez v. State of Rajasthan*) were listed before the appellant-Judicial Officer on 19th December, 2022.

10. It appears that while arguing the bail applications, the contention which was raised before the Court was that the case of the bail applicants was not different from that of Sethu @ Haddi, who had been enlarged on bail by the High Court *vide* order dated 16th December, 2022.

11. The appellant-Judicial Officer seems to be carrying some misconception that the life-threatening injuries were attributed to the said

[6] For short, "CrPC".

Sethu @ Haddi and thus, the case of the applicants before him was not different from the said accused (Sethu @ Haddi). Applying the principle of parity and based on the order passed by the High Court in the case of ***Khet Singh and Another v. State of Rajasthan***[7], the appellant-Judicial Officer granted bail to all the aforesaid accused persons. It transpires that while considering the bail applications of accused Sethu @ Angrej, the appellant-Judicial Officer omitted to consider his criminal antecedents.

12. The complainant in FIR No. 224 of 2022 moved for cancellation of bail granted to the accused, Sethu @ Angrej by filing an application under Section 439(2) of CrPC before the learned Sessions Judge, which came to be allowed *vide* order dated 6th July, 2023. The learned Sessions Judge observed that the learned counsel for the accused Sethu @ Angrej misled the Court while seeking bail on his behalf.

13. Being aggrieved, the accused Sethu @ Angrej approached the High Court by way of S.B. Criminal Miscellaneous Bail Application No. 4677 of 2024

[7] 2021 SCC OnLine Raj 4096.

which came to be decided by the learned Single Judge of the High Court *vide* order dated 3rd May, 2024. While rejecting the bail application of the accused Sethu @ Angrej, the High Court passed strictures against the appellant herein observing that, he being a Judicial Officer, had passed the order granting bail to Sethu @ Angrej dated 19th December, 2022 in a grossly inappropriate and cavalier manner while ignoring the criminal record of the said accused.

14. Additionally, an observation was made by the learned Single Judge that the accused Sethu @ Angrej was the principal accused in the case, as he caused the lethal injury to the injured Pappu. The High Court observed that appellant-Judicial Officer, while deciding the bail application, omitted to consider the order dated 16th December, 2022 and granted bail to the said accused ignoring the principles laid down by the High Court in the case of ***Jugal v. State of Rajasthan***[8], wherein it was mandated that the Presiding Officer granting bail to the accused is under an obligation to incorporate

[8] 2020 SCC OnLine Raj 2691.

the criminal record of the applicant in a tabular form and that the judgment of the High Court in the case of ***Khet Singh*** (*supra*) was improperly applied while granting bail to the said accused.

15. The High Court concluded in the impugned order dated 3rd May, 2024 that this act of the appellant-Judicial Officer tantamounted to indiscipline, negligence and so also, ignorance and disobedience of the orders/judgments passed by the High Court. Observing so, it was directed that the copy of the impugned order dated 3rd May, 2024 be placed before the Chief Justice of the Rajasthan High Court for perusal.

16. Being aggrieved by the observations made and strictures passed against him, the appellant-Judicial Officer is before this Court by way of this appeal with special leave.

17. We have heard and considered the submissions advanced by learned counsel for the appellant-Judicial Officer and have gone through the impugned order.

18. Suffice it to say that the law is well-settled by a catena of decisions rendered by this Court that High Courts should ordinarily refrain from passing strictures against the judicial officers while deciding matters on the judicial side. Reference in this regard may be made to ***in Re: 'K', A Judicial Officer***[9]. In paragraphs 15, 16 and 17, this Court dealt with the validity and legality of strictures passed by the High Court against a Judicial Officer serving as a member of the district judiciary which are reproduced hereinbelow for ready reference:

> "15. In the case at hand we are concerned with the observations made by the High Court against a judicial officer who is a serving member of subordinate judiciary. Under the constitutional scheme control over the district courts and courts subordinate thereto has been vested in the High Courts. The control so vested is administrative, judicial and disciplinary. **The role of High Court is also of a friend, philosopher and guide of judiciary subordinate to it. The strength of power is not displayed solely in cracking a whip on errors, mistakes or failures; the power should be so wielded as to have propensity to prevent and to ensure exclusion of repetition if committed once innocently or unwittingly. "Pardon the error but not its repetition". The power to control is not to be exercised solely by wielding a teacher's cane; the members of subordinate judiciary look up to the High Court for the power to control to be exercised**

[9] (2001) 3 SCC 54.

with parent-like care and affection. The exercise of statutory jurisdiction, appellate or revisional and the exercise of constitutional power to control and supervise the functioning of the district courts and courts subordinate thereto empowers the High Court to formulate an opinion and place it on record not only on the judicial working but also on the conduct of the judicial officers. **The existence of power in higher echelons of judiciary to make observations even extending to criticism incorporated in judicial orders cannot be denied, however, the High Courts have to remember that criticisms and observations touching a subordinate incorporated judicial in officer judicial pronouncements have their own mischievous infirmities. Firstly, the judicial officer is condemned unheard which is violative of principles of natural justice. A member of subordinate judiciary himself dispensing justice should not be denied this minimal natural justice so as to shield against being condemned unheard. Secondly, the harm caused by such criticism or observation may be incapable of being undone. Such criticism of the judicial officer contained in a judgment, reportable or not, is a pronouncement in open and therefore becomes public. The same Judge who found himself persuaded, sitting on judicial side, to make observations guided by the facts of a single case against a Subordinate Judge may, sitting on administrative side and apprised of overall meritorious performance of the Subordinate Judge, may irretrievably regret his having made those observations on judicial side, the harming effect whereof even he himself cannot remove on administrative side. Thirdly, human nature being what it is, such criticism of a judicial officer contained in the judgment of a higher court gives the litigating party a sense of victory not only**

over his opponent but also over the Judge who had decided the case against him. This is subversive of judicial authority of the deciding Judge. Fourthly, seeking expunging of the observations by a judicial officer by filing an appeal or petition of his own reduces him to the status of a litigant arrayed as a party before the High Court or Supreme Court — a situation not very happy from the point of view of the functioning of the judicial system. May be for the purpose of pleading his cause he has to take the assistance of a legal practitioner and such legal practitioner may be one practising before him. Look at the embarrassment involved. And last but not the least, the possibility of a single or casual aberration of an otherwise honest, upright and righteous Judge being caught unawares in the net of adverse observations cannot be ruled out. Such an incident would have a seriously demoralising effect not only on him but also on his colleagues. If all this is avoidable, why should it not be avoided?

16. We must not be understood as meaning that any conduct of a subordinate judicial officer unbecoming of him and demanding a rebuff should be simply overlooked. But there is an alternate safer and advisable course available to choose. The conduct of a judicial officer, unworthy of him, having come to the notice of a Judge of the High Court hearing a matter on the judicial side, the lis may be disposed of by pronouncing upon the merits thereof as found by him but avoiding in the judicial pronouncement criticism of, or observations on the "conduct" of the subordinate judicial officer who had decided the case under scrutiny. **Simultaneously, but separately, in office proceedings may be drawn up inviting attention of Hon'ble Chief Justice to the facts describing the conduct of the Subordinate Judge concerned by sending a**

confidential letter or note to the Chief Justice. It will thereafter be open to the Chief Justice to deal with the subordinate judicial officer either at his own level or through the Inspecting Judge or by placing the matter before the full court for its consideration. The action so taken would all be on the administrative side. The Subordinate Judge concerned would have an opportunity of clarifying his position or putting forth the circumstances under which he acted. He would not be condemned unheard and if the decision be adverse to him, it being on administrative side, he would have some remedy available to him under the law. He would not be rendered remediless.

17. **The remarks made in a judicial order of the High Court against a member of subordinate judiciary even if expunged would not completely restitute and restore the harmed Judge from the loss of dignity and honour suffered by him.** In Judges by David Pannick (Oxford University Press Publication, 1987) a wholesome practise finds a mention suggesting an appropriate course to be followed in such situations:

> "*Lord Hailsham explained that in a number of cases, although I seldom told the complainant that I had done so, I showed the complaint to the Judge concerned. I thought it good for him both to see what was being said about him from the other side of the court, and how perhaps a lapse of manners or a momentary impatience could undermine confidence in his decision.*"
>
> **(emphasis supplied)**

19. The said judgment has been relied on by a 3-Judge bench of this Court in ***Sonu Agnihotri v. Chandra Shekhar & Ors***[10] where this Court again implored that the Courts higher in the judicial hierarchy should refrain from commenting on the conduct and calib of judicial officers. Reference may be made to Paragraph 15 of ***Sonu Agnihotri*** *(supra),* reproduced hereinbelow:

> "15. The Courts higher in the judicial hierarchy are invested with appellate or revisional jurisdiction to correct the errors committed by the courts that are judicially subordinate to it. The High Court has jurisdiction under Article 227 of the Constitution of India and Section 482 of the CrPC to correct the errors committed by the courts which are judicially subordinate to it. **We must hasten to add that no court can be called a "subordinate court". Here, we refer to "subordinate" courts only in the context of appellate, revisional or supervisory jurisdiction. The superior courts exercising such powers can set aside erroneous orders and expunge uncalled and unwarranted observations. While doing so, the superior courts can legitimately criticise the orders passed by the Trial Courts or the Appellate Courts by giving reasons. There can be criticism of the errors committed, in some cases, by using strong language. However, such observations must always be in the context of errors in the impugned orders. While doing so, the courts have to show restraint, and adverse comments on the**

[10] 2024 SCC OnLine SC 3382

personal conduct and calibre of the Judicial Officer should be avoided. There is a difference between criticising erroneous orders and criticising a Judicial Officer. The first part is permissible. The second category of criticism should best be avoided. The reasons are already explained by this Court in ***Re: 'K', A Judicial Officer***. There are five reasons given in paragraph 15 of the decision why judicial officers should not be condemned unheard. As observed in the decision, **the High Court Judges, after noticing improper conduct on the part of the Judicial Officer, can always invite the attention of the Chief Justice on the administrative side to such conduct. Whenever action is proposed against a judicial officer on the administrative side, he gets the full opportunity to clarify and explain his position. But if such personal adverse observations are made in a judgment, the Judicial Officer's career gets adversely affected.**

16. The Judges are human beings. All human beings are prone to committing mistakes. To err is human. Almost all courts in our country are overburdened. **In the year 2002, in the case of "All India Judges' Association (3) and Ors. v. Union of India and Ors., this Court passed an order directing that within five years, an endeavour should be made to increase the judge-to-population ratio in our trial judiciary to 50 per million. However, till the year 2024, we have not even reached the ratio of 25 per million. Meanwhile, the population and litigation have substantially increased. The Judges have to work under stress.** As stated earlier, every Judge, irrespective of his post and status, is likely to commit errors. **In a given case, after writing several sound judgments, a judge may commit an error in one judgment due to the pressure of work or otherwise. As stated earlier, the higher court can always**

> **correct the error. However, while doing so, if strictures are passed personally against a Judicial Officer, it causes prejudice to the Judicial Officer, apart from the embarrassment involved.** We must remember that when we sit in constitutional courts, even we are prone to making mistakes. Therefore, personal criticism of Judges or recording findings on the conduct of Judges in judgments must be avoided."
>
> **(emphasis supplied)**

20. Furthermore, in the present case, the fact remains that the strictures and/or the scathing observations were made by the learned Single Judge of the High Court to the detriment of the appellant-Judicial Officer without providing him any opportunity of explanation or showing cause. In addition, thereto, we find that the entire foundation of the High Court's order seems to be based on the judgment in the case of ***Jugal*** (*supra*) which stands reversed by this Court in the case of ***Ayub Khan v. State of Rajasthan***[11] *vide* judgment dated 17th December, 2024.

21. In this background, we are of the firm opinion that the strictures passed by the High Court against the appellant-Judicial Officer were uncalled for and

[11] 2024 SCC OnLine SC 3763.

hence, the same are expunged. The impugned order is modified to that extent.

22. Before parting, we would like to state that, accounting for the criminal antecedents of the accused while considering the bail applications has been the subject matter of concern for Courts across the country. The rules and orders of the Punjab and Haryana High Court, to be specific, Rule 5 of Chapter 1-A(b) Volume-V specifically provide as below:

> "**5. Bail applications. -** In every application for bail presented to the High Court the petitioner shall state whether similar application has or has not been made to the Supreme Court, and if made shall state the result thereof. The petitioner/applicant shall also mention whether he/she is/was involved in any other criminal case or not. If yes, particulars and decisions thereof. An application which does not contain this information shall be placed before the bench with the necessary information."

23. We feel that every High Court in the country should consider incorporating a similar provision in the respective High Court Rules and/or Criminal Side Rules as it would impose an obligation on the accused to make disclosures regarding his/her

involvement in any other criminal case(s) previously registered.

24. It is, therefore, provided that a copy of this order shall be communicated to the Registrar Generals of all the High Courts so that incorporation of a similar Rule in the respective Rules can be considered, if such provision does not exist from earlier.

25. The appeal is allowed accordingly.

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

.....J.
(VIKRAM NATH)

.....J.
(SANJAY KAROL)

.....J.
(SANDEEP MEHTA)

NEW DELHI;
JULY 18, 2025.