

OFFICE OF THE DISTRICT JUDGE, BUDAUN
ORDER NO. /2024

The Hon'ble High Court has issued Letter No. 1272/Admin G-1/Allahabad: Dated: 29.01.2024, in compliance of order passed by Hon'ble High Court in Criminal Misc. Bail Application No. 53159 of 2021 Noor Alam Vs. State of U.P. (**Annexure -1**), in which Hon'ble High Court has passed directions regarding strikes by the lawyers in District Court to be followed in letter and spirit. The Hon'ble High Court has issued the following directions:

- (I) Any act of a counsel to prevent examination of a witness or refusal of a counsel to examine a witness before the learned trial court on account of a strike call is an act of professional misconduct and also constitutes contempt of court.
- (II) In case examination of a witness is prevented by striking lawyers or striking lawyers refuse to examine the witness, the learned trial court shall make its finding in that regard. The learned trial court shall also record the names of the lawyers who have declined to examine the witnesses or have prevented the examination of witnesses pursuant to the strike call. The learned trial court shall send the report to the Bar Council of Uttar Pradesh for initiation of disciplinary action and to the Registrar General of this Court for institution of contempt proceedings against erring lawyers.
- (III) Bar Council of Uttar Pradesh shall promptly deal with the reports/complaints sent by the learned trial courts and take appropriate disciplinary action against the erring lawyers as per law.
- (IV) Copy of this order be circulated in all courts of Uttar Pradesh, and shall also be served upon the Bar Council of Uttar Pradesh and to all Bar Associations in the District Judgeships for compliance.

Therefore, all the Judicial Officers are directed to adhere to the abovementioned directions passed by the Hon'ble High Court.

Dated: 02.02.2024

[Signature] 2.2.2024
District Judge,
Budaun

Copy forwarded to the following for information & necessary action:-

1. Principal Judge, Family Court, Budaun:
2. Presiding Officer of MACT:
3. All the Judicial Officers of the District Court, Budaun:
4. O/c Administration/A.D.&S.J., Court No. -1, Budaun:
5. Secretary, D.L.S.A., Budaun:
6. Chief Judicial Magistrate, Budaun:
7. President/Secretary, District Civil Bar Association, Budaun:
8. President/Secretary, District Bar Association, Budaun:
9. Tehsil Bar Association, Budaun:
10. Tehsil Bar Association, Bisauli:
11. Tehsil Bar Association, Sahaswan:
12. Tehsil Bar Association, Dataganj:
13. Tehsil Bar Association, Bilsi:
14. Uploading the copy of order of Official Website of District Court, Budaun:

Dated: 02.02.2024

[Signature] 2-2-2024
District Judge,
Budaun

Court No. - 37

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53159 of 2021

Applicant :- Noor Alam

Opposite Party :- State of U.P.

Counsel for Applicant :- Irshad Ahmad, Abhishek Kumar Saroj, Kumar Parikshit, Nagendra Bahadur Singh, Rageeni, Rajesh Mishra

Counsel for Opposite Party :- G.A.

With

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14553 of 2022

Applicant :- Suraj Pasi

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajesh Chandra Dwivedi, Ajay Kumar Pathak, Ashish Kumar Dubey, Praveen Kumar Srivastava

Counsel for Opposite Party :- G.A.

With

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49915 of 2022

Applicant :- Abdul Wazid @ Bablu @ Bablu Mistri

Opposite Party :- State of U.P.

Counsel for Applicant :- Ray Sahab Yadav, Abhay Raj

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot, J.

1. The judgment is being structured in the following conceptual framework to facilitate the discussion:

I	Facts
II	Submissions of counsels
III	Bail Jurisdiction & Legal Issues
IV	Right to Speedy Trial and Bails
V	Strikes & the Law
VI	Role of lawyers, Courts and Bar Council
VII	Directions
VIII	Order in Bail Application

2. Heard Shri Kumar Parikshit, learned counsel assisted by Shri Ajay Kumar, learned counsel for the applicant, Shri Ashok Kumar Tiwari, learned counsel for the Bar Council of Uttar Pradesh and Shri Paritosh Kumar Malviya, learned A.G.A.-I.

I. Facts

3. Affidavit filed by Shri Ashok Kumar Tiwari, learned counsel for the Bar Council of Uttar Pradesh on 15.02.2023 is taken in the record.

4. This is the third bail application. While rejecting the first bail application being Criminal Misc. Bail Application No.23828 of 2018 on 27.06.2018, this Court issued the following directions:

“It is expected from the learned trial court to gear up the trial and made necessary endeavour to conclude the trial within a period of one year from the production of certified copy of this order. Provided the applicant would render fullest co-operation in early conclusion of trial.

Office is directed to transmit the copy of this order to concern Court within month from the production of certified copy of this order for the necessary compliance.”

While rejecting the second bail application being Criminal Misc. Bail Application No.27291 of 2019 on 02.09.2020 the learned trial court was directed to give priority to the matter. The trial has not concluded and is dragging on despite directions of this Court. The applicant was in jail since 23.12.2017.

5. The status report sent by the learned trial court states that the lawyers repeatedly struck work. The striking lawyers prevented the examination of witnesses who had appeared before the learned trial court on the dates fixed. Non-examination of the said witnesses on various dates derailed the court process and delayed the trial. Consequently the order of this Court was not complied with.

6. Similarly the trial courts in the other connected bail applications and also in Criminal Misc. Bail Application No.9077 of 2023 (Amitabh Kumar Srivastava @ Amitabh Srivastava v. State of U.P.) have also sent status reports which record that the trials have been delayed since the witnesses could not be examined as the lawyers had struck work on a regular basis. Consequently the orders of this Court to conclude the trials in expeditious time frame also could not be complied with.

II. Submissions of counsels:

7. Shri Kumar Parikshit, learned counsel assisted by Shri Ajay Kumar, learned counsel, Shri Ajay Kumar Pathak, learned counsel and Shri Ray Sahab Yadav, learned counsels for the applicants made the following submissions on the common issue arising in the connected bail applications:

I. The report sent by the learned trial courts respectively disclose that the delays in the trials are occasioned by repeated strikes by lawyers. The striking lawyers have

declined to examine or prevented the examination of witnesses.

II. The applicants have been cooperating in the trial proceedings.

III. As a result of the strikes by lawyers the applicants are suffering prolonged incarceration and their right to speedy trial too has been violated.

IV. The Constitutional Courts have consistently held that strikes are illegal and have also outlined the duties and obligations of counsels towards their clients .

8. Shri Ashok Kumar Tiwari, learned counsel for the Bar Council of Uttar Pradesh does not dispute the fact that Constitutional Courts have held that lawyers strikes are illegal. Bar Council of Uttar Pradesh has taken a stand which is consistent with the holdings of the Constitutional Courts.

9. Learned counsel for the Bar Council of Uttar Pradesh reiterated the stand of the Bar Council of Uttar Pradesh as asserted in its affidavit, that the Bar Council of Uttar Pradesh does not support the acts of lawyers to prevent examination of witnesses at trials on the pretext of strikes.

10. Shri Paritosh Kumar Malviya, learned AGA-I for the State of U.P. submits that the actions of striking lawyers who prevent examination of witnesses is not supported by the State Government. Infact such lawyers impair the

criminal justice system and the cause of the prosecution by delaying the trial.

III. Bail Jurisdiction & Legal Issues:

11. While sitting in bail determination, this Court is not denuded of its constitutional status. The High Court is a court of record and a constitutional court irrespective of the nomenclature of the jurisdiction it is exercising. Needless to add that the High Court always exercises its jurisdiction as per law. The right of bail has statutory origins but can never be isolated from its constitutional moorings. The right of bail is irretrievably embedded in the fundamental right of liberty enshrined under Article 21 of the Constitution of India by holdings of constitutional courts.

The High Court always possesses the necessary powers to pass appropriate orders for dispensing fair justice in bail jurisdiction and to realize the fundamental rights of an accused. While deciding bail applications the High Court exercises a composite jurisdiction of statutory powers and constitutional obligations. At times while hearing bails various legal issues which directly impact the fair administration of justice in bail jurisdiction arise for determination before this Court. The Court cannot neglect consideration of such issues when they arise in the bail jurisdiction. Refusal to decide such issues which are essential for fair administration of justice in bail jurisdiction would amount to abdication of

constitutional obligations of this Court in the facts of these cases. [See: **Ajeet Chaudhary v. State of U.P. and another**¹, **Junaid v. State of U.P. and another**², **Monish v. State of U.P. and others**³, **Anil Gaur @ Sonu Tomar v. State of U.P.**⁴ & **Maneesh Pathak v. State of U.P.**⁵ for right of bail & scope of bail jurisdiction]

IV. Right to Speedy Trial & Bails

12. The right to a speedy trial has been exalted as a fundamental right in constitutional law. **Hussainara Khatoon and others (I) v. Home Secretary, State of Bihar**⁶ recognized the right of speedy trial of a prisoners flowing from Article 21 of the Constitution of India “to be implicit in the broad sweep” of Article 21 of the Constitution. The Courts while deciding bail applications are also factor in the period spent in the jail and status of the trial. [See: **Satender Kumar Antil v. Central Bureau of Investigation and another**⁷]

13. The legislature was also cognizant of the need to continue the trial proceedings if necessary on a day to day basis until all witnesses in attendance has been examined. Section 309 of the Cr.P.C. may be extracted with profit:

“309. Power to postpone or adjourn proceedings-(1) In every inquiry or trial, the proceedings shall be held as expeditiously as possible, and in

1 (2021) SCC OnLine All 17

2 (2021) SCC OnLine All 463

3 Criminal Misc. Bail Application No. 55026 of 2021

4 (2022) SCC OnLine All 623

5 (2023) SCC OnLine All 64

6 (1980) 1 SCC 81

7 (2022) 10 SCC 51

particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded.

(2). If the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody: Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time: Provided further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing:

Provided also that no adjournment shall be granted for the purpose only of enabling the accused person to show cause against the sentence proposed to be imposed on him.]

Explanation 1.- If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Explanation 2.- The terms on which an adjournment or postponement may be granted include, in appropriate cases, the payment of costs by the prosecution or the accused.”

(emphasis supplied)

14. In the facts of this case (including connected bails), the administration of fair justice in bail jurisdiction is being impeded on account of delay in trials caused by repeated strikes by lawyers. The striking lawyers either declined or prevented the examination of witnesses thus throwing the trial process off the rails. All this even as the accused remains incarcerated in jail after rejection of

his bail application. In these facts a response was called from the Bar Council of Uttar Pradesh to deal with the persisting problem of non examination of witnesses and consequent delays occasioned by strike calls made by various lawyers groups.

V. Strikes & the Law

15. Strikes by lawyers have emerged as a major menace in the judicial system. Striking lawyers impede the process of the courts and threaten the rule of law. Common man bears the brunt as usual. Witnesses are harassed as they have to repeatedly attend the court proceedings with no end in sight. Strikes by lawyers delay trials indefinitely and denude the capacity of the courts to administer fair justice in bail jurisdiction. Besides they also violate FRs of accused persons to a speedy trial. In summation strikes by lawyers impair the credibility of the process of the court and shake the faith of the common man in the judicial system to uphold the law and dispense justice.

16. The issue of strikes by lawyers with boycotts by the Bar Associations or the Bar Councils has often engaged the attention of constitutional courts. The law has set its face against the strikes by advocates and Bar Associations or the Bar Councils. Holdings of constitutional courts explicitly prohibit strikes by lawyers, and unequivocally pronounce that the strikes interfere with administration of justice.

17. The discussion has the benefit of good authorities in point. The duties of advocates and the issue of strikes which interfere with trial proceedings arose for consideration in **Ex-Capt. Harish Uppal v. Union of India and another**⁸. The Supreme Court in **Ex-Capt. Harish Uppal (supra)** while holding that a lawyer who has accepted a brief cannot decline to attend court even when there is a call for strike by the Bar Associations or the Bar Councils laid down the law in following terms:

“20..... It is also settled law that a lawyer who has accepted a brief cannot refuse to attend Court because a boycott call is given by the Bar Association. It is settled law that it is unprofessional as well as unbecoming for a lawyer who has accepted a brief to refuse to attend Court even in pursuance of a call for strike or boycott by the Bar Association or the Bar Council. It is settled law that Courts are under an obligation to hear and decide cases brought before it and cannot adjourn matters merely because lawyers are on strike. The law is that it is the duty and obligation of Courts to go on with matters or otherwise it would tantamount to becoming a privy to the strike.”

18. **Ex-Capt. Harish Uppal (supra)** further cautioned that the strikes interfere with the administration of justice by stating :

“21. It must also be remembered that an Advocate is an officer of the Court and enjoys special status in society. Advocates have obligations and duties to ensure smooth functioning of the Court. They owe a duty to their client. Strikes interfere with administration of justice. They cannot thus disrupt Court proceedings and put interest of their clients in jeopardy.”

19. Examining the right of an advocate of appearance in courts and the supervisory power of constitutional courts over such rights in **Ex-Capt. Harish Uppal (supra)** the

Supreme Court set forth the law as under:

“34. One last thing which must be mentioned is that the right of appearance in Courts is still within the control and jurisdiction of Courts. Section 30 of the Advocates Act has not been brought into force and rightly so. Control of conduct in Court can only be within the domain of Courts. Thus Article 145 of the Constitution of India gives to the Supreme Court and Section 34 of the Advocates Act gives to the High Court power to frame rules including rules regarding condition on which a person (including an Advocate) can practice in the Supreme Court and/or in the High Court and Courts subordinate thereto. Many Courts have framed rules in this behalf. Such a rule would be valid and binding on all. Let the Bar take note that unless self restraint is exercised, Courts may now have to consider framing specific rules debarring Advocates, guilty of contempt and/or unprofessional or unbecoming conduct, from appearing before the Courts. Such a rule if framed would not have anything to do with the disciplinary jurisdiction of Bar Councils. But the right to appear and conduct cases in the Court is a matter on which the Court must and does have major supervisory and controlling power. Hence Courts cannot be and are not divested of control or supervision of conduct in Court merely because it may involve the right of an advocate. A rule can stipulate that a person who has committed contempt of Court or has behaved unprofessionally and in an unbecoming manner will not have the right to continue to appear and plead and conduct cases in Courts.”

20. Finally adverting to the right of the High Courts to frame rules and conditions on which an advocate shall be permitted to practice in Courts, **Ex-Capt. Harish Uppal (supra)** held:

“34.Courts of law are structured in such a design as to evoke respect and reverence to the majesty of law and justice. The machinery for dispensation of justice according to law is operated by the Court. Proceedings inside the Courts are always expected to be held in a dignified and orderly manner. The very sight of an advocate, who is guilty of contempt of Court or of unbecoming or unprofessional conduct, standing in the court would erode the dignity of the Court and even corrode the majesty of it besides impairing the confidence of the public in the efficacy of the institution of the Courts.

The power to frame such rules should not be confused with the right to practise law. While the Bar Council can exercise control over the latter, the Courts are in control of the former. Similarly [Section 34](#) of the Advocates Act empowers High Courts to frame rules, inter-alia to lay down conditions on which an Advocate shall be permitted to practice in Courts. [Article 145](#) of the Constitution of India and [Section 34](#) of the Advocates Act clearly show that there is no absolute right to an Advocate to appear in a Court. An Advocate appears in a Court subject to such conditions as are laid down by the Court.”

21. Relying on its observations in **Krishnakant Tamrakar v. The State of Madhya Pradesh**⁹ the Supreme Court in **District Bar Association, Dehradun through its Secretary v. Ishwar Shandilya and others**¹⁰ observed that strikes were a principal reason for delay in trials and deny access to speedy justice and expounded the law thus:

“4. While considering the issue of delay/speedy disposal, in case of Krishnakant Tamrakar (supra), this Court had the occasion to consider how uncalled for frequent strikes obstructs the access to justice and what steps are required to remedy the situation. In the aforesaid decision, it is observed by this Court that access to speedy justice is a part of the fundamental rights under Articles 14 and 21 of the Constitution of India. This Court was of the opinion that one of the reasons/root cause for delay is uncalled for strikes by the lawyers. In the aforesaid decision, this Court also took note of 266 the Law Commission Report, in which there was a reference to the strikes by the lawyers in the Dehradun and Haridwar districts itself. In the aforesaid decision, this Court also took note of the recommendations made by the Law Commission. This Court further observed that since the strikes are in violation of the law laid down by this Court, the same amounts to contempt and at least the office bearers of the Associations who give call for the strikes cannot disown their liability for contempt. In paragraphs 41 to 50, this Court held as under:

“41. We may also deal with another important aspect of speedy justice. It is

9 2018 (17) SCC 27

10 (2021) SCC OnLine SC 1071

well known that at some places there are frequent strikes, seriously obstructing access to justice. Even cases of persons languishing in custody are delayed on that account. By every strike, irreversible damage is suffered by the judicial system, particularly consumers of justice. They are denied access to justice. Taxpayers' money is lost on account of judicial and public time being lost. Nobody is accountable for such loss and harassment.”

VI. Role of lawyers, Courts and Bar Council

22. Liberties assured to all citizens by the Constitution are not self fulfilling and rule of law is not self perpetuating.

23. Script of the Constitution alone does not assure the survival of liberty. Tireless vigilance by citizens and constant activism by lawyers are the true guarantors of the success of liberty and survival of rule of law in the country.

24. Liberty assured by the Constitution will endure only if justice promised in the Constitution is secured.

25. Lawyers were at the frontline ranks in the struggle for freedom, and had a significant role in the drafting of the Constitution. Lawyers are the foremost sentinels of liberty guaranteed under the Constitution.

26. The Bar Council of Uttar Pradesh under the Advocates Act is the disciplinary body which investigates the acts of professional misconduct alleged against lawyers and is duly authorized to inflict appropriate punishment under the statute. The Bar

Council of Uttar Pradesh is also the custodian of the ethics and morality of the lawyers' fraternity.

27. Lawyers who strike work and impede the process of court by failing to examine or preventing the examination of a witness who is present in the court commit professional misconduct. The Bar Council is duly empowered under Section 35 of the Advocates Act to take appropriate action for misconduct.

28. Section 35 of the Advocates Act reads as under:

“Section 35. Punishment of advocates for misconduct.—(1) Where on receipt of a complaint or otherwise a State Bar Council has reason to believe that any advocate on its roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee. 1[(1A) The State Bar Council may, either of its own motion or on application made to it by any person interested, withdraw a proceeding pending before its disciplinary committee and direct the inquiry to be made by any other disciplinary committee of that State Bar Council.]

(2) The disciplinary committee of a State Bar Council 2[***] shall fix a date for the hearing of the case and shall cause a notice thereof to be given to the advocate concerned and to the Advocate-General of the State.

(3) The disciplinary committee of a State Bar Council after giving the advocate concerned and the Advocate-General an opportunity of being heard, may make any of the following orders, namely:—

(a) dismiss the complaint or, where the proceedings were initiated at the instance of the State Bar Council, direct that the proceedings be filed;

(b) reprimand the advocate;

(c) suspend the advocate from practice for such period as it may deem fit;

(d) remove the name of the advocate from the State roll of advocates.

(4) Where an advocate is suspended from practice under clause (c) of sub-

section (3), he shall, during the period of suspension, be debarred from practising in any court or before any authority or person in India.

(5) Where any notice is issued to the Advocate-General under sub-section (2), the Advocate-General may appear before the disciplinary committee of the State Bar Council either in person or through any advocate appearing on his behalf. 3[Explanation.—In this section, 4[section 37 and section 38], the expressions “Advocate-General” and Advocate-General of the State” shall, in relation to the Union territory of Delhi, mean the Additional Solicitor General of India.]”

29. The impediments caused by striking lawyers in criminal trials is in fact a constant feature in the State of Uttar Pradesh. Lawyers who in support of strike calls decline to examine or prevent the examination of witnesses before the learned trial court in criminal cases create a major bottleneck which is a cause for delays in criminal trials. Since the problem is of a recurring nature this Court directed the Bar Council of Uttar Pradesh to clear its stand on the conduct of striking counsels who prevent cross examination of the witnesses when criminal trials are on foot.

30. The stand of the Bar Council of Uttar Pradesh as depicted in the counter affidavit is extracted hereunder:

“9. That in continuance of the aforesaid resolution dated 21.01.2023, the Chairman of Bar Council of Uttar Pradesh, Prayagraj has written a letter dated 13.02.2023 to Adhyaksha/Mantri of all Bar Association of Uttar Pradesh, directing the office bearers that if on any protest day if in any case the witnesses have been summoned by the Court, then concerned advocates in the case may not be affected by the protest day and the concerned Advocate may not be prohibited from adducing evidences of the witnesses or cross examining any witness. Under the circumstances, in any protest day the evidence/cross-examination may be permitted to be done, so that

judicial may not be interfered in the judicial work due to protest organized by the Bar Association.”

"सेवा में,

अध्यक्ष/मंत्री,

समस्त बार एसोसिएशन,

उत्तर प्रदेश।

महोदय,

उत्तर प्रदेश की सभी जिला न्यायालय, जिला कलेक्टर, कमिश्नरी, टैक्स, तहसील न्यायालय एवं समस्त ट्रिब्यूनल के बार एसोसिएशन के अध्यक्ष/सचिव एवं अन्य पदाधिकारियों को निर्देशित किया जाता है कि विरोध दिवस के दिन किसी भी वाद में अगर कोई गवाह, गवाही/जिरह हेतु सम्मन किया गया है, तो उस वाद से सम्बन्धित अधिवक्ता को गवाही हेतु न रोके एवं न ही उक्त वाद में किसी भी विरोध दिवस का प्रभाव डालें। साथ ही साथ यह भी निर्देशित किया जाता है कि उपरोक्त तिथि पर आये हुए गवाह का गवाही/जिरह किसी भी परिस्थिति में सम्पन्न करायें, ताकि सम्बन्धित वाद में किसी भी प्रकार का न्यायिक अवरोध उत्पन्न न हो।

दिनांक 13.02.2023

भवदीय
(पांचू राम मौर्य)
अध्यक्ष

31. The Bar Council of Uttar Pradesh has acquitted itself with utmost credit by taking an explicit stand in favour of upholding the law and against striking lawyers who prevent examination of witnesses when the criminal trials are underway. The Bar Council of Uttar Pradesh has effectively restrained striking lawyers from interfering in the examination of witnesses in criminal trials. Proper implementation of the stand of the Bar Council of U.P. will save the criminal trial process from the scourge of strikes.

VII. Directions:

32. In the wake of the pronouncements of constitutional courts discussed above and the stand of the Bar Council

of Uttar Pradesh reproduced earlier, this Court issues the following directions:

(I). Any act of a counsel to prevent examination of a witness or refusal of a counsel to examine a witness before the learned trial court on account of a strike call is an act of professional misconduct and also constitutes contempt of court.

(II). In case examination of a witness is prevented by striking lawyers or striking lawyers refuse to examine the witness, the learned trial court shall make its finding in that regard. The learned trial court shall also record the names of the lawyers who have declined to examine the witnesses or have prevented the examination of witnesses pursuant to the strike call. The learned trial court shall send the report to the Bar Council of Uttar Pradesh for initiation of disciplinary action and to the Registrar General of this Court for institution of contempt proceedings against erring lawyers.

(III). Bar Council of Uttar Pradesh shall promptly deal with the reports/complaints sent by the learned trial courts and take appropriate disciplinary action against the erring lawyers as per law.

(IV). Copy of this order be circulated in all courts of Uttar Pradesh, and shall also be served upon the Bar Council of Uttar Pradesh and to all Bar Associations in the district judgeships for compliance.

(V). The Bar Council of Uttar Pradesh shall also issue appropriate directions to all Bar Associations in the State of Uttar Pradesh for compliance of this judgement.

VIII. Order in Bail Application:

33. By means of the third bail application, the applicant has prayed to be enlarged on bail in Case Crime No.1223 of 2017 at Police Station-Mariyahun, District-Jaunpur under Sections 147, 148, 120-B, 307 IPC.

34. The first and second bail applications of the applicant was rejected by this Court on 27.06.2018 and 02.09.2020.

35. The interim bail was granted to the applicant by this Court on 01.03.2023.

36. The following arguments made by Shri Kumar Parikshit, learned counsel assisted by Shri Ajay Kumar, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Paritosh Kumar Malviya, learned A.G.A.-I for the State from the record, entitle the applicant for grant of bail:

(i). The applicant is in jail since 23.12.2017. The applicant is a law abiding citizen who cooperated in the investigations and has joined the trial proceedings.

(ii). The trial court in its report records that the prosecution proposes to examine seven witnesses. However, not a single witness has been examined till date.

(iii). The P.W. 1 has not appeared before the learned trial

on various previous dates including 08.12.2022, 21.12.2022, 10.01.2023, 24.01.2023 and 06.02.2023.

(iv). The warrants have been issued against the prosecution witnesses to ensure his presence before the learned trial court.

(v). The trial is moving at a snail's pace and shows no signs of an early conclusion.

(vi). Inordinate delay in the trial will lead to indefinite imprisonment of the applicant.

(vii). The applicant is not responsible for the delay in the trial.

(viii). Right of the applicant to a speedy trial has been violated.

(ix). The applicant does not have any criminal history apart from the instant case.

(x). The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to cooperate with the court proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending.

37. In the light of the preceding discussion and without making any observations on the merits of the case, the bail is allowed.

38. Let the applicant-**Noor Alam** be released on bail in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following

conditions be imposed in the interest of justice:-

(i) The applicant will not tamper with the evidence or influence any witness during the trial.

(ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

Order Date: 29.11.2023

Ashish Tripathi