

A.F.R.

Reserved on:28.01.2026
Delivered on:30.01.2026



HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 32305 of 2025

Alok Singh

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	: Narendra Kumar
Counsel for Opposite Party(s)	: G.A.

Along with :

Application U/s 528 Bnss No. 8780 of 2025:

1. Vishal Tiwari

Versus

State of U.P. and another

Application U/s 482 No. 1569 of 2025:

2. Alok Singh

Versus

State of U.P. and another

Application U/s 528 Bnss No. 18833 of 2025:

3. Prachand Pratap Singh

Versus

State of U.P. and another

Court No. - 53

HON'BLE SAMIT GOPAL, J.

1. Heard Sri Raja Chaudhary, Advocate, holding brief of Sri Narendra Kumar along with Sri Narendra Kumar, learned counsel for the applicant in Criminal Misc. Bail Application No.32305 of 2025 & Criminal Misc. Application U/S 482 No.1569 of 2025 (Alok Singh vs. State of U.P. and another), Sri Preet Pal Singh Rathore, learned counsel for the applicant in Application U/S 528 BNSS No.8780 of 2025 (Vishal Tiwari vs. State of U.P. and another) and Sri Karunesh Pratap Singh,

learned counsel for the applicant in Application U/s 528 Bnss No. 18833 of 2025 (Prachand Pratap Singh Vs State of U.P. and another) and Sri Birendra Pratap Singh, learned counsel for the State in all the matters. Perused the record and also the orders dated 05.01.2026 and 16.01.2026 passed by this Court in the bail application.

2. The present bunch of cases consists of **Criminal Misc. Bail Application No. 32305 of 2025: Alok Singh vs. State of U.P., Application U/s 482 No. 1569 of 2025: Alok Singh Vs. State of U.P. and another, Application U/s 528 Bnss No. 8780 of 2025: Vishal Tiwari Vs. State of U.P. and another and Application U/s 528 Bnss No. 18833 of 2025: Prachand Pratap Singh Vs. State of U.P. and another.**

3. The bail application was earlier taken up on 05.01.2026 and following order was passed by this Court:-

"1. This matter is listed today as item no. 129 in the daily cause list of this Bench.

2. Post lunch, Shri Narendra Kumar, Advocate, appearing on behalf of the applicant, made a mention by producing before the Court an order dated 19.12.2025 in Special Leave to Appeal (Criminal) No. 16835 of 2025 (Prince Srivastava v. The State of UP) which is connected with SLP (Criminal) No. 15778 of 2025 that the Apex Court has granted bail to co-accused Prince Srivastava vide the said order whereas insofar as the applicant is concerned, has requested the High Court to consider the case of the applicant for regular bail as expeditiously as possible on its merits and in accordance with law, preferably before 30.01.2026.

3. The order passed in SLP (Criminal) No. 15778 of 2025, which relates to the applicant, reads as under:

"We dispose of this Special Leave Petition by noting the fact that the petitioner herein has sought for regular bail (Crl. Misc. Bail Application No.32305 of 2025 pending on the file of the High Court of Allahabad) and the said application is pending before the High Court.

In the circumstances, it is unnecessary to go into the correctness of the impugned order as in the present case the petitioner had sought default bail and the said stage has now lapsed.

We therefore request the High Court to consider the case of the petitioner herein for regular bail as expeditiously as possible on its own merits and in accordance with law and preferably before 30.01.2026.

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

4. This is the second bail application of the applicant- Alok Singh in Case Crime No. 93/2024, under Sections 389, 406, 420, 506, 411, 120-B IPC and Section 13 of the Prevention of Corruption Act, Police Station- Kotwali, District- Gorakhpur. The first bail application of the applicant being Criminal Misc. Bail Application No. 25998/2024 (Alok Singh v. State of UP), was rejected by this Court vide order dated 02.12.2024.

5. Learned counsel for the applicant has drawn the attention of the Court to Annexure-12 of the paper-book and submitted that the trial court proceedings of the present matter has been staying as an order of no coercive action has been passed in favour of the accused- Vishal Tiwari in an application under Section 528 BNSS No. 8780/2025 (Vishal Tiwari v. State of UP & Anr.). It is submitted that thus, the charge in the matter has still not been framed and the trial court is marking the presence of the accused through video conferencing and adjourning the matter by observing that there is a stay order by the High Court. He has placed before the Court the certified and true copy of the order sheet of the trial court, which is Annexure-13 to the affidavit, which is from 7-6-2024 to 3-9-2025. The situation thus is that one co-accused has got a protective order in the nature of no coercive action against him in a petition filed under Section 528 BNSS which is stated to be pending before this Court. However, insofar as the applicant and other co-accused are concerned, there is no such order but the trial as a whole is being adjourned on the said pretext. It could not be brought to the notice of the court that there has been any stay of proceedings by any specific order passed by any court. More so, since a petition under Section 528 BNSS has been filed by co-accused and is pending, due to which the trial is being adjourned and is not being taken up by the trial court; it would be proper and appropriate that the same be tagged with the present application for being decided together.

6. Connect with application under Section 528 BNSS No. 8780/2025 (Vishal Tiwari v. State of UP & Anr.).

7. The file be then placed before the Hon'ble The Chief Justice for nominating a Bench to hear both the matters.

8. When the matter is listed next, the details of the connected file shall also be printed in the cause list.

9. The order of the Apex Court as produced by the learned counsel for the applicant is taken on record.

10. When the matter is listed next, the office shall print the matter under the heading "Supreme Court Expedited Matter".

11. Let the matter be listed on 16.1.2026.

12. In the meantime, the Registrar (Compliance) shall seek a report from the District and Sessions Judge concerned/ the trial court concerned through fax regarding the status of the trial, the stage at which it is and also the reason for delay in framing of charge."

4. Subsequently the matter was taken up on 16.01.2026 and the following order was passed by this Court:

“1. List revised.

2. Heard Sri Raja Chaudhary, Advocate, holding brief of Sri Narendra Kumar, and Sri Narendra Kumar, learned counsels for the applicant, Sri Ajay Singh, learned A.G.A.-I for the State and perused the record.

3. This matter is connected with two other applications being Application U/s 528 Bnss No. 18833 of 2025 and Application U/s 528 Bnss No. 8780 of 2025 and listed today in the list of Additional/Unlisted List-I. The matters were placed before Hon'ble The Chief Justice in compliance of the order dated 05.1.2026 for nominating a Bench to hear all the matters together and vide order dated 14.1.2026 this Court has been nominated to hear the matters.

4. There is no appearance on behalf of the applicants in the connected matters even in the revised list.

5. Since there is a request of Bar Association of not passing any adverse order today as there is a massive traffic restrictions in the city due to Magh Mela which has been circulated to the Court under the order dated 13.01.2026 of Hon'ble The Chief Justice, the matters are adjourned for today.

6. Sri Narendra Kumar, Advocate, shall give notice in writing to learned counsels appearing in both the said connected matters about this order along with copy of this order within three days and produce its receipt by the next date.

7. List on 28.1.2026.

8. At this stage, learned counsel for the applicant submits that one application being Application U/S 482 No. 1569 of 2025, Alok Singh vs. State of U.P. and another is also pending before this Court in the present matter and the same be connected with this bail application so that the same be also heard and decided together.

8. As prayed, connect with Application U/S 482 No. 1569 of 2025, Alok Singh vs. State of U.P. and another. Since the said application is connected with this bail application, office shall again seek nomination from Hon'ble The Chief Justice by the next date for nominating the Bench to hear the matters together.

9. Learned counsel for the applicant submits that no other matter now as per his instructions is pending before this Court.”

5. Office then placed the records of all the matters before Hon'ble The Chief Justice for nomination on which vide order dated 24.1.2026 of Hon'ble The Chief Justice this Bench has been nominated to hear all the matters. The matters are thus listed before this Bench under heading Hon'ble Supreme Court Order (Expedited) cases in the Additional/Unlisted List-1.

6. The bail application is the second bail application. The first bail application of the applicant Alok Singh was rejected by this Court vide order dated 02.12.2024 passed in Criminal Misc. Bail Application

No.25998 of 2024 (Alok Singh vs. State of U.P.). The same reads as under:-

- “1. Heard Sri V.P. Srivastava, learned Senior Advocate assisted by Sri Narendra Kumar, learned counsel for the applicant and Sri Ajay Singh, learned AGA-I for the State and perused the records.*
- 2. The present bail application under Section 439 Cr.P.C. has been filed by the applicant Alok Singh with a prayer to release him on bail in Case Crime No.93 of 2024, under Sections 379, 406, 420, 506, 411, 389, 120-B I.P.C. and Section 13 of Prevention of Corruption Act, Police Station Kotwali, District Gorakhpur, during the pendency of trial.*
- 3. A First Information Report of the matter was lodged on 09.4.2024 at 05:52 hours, under Sections 379, 406, 420, 506 I.P.C. and 13 Prevention of Corruption Act by original complainant Naveen Kumar Srivastava against the applicant Alok Singh (Sub-Inspector), Prince Srivastava (co-accused) and 02-03 other associates alleging therein that he is a businessman and in the evening he used to collect money with relation to his business and comes back home in the late evening and then on the next day deposits it in the bank and like each day on 03.04.2024 he had collected Rs.50 Lakhs and when he along with his brother Gagan Kumar Srivastava were coming with a bag at about 06:00 a.m., they were stopped by applicant Alok Singh and 3-4 people in plain clothes, who asked him about the bag on which he told them that there is Rs.50 Lakhs in the same, on which there was some commotion and then the applicant took the money from him and told him that he is traveling without permission during election time with huge money and he would implicate him in a case of theft and loot. The money was counted which was found to be Rs.50 Lakhs. He then pleaded that the money belongs to him and may be returned, on which they stated to get it inquired and then return it to him. The co-accused Prince Srivastava then told Inspector that he would talk to them and took them outside and told them that if they want to be saved then they should tell the Sub Inspector to make an inquiry and then return money to them. They then requested Sub Inspector about it who detained the money and told them to come on the next day. Thereafter, on the next day they contacted him where the co-accused Prince Srivastava was also present after which they were threatened and the applicant told him that they would not get the money back and threatened them whereupon, they returned back home and told the family members about it who then encouraged him and told that a complaint before the higher authority be made, after which they went to the police station and made a complaint requesting that report be lodged and action be taken.*
- 4. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. It is submitted that the applicant is a Sub-Inspector in the police department and was performing his duties with utmost sincerity. During the period of election, when the Code of Conduct was implemented in the course of which, he checked the first informant and his brother Gagan Kumar Srivastava and recovered Rs.30 Lakhs from the first informant. It is submitted that the money was returned on the third day of its recovery after being satisfied regarding the same to be of the informant. It is further submitted that C.D.R. of the applicant, the first informant Naveen Kumar Srivastava and brother of first informant Gagan Kumar Srivastava would go to show that on 03.04.2024 from 5:00 p.m. to 8:45 p.m., they were shown at different locations*

and as such the story that the applicant stopped them and then took money from them is false. It is submitted while placing the statement of the first informant that the story as narrated by him is concocted story without any credible support. It is further submitted that the recovery of money has been shown at 6:00 p.m. but the C.D.R. would show all the said three persons to be at different locations. It is submitted that the service provider of mobile of the said three persons is the same as has been mentioned by the Investigating Officer while noting the certificate under the Evidence Act in the case diary. It is submitted that as such no offence is made out. It is further submitted that the applicant has no criminal history as stated in paragraph 27 of the affidavit. The applicant is in jail since 09.04.2024.

5. Per contra, learned counsel for the State vehemently opposed the prayer for bail and submitted that the applicant is involved in the mater. It is submitted that the applicant was arrested and Rs.30 Lakhs was recovered from his possession. It is further submitted that at the time of arrest of the applicant, co-accused Prince Srivastava was also apprehended and Rs.14 Lakhs was recovered from his possession. It is submitted that the recovery was done on 09.04.2024. It is submitted that the applicant has not claimed the said money. It is further submitted that the recovery of Rs.30 Lakhs which is huge amount has not been explained by the applicant. He further submitted that insofar as the C.D.R. of the applicant and that of Gagan Kumar Srivastava is concerned, the same would go to show that at the time of incident, they were at the same place. It is further submitted that the C.D.R. although goes to show the location of the mobile but since the waves cross each-other it cannot be conclusively established that persons were at the said place since a minor movement or deviation from one place to the other may change the tower location. It is submitted that bail of co-accused Prince Srivastava from whose possession Rs.14 Lakhs was recovered and has been rejected by this Court vide order dated 03.09.2024 passed in Criminal Misc. Bail Application No. 21814 of 2024 (Prince Srivastava vs. State of U.P.). It is submitted that the applicant is involved in the present matter and no such ground is pleaded and argued which would go in his favour for making out a case for bail and hence the bail application be rejected.

6. After having heard the learned counsels for the parties and perusing the records, it is evident that the applicant is named in the first information report. The first informant Naveen Kumar Srivastava and his brother Gagan Kumar Srivastava were carrying money, which they had collected out of their business which was detained by the applicant, in the presence of co-accused Prince Srivastava who tried to intervene and get the matter settled. The money was detained by the applicant and the first informant was told to come on the next date. On the next date, the money was not returned to him but to the contrary he was threatened by the applicant and the co-accused. Subsequently, on 09.04.2024 on the information of police informer, the applicant and the co-accused Prince Srivastava were apprehended and from the possession of the applicant Rs.30 Lakhs was recovered whereas from the possession of co-accused Prince Srivastava Rs.14 Lakhs was recovered. The recovery is of a huge amount and planting this huge amount for false implication, is not possible. No reason whatsoever has been shown for false implication of the applicant. There is no explanation at all coming from the applicant regarding the huge amount of money recovered from his possession. The bail of co-accused Prince Srivastava has been rejected by this Court vide order dated 03.09.2024 from whose possession Rs.14 Lakhs was recovered.

Insofar as, the location from the C.D.R. is concerned, the same is matter of trial which is to be looked into and considered by the trial court after evidence is recorded and the accused leads his defence for the same.

7. Looking to the facts and circumstances of the case, nature of evidence and gravity of offence, the huge amount of money recovered from the possession of the applicant and the fact that bail of co-accused Prince Srivastava has been rejected by this Court, this Court does not find it a fit case to release the applicant on bail.

8. The bail application is rejected.”

7. Subsequently the present second bail application has been filed by the applicant Alok Singh before this Court with the following prayers:-

“It is, therefore most respectfully prayed that this Hon’ble Court may be graciously be pleased to release the applicant on bail in Case Crime No.-93 of 2024, under Sections 379, 406, 420, 506, 411, 389, 120B I.P.C. and under Section 13 of Prevention of Corruption Act, P.S.-Kotwali, District Gorakhpur, to the satisfaction of the Court concerned during the pendency of the trial. So that justice be done.”

8. **Application U/s 482 No. 1569 of 2025: Alok Singh Vs. State of U.P. and another**, has been filed by the applicant- Alok Singh with the following prayers:-

“It is, therefore most respectfully prayed that this Hon'ble Court may be graciously be pleased to allow the present application and set-aside the order dated 12.07.2024 passed by learned Additional Sessions Judge/Special Judge Prevention of Corruption Act, Court No.-2 Gorakhpur, whereby the learned Court rejected the application under section 91 Cr.P.C. moved by the applicant and further be pleased to direct the Investigating Officer of the Case Crime No.- 93 of 2024 under section 389, 406, 420, 506, 411, 120B I.P.C. and under section 13 of The Prevention of Corruption Act P.S.-Kotwali, District-Gorakhpur to collect the CCTV footage of Police station Kotwali, District-Gorakhpur since 12:05 am to 8.20 am on 9th April 2024 and the place of arrest of the applicant where from the applicant was allegedly arrested (near Tarang Overbridge) by the police and C.D.R. and G.P.S. Location, Call-I.D. and Internet Root Tracking of the police Team who have arrested of the

applicant, and preserve the same and also make the part of case diary and/or pass such other and further orders, which this Hon'ble Court may deem, fit and proper in the circumstances of the case. So that justice be done.”

9. On 20.1.2025 the following order was passed by this Court:-

“1. List revised.

2. Heard Sri Narendra Kumar, learned counsel for the applicant, Sri Birendra Pratap Singh learned counsel for the State and perused the record.

3. Learned State counsel prays for three weeks' time to file counter affidavit. Prayer is allowed.

4. Learned counsel for the applicant will have two weeks thereafter to file rejoinder affidavit, if any.

5. List on 25.02.2025. ”

10. The matter was taken up and heard on 28.01.2026 by this Bench and the following order was passed:-

“1. List revised.

2. Sri Raja Chaudhary, Advocate holding brief of Sri Narendra Kumar along with Sri Narendra Kumar are present for the applicant, Sri Birendra Pratap Singh, learned counsel for the State who have been heard and records perused.

3. Counter affidavit of the State has been filed which is on record to which a rejoinder affidavit has also been filed on behalf of the applicant which is also on record. Perused the entire records.

4. Arguments concluded.

5. Judgment reserved.

6. Interim order, if any, shall continue till delivery of judgment. ”

11. Application U/s 528 Bnss No. 8780 of 2025: Vishal Tiwari Vs. State of U.P. and another, has been filed by the applicant- Vishal Tiwari with the following prayers:-

“It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to allow the instant application by quashing the charge sheet dated 05.06.2024 and the cognizance order dated 07.06.2024 alongwith passed by the learned Additional Session Judge/Special Judge (P.C. Act), Court No.2, Gorakhpur as well as the entire proceedings of Session Case No. 898/2024, (State vs. Alok Kumar

Singh & others) arising out of Case Crime No. 93/2024, under sections 389, 406, 420, 506, 411 IPC & 13 of the Prevention of Corruption Act read with section 120-B IPC, Police Station Kotwali, District Gorakhpur, presently pending before the Court of Additional Session Judge/Special Judge (P.C. Act), Court No.2, Gorakhpur, So that justice be done, otherwise the applicant shall suffer irreparable loss and hard injury.

It is further prayed that during pendency of the present application before this Hon'ble Court the further proceedings as well as effect and operation of cognizance order dated 07.06.2024 passed by the learned Additional Session Judge/Special Judge (P.C. Act), Court No.2, Gorakhpur passed in Session Case No. 898/2024, (State vs. Alok Kumar Singh & others) arising out of Case Crime No. 93/2024, under section 389, 406, 420, 506, 411 IPC & 13 of the Prevention of Corruption Act read with section 120-B IPC, Police Station Kotwali, District-Gorakhpur, presently pending before the Court of Additional Session Judge/Special Judge (P.C. Act), Court No.2, Gorakhpur, may be stayed and/or pass any other further order which this Hon'ble court may deem fit and proper in the facts and circumstances of the present case; else the applicant shall suffer irreparable loss and injury.”

12. The matter was taken up and heard on 07.05.2025 by another Bench of this Court and the following order was passed:-

“1-This application under Section 528 BNSS has been filed by the applicant for quashing the charge-sheet dated 05.06.2024, cognizance order dated 07.06.2024 and proceedings of Sessions Case No. 898 of 2024 (State Vs. Alok Kumar Singh and others) arising out of Case Crime No. 93 of 2024, under Sections 389, 406, 420, 506, 411 IPC and Section 13 of Prevention of Corruption Act read with Section 120B IPC, Police Station Kotwali, District Gorakhpur pending in the court of Additional Sessions Judge/Special Judge (P.C. Act), Court No. 2, Gorakhpur.

2-Heard Mr. Anil Tiwari, learned Senior Counsel, assisted by Mr. Kabeer Tiwari, learned counsel for the applicant, Mr. Deepak Mishra, learned A.G.A. for the State of U.P./opposite party no. 1 and perused the record.

3-As per prosecution case in brief, complainant/ opposite party no. 2 lodged an F.I.R. on 09.04.2024 under Sections 379, 406, 420, 506 IPC and Section 13 of Prevention of Corruption Act against Inspector Alok Singh (Incharge, Police Post Beniganj), Prince Srivastava and their two-three companion alleging inter alia that he is a businessman and he used to return home after

collecting the money of his business by evening and deposit the same in bank next day. In this sequence, on 03.04.2024 at about 06:00 A.M., he alongwith his brother keeping Rs. 50 Lakhs in a bag were going on a motorcycle towards Harish Chauraha from Charan Lal Chauraha. When he reached near the Police Post, Beniganj, he saw Inspector Alok Singh, In-charge, Police Post Beniganj and three-four persons were standing there. Inspector signalled them to stop and inquired about the bag. He disclosed that Rs. 50 Lakhs are kept in the bag. He recognized a person standing with the inspector, whose name is Prince Srivastava. Thereafter, the Inspector took the bag and went inside the police post and started counting the money and told them that the total money is Rs. 50 Lakhs and also threatened them to send jail in relation to offence of loot. Thereafter, Inspector kept the money with him saying that he will inquire about the money. On the pretext of investigation, inspector has taken entire amount extending threat to send them jail. Prince and his companions whom he does not recognize, who were with them on that day too were standing there. Thereafter his money was not returned.

4-It is submitted by learned counsel for the applicant that with regard to incident dated 03.04.2025, F.I.R. was lodged on 09.04.2025, in which applicant is not named. As per F.I.R., specific allegation of forcefully taking Rs. 50 Lakhs of the complainant is against Inspector Alok Singh (Incharge, Police Post Beniganj) and Prince Srivastava. After F.I.R. Rs. 30 Lakhs have been recovered from the possession of Inspector Alok Singh (Incharge, Police Post Beniganj) and Rs. 14 Lakhs have been recovered from the possession of Prince Srivastava on the same day. During investigation complainant in his statement has made improvement stating inter alia that after taking his money by the Inspector, Prince Srivastava took him and his brother to Prachand Singh, who is resident of his locality, where Prachand Singh, Mukesh and Vishal Tiwari (applicant) met them and told that he will get his money back but they will take commission on the money. Much emphasis has been given by contending that if this statement of complainant is treated as true that on 03.04.2024, applicant demanded commission in lieu of getting his money back from the inspector, then this fact and name of the applicant must have been mentioned in the F.I.R. dated 09.04.2025. It is also pointed out that complainant in his statement has disclosed that his work is to transmit money of party from one place to another. As such complainant has not come with clean hand. Lastly, it is submitted that so far as case of the applicant is concerned, basic ingredients to constitute an offence under Sections 389, 406, 420, 506, 411, 120B IPC and Section 13 of Prevention of Corruption Act are lacking and his case is distinguishable from the case of named accused persons. Though in the statement of complainant, there is allegation of demand of commission against the applicant, who is not a public servant but it is admitted fact that no commission has been given by the complainant to the applicant.

5-Learned A.G.A. for the State opposed the prayer of the applicant by reiterating the prosecution case as mentioned in F.I.R. by contending that applicant was also involved in the matter and as per C.D.R. collected by the investigating officer, applicant was also found in touch with named accused

Alok Singh. It is also pointed out that apart from the present case, the applicant has criminal history of two other cases bearing Case Crime No. 259 of 2013, under Sections 323, 504, 506 IPC, Police Station Gorakhnath, District Gorakhpur and Case Crime No. 170 of 2017, under Sections 420, 504, 506 IPC, Police Station Gorakhnath, District Gorakhpur.

6-Having heard the learned counsel for the parties as noted above, I find that case of the applicant stands on different footing than that named co-accused Inspector Alok Singh (Incharge, Police Post Beniganj) and Prince Srivastava.

7-Prima facie, matter requires consideration.

8-Learned Government Advocate has accepted notice on behalf of the State of U.P./opposite party no.1.

9-Let a notice be issued to opposite party no.2 returnable at an early date.

10-Steps be taken within a week.

11-Six weeks' time is granted to the opposite parties to file counter affidavit. Rejoinder affidavit, if any, may be filed by the applicant within three weeks thereafter.

12-List this case on 07.08.2025.

13-Till the next date of listing, no coercive action shall be taken against the applicant Vishal Tiwari."

13. Application U/s 528 Bnss No. 18833 of 2025: Prachand Pratap Singh Vs. State of U.P. and another, has been filed by the applicant-Prachand Pratap Singh with the following prayers:-

"It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to allow the instant application by quashing the charge sheet dated 05.06.2024 and the cognizance order dated 07.06.2024 alongwith passed by the learned Additional Session Judge/Special Judge (P.C. Act), Court No.2, Gorakhpur as well as the entire proceedings of Session Case No. 898/2024, (State vs. Alok Kumar Singh & others) arising out of Case Crime No. 93/2024, under sections 389, 406, 420, 506, 411 IPC & 13 of the Prevention of Corruption Act read with section 120-B IPC, Police Station Kotwali, District Gorakhpur, presently pending before the Court of Additional Session Judge/Special Judge (P.C. Act), Court No.2, Gorakhpur, So that justice be done, otherwise the applicant shall suffer irreparable loss and hard injury.

It is further prayed that during pendency of the present application before this Hon'ble Court the further proceedings as well as effect and operation of cognizance order dated 07.06.2024 passed by the learned Additional Session Judge/Special Judge (P.C. Act), Court No.2,

Gorakhpur passed in Session Case No. 898/2024, (State vs. Alok Kumar Singh & others) arising out of Case Crime No. 93/2024, under section 389, 406, 420, 506, 411 IPC & 13 of the Prevention of Corruption Act read with section 120-B IPC, Police Station Kotwali, District-Gorakhpur, presently pending before the Court of Additional Session Judge/Special Judge (P.C. Act), Court No.2, Gorakhpur, may be stayed and/or pass any other further order which this Hon'ble court may deem fit and proper in the facts and circumstances of the present case; else the applicant shall suffer irreparable loss and injury.”

14. The matter was taken up and heard on 26.5.2025 by another Bench of this Court and the following order was passed:-

“1. This application under Section 528 B.N.S.S. has been filed by the applicant with a prayer to quash the charge-sheet dated 05.06.2024, cognizance order dated 07.06.2024 and further proceedings of Sessions Case No. 898 of 2024 (State Vs. Alok Kumar Singh and others) arising out of Case Crime No. 93 of 2024, under Sections 389, 406, 420, 506, 411 I.P.C. and Section 13 of Prevention of Corruption Act read with Section 120B I.P.C., Police Station Kotwali, District Gorakhpur, pending in the court of learned Additional Sessions Judge/Special Judge (Prevention of Corruption Act), Court No. 2, Gorakhpur.

2. Heard learned counsel for the applicant, learned Additional Government Advocate representing the State of U.P./opposite party No. 1 and perused the record.

3. As per prosecution case, in brief, complainant/ opposite party No. 2 lodged a first information report on 09.04.2024 for the alleged offence under Sections 389, 120B, 411, 406, 420, 506 I.P.C. and Section 13 of Prevention of Corruption Act against Inspector Alok Singh (Incharge, Police Outpost Beniganj), Prince Srivastava and their two-three companions alleging inter alia that he is a businessman and he used to return home after collecting the money of his business by evening and deposit the same in bank next day. In this sequence, on 03.04.2024 at about 06:00 A.M., he along with his brother keeping Rs. 50 lakhs in a bag was going on a motorcycle towards Harish Chauraha from Charan Lal Chauraha. When he reached near the Police Outpost, Beniganj, he saw Inspector Alok Singh, In-charge, Police Outpost Beniganj and three-four persons were standing there. Inspector signalled them to stop and inquired about the bag. He disclosed that Rs. 50 lakhs are kept in the bag. He recognized a person standing with the inspector, whose name is Prince Srivastava. Thereafter, the Inspector took the bag and went inside the police outpost and started counting the money and told them that the total money is Rs. 50 lakhs and also threatened them to send jail in relation to the offence of loot. Thereafter, Inspector kept the money with him saying that he

will inquire about the money. On the pretext of investigation, inspector has taken entire amount extending threat to send them jail. Prince and his companions whom he does not recognize, who were with them on that day too were standing there. Thereafter his money was not returned.

4. It is submitted by learned counsel for the applicant that with regard to the incident dated 03.04.2025, F.I.R. was lodged on 09.04.2025, in which applicant is not named. As per F.I.R., specific allegation of forcefully taking Rs. 50 lakhs from the complainant is against Inspector Alok Singh (Incharge, Police Outpost Beniganj) and Prince Srivastava. After lodging of F.I.R., Rs. 30 lakhs have been recovered from the possession of Inspector Alok Singh (Incharge, Police Outpost, Beniganj) and Rs. 14 lakhs have been recovered from the possession of Prince Srivastava on the same day. During investigation complainant, in his statement, has made improvement stating inter alia that after taking his money by the Inspector, Prince Srivastava took him and his brother to Prachand Singh (applicant), who is resident of his locality, where Prachand Singh, Mukesh and Vishal Tiwari met them and told that they will get his money back but they will take commission on the money. Much emphasis has been given by contending that if this statement of complainant is treated as true that on 03.04.2024, applicant demanded commission in lieu of getting his money back from the inspector, then this fact and name of the applicant must have been mentioned in the F.I.R. dated 09.04.2025. It is also pointed out that complainant, in his statement, has disclosed that his work is to transmit money of party from one place to another. As such complainant has not come with clean hands. Lastly, it is submitted that so far as case of the applicant is concerned, basic ingredients to constitute an offence under Sections 389, 406, 420, 506, 411, 120B I.P.C. and Section 13 of Prevention of Corruption Act are lacking and his case is distinguishable from the case of named accused persons. Though in the statement of complainant, there is allegation of demand of commission against the applicant, who is not a public servant but it is admitted fact that no commission has been given by the complainant to the applicant.

5. Learned Additional Government Advocate representing the State opposed the prayer of the applicant by reiterating the prosecution case as mentioned in F.I.R. by contending that applicant was also involved in the matter and as per C.D.R. collected by the investigating officer, applicant was also found in touch with named accused Alok Singh.

6. Having heard the learned counsel for the parties as noted above, I find that case of the applicant stands on different footing to that of named co-accused Inspector Alok Singh (Incharge, Police Outpost, Beniganj) and Prince Srivastava.

7. Prima facie, matter requires consideration.

8. Learned Government Advocate has accepted notice on behalf of the State of U.P./opposite party no. 1.

9. Let a notice be issued to opposite party no.2 returnable at an early date.

10. Steps be taken within a week.

11. Six weeks' time is granted to the opposite parties to file counter affidavit. Rejoinder affidavit, if any, may be filed by the applicant within three weeks thereafter.

12. connect and list this case on 07.08.2025 along with Criminal Misc. Application under Section 528 B.N.S.S. No. 8780 of 2025.

13. Till the next date of listing, no coercive action shall be taken against the applicant Prachand Pratap Singh in the aforesaid case.

14. It is made clear that benefit of this order shall not be extended to named co-accused Inspector Alok Singh (Incharge, Police Outpost, Beniganj) and Prince Srivastava.”

15. The facts common to all the cases are that a First Information Report of the matter was lodged on 09.4.2024 at 05:52 hours, under Sections 379, 406, 420, 506 I.P.C. and 13 Prevention of Corruption Act by original complainant Naveen Kumar Srivastava against Alok Singh (Sub-Inspector), Prince Srivastava and 02-03 other associates alleging therein that he is a businessman and in the evening he used to collect money with relation to his business and comes back home in the late evening and then on the next day deposits it in the bank and like each day on 03.04.2024 he had collected Rs.50 Lakhs and when he along with his brother Gagan Kumar Srivastava were coming with a bag at about 06:00 a.m., they were stopped by Alok Singh and 3-4 people in plain clothes, who asked him about the bag on which he told them that there is Rs.50 Lakhs in the same, on which there was some commotion and then Alok Singh took the money from him and told him that he is traveling without permission during election time with huge money and he would implicate him in a case of theft and loot. The money was counted which was found to be Rs.50 Lakhs. He then pleaded that the money belongs to him and may be returned, on which they stated to get it inquired and then return it to him. Prince Srivastava then told the Inspector that he would talk to them and took them outside and told them that if they want to be saved then they should tell the Sub Inspector to make an inquiry and then return money to them. They then requested the Sub Inspector about it who detained the money and told them to come on the next day. Thereafter, on the next day they contacted him where Prince Srivastava was also present after which they were threatened and the applicant told him that they would not get the money back and threatened them whereupon, they returned back home and told the family members about it who then encouraged him and told that a complaint before the higher

authority be made, after which they went to the police station and made a complaint requesting that report be lodged and action be taken.

16. Investigation in the matter concluded and a charge sheet dated 05.6.2024 was submitted against the accused- Alok Singh and Prince under Sections 389, 406, 420, 506, 411 I.P.C. and 13 Prevention of Corruption Act read with Section 120B I.P.C. and against the accused- Mukesh Kumar, Prachand Pratap Singh and Vishal Tiwari, under Sections 389, 406, 420, 506, 411 I.P.C. and Section 13 Prevention of Corruption Act read with Section 120B I.P.C.

17. Cognizance on the said charge sheet was taken vide order dated 7.6.2024 by In-charge Special Judge(P.C.Act), Court No. 2, Gorakhpur, under Sections 389, 406, 420, 506, 411 I.P.C. and 13 Prevention of Corruption Act read with Section 120B I.P.C against the accused Alok Singh and Prince Srivastava, subsequent to sanction for prosecution and against accused Mukesh Kumar, Prachand Pratap Singh and Vishal Tiwari for offences under Section under Sections 389, 406, 420, 506, 411 I.P.C. and 13 Prevention of Corruption Act read with Section 120B I.P.C.

18. The second bail application has thus been filed with the prayer to release the applicant Alok Singh on bail.

Order on Criminal Misc. Application U/S 482 Cr.P.C. No. 1569 of 2025 (Alok Singh vs. State of U.P. and another)

19. The Criminal Misc. Application U/S 482 Cr.P.C. No. 1569 of 2025 has been filed with the prayer that the order dated 12.7.2024 passed by the Additional Sessions Judge/Special Judge, Prevention of Corruption Act, Court No. 2, Gorakhpur be set aside and further the Investigating Officer of the case be directed to collect the CCTV footage of Police Station Kotwali, District Gorakhpur from 12:05 am to 08:20 am on 09.4.2024 and the place of arrest of the applicant and further C.D.R. and G.P.S. location, Call-I.D. and Internet Root Tracking of the police Team

who had arrested the applicant, be preserved and made part of the case diary.

20. Learned counsel for the applicant submitted that the applicant is an accused in the present matter. It is submitted that the preservance of required details of C.D.R. and also collection of CCTV footage of the Police Station is necessary for fair trial and fair defense of the accused since the entire prosecution case is being challenged as being false and fabricated. It is submitted that if the said documents and details are not collected and preserved the applicant would not have a fair chance of his defence and thus the application moved under Section 91 Cr.P.C. be allowed.

21. Per contra, learned State counsel opposed the prayer and arguments of learned counsel for the applicant and submitted that the order of the trial court specifically mentions that for the same cause the applicant had previously filed an application dated 22.4.2024 being application no.209/2024 which stood rejected on merits vide order dated 14.4.2024 and in the present application there is no reference of the same and further by observing that the investigation is a prerogative of the police and the court cannot interfere in it and thus rejected the said application. It is submitted that perusal of the application under Section 91 Cr.P.C. dated 30.5.2024 of the applicant which is numbered as Misc. Application No.317/2024 shows that it is with the same prayer and perusal of the same would go to show that there is no reference whatsoever of the previous application for the same relief being filed and it being dismissed by the trial court which is a material concealment by the applicant, however, the trial court has again dismissed the said application on its merits and thus there was no reason for the trial court to entertain the present application under Section 91 Cr.P.C. for the second time and thus the present application is devoid of any merit and deserves to be dismissed.

22. In response learned counsel for the applicant submitted that non-disclosure of filing of the previous application for the same relief and

also non-disclosure of the order of the trial court rejecting the same, is a technicality and cannot be termed as concealment. It is submitted that the application under Section 91 Cr.P.C. dated 30.5.2024 is maintainable and deserves to be allowed and the prayers as prayed for, deserve to be allowed.

23. After having heard learned counsels for the parties and perusing the records, it is evident that an application under Section 91 Cr.P.C. has been filed by the applicant for collecting of CCTV footage of Police Station Kotwali, District Gorakhpur from 12:05 am to 08:20 am on 09.4.2024 and the place of arrest of the applicant and further C.D.R. and G.P.S. location, Call-I.D. and Internet Root Tracking of the police Team who had arrested the applicant, be preserved and made part of the case diary. The said application stood rejected by the trial court vide order dated 12.7.2024. The same is under challenge before this Court. Counter affidavit has been filed by the State to which rejoinder affidavit has been filed by the applicant which are already on the record and have been perused.

24. At the first instance it would be relevant to mention that the trial court has observed that previously the applicant had filed an application dated 24.4.2024 for the same relief being application no. 209/2024 which stood rejected vide order dated 14.5.2024 and the said fact has not been disclosed in the subsequent application filed by him which is a concealment. Further the fact remains that the order dated 14.5.2024 of the trial court on the first application of the applicant for the same relief, has attained finality and has not been challenged further. A second application thus for the same relief and even with concealment would not be maintainable. More so, on merits of the matter, in the case of **State of Orissa v. Debendra Nath Padhi : (2005) 1 SCC 568** it has been held by the Apex Court that entitlement of the accused to seek order under Section 91 Cr.P.C. would ordinarily not come till the stage of defence. It has been held as under:

“**25.** Any document or other thing envisaged under the aforesaid provision can be ordered to be produced on finding

that the same is “necessary or desirable for the purpose of investigation, inquiry, trial or other proceedings under the Code”. The first and foremost requirement of the section is about the document being necessary or desirable. The necessity or desirability would have to be seen with reference to the stage when a prayer is made for the production. If any document is necessary or desirable for the defence of the accused, the question of invoking Section 91 at the initial stage of framing of a charge would not arise since defence of the accused is not relevant at that stage. When the section refers to investigation, inquiry, trial or other proceedings, it is to be borne in mind that under the section a police officer may move the court for summoning and production of a document as may be necessary at any of the stages mentioned in the section. Insofar as the accused is concerned, his entitlement to seek order under Section 91 would ordinarily not come till the stage of defence. When the section talks of the document being necessary and desirable, it is implicit that necessity and desirability is to be examined considering the stage when such a prayer for summoning and production is made and the party who makes it, whether police or accused. If under Section 227, what is necessary and relevant is only the record produced in terms of Section 173 of the Code, the accused cannot at that stage invoke Section 91 to seek production of any document to show his innocence. Under Section 91 summons for production of document can be issued by court and under a written order an officer in charge of a police station can also direct production thereof. Section 91 does not confer any right on the accused to produce document in his possession to prove his defence. Section 91 presupposes that when the document is not produced process may be initiated to compel production thereof.”

(emphasis supplied)

25. As of now, directing the Investigating Officer to collect CCTV footage and make it part of the investigation, would be an interference in the investigation and directing investigation to be done in a particular manner.

26. No ground for interference is made out.

27. The Criminal Misc. Application U/S 482 Cr.P.C. No. 1569 of 2025 is dismissed.

Order on Application U/s 528 Bnss No. 8780 of 2025 (Vishal Tiwari Vs State of U.P. and another) and Application U/s 528 Bnss No. 18833 of 2025(Prachand Pratap Singh vs. State of U.P. and another)

28. In so far as two applications being **Application U/s 528 Bnss No. 8780 of 2025: Vishal Tiwari Vs State of U.P. and another** and **Application U/s 528 Bnss No. 18833 of 2025: Prachand Pratap Singh vs. State of U.P. and another**, are concerned, the same have a common relief and challenge of the charge sheet dated 05.6.2024, order of cognizance dated 07.6.2024 and the entire proceedings of the case identified as Sessions Case No. 898/2024 (State vs. Alok Kumar Singh and others) arising out of Case Crime No. 93/2024, under Sections 389, 406, 420, 506, 411 I.P.C. and 13 of Prevention of Corruption Act read with Section 120B I.P.C., Police Station Kotwali, District Gorakhpur, pending in the court of Additional Sessions Judge/Special Judge (PC Act), Court No. 2, Gorakhpur.

29. Learned counsel appearing for the applicant Prachand Pratap Singh submitted that the only evidence against the applicant is his own confessional statement and admissibility of the same is barred by Section 25 of the Evidence Act. It is further submitted that the applicant is not named in the F.I.R. despite the fact that Gagan Kumar Srivastava the brother of the informant knew him. It is further submitted that there is no recovery of any incriminating material from the possession of the applicant whereas there is recovery of Rs.30 lakh from the co-accused Alok Kumar Singh, Rs.14 lakh from the co-accused Prince Srivastava. It is submitted that there is no other evidence against the applicant-Prachand Pratap Singh.

30. Refuting the arguments of learned counsel for the applicant, learned counsel for the State submitted that the applicant is named in the statement of the first informant recorded under Section 161 Cr.P.C. and active role has been assigned to him. It is submitted further that the argument that except for the confessional statement of the accused there is no other evidence, is incorrect inasmuch as the first informant has

specifically named the applicant in his statement recorded under Section 161 Cr.P.C. during investigation and assigned the role to him. It is submitted that charge sheet after investigation has been submitted against the applicant on which the court concerned has taken cognizance and thus there is ample evidence against him. It is further submitted that at this stage appreciating the veracity of the prosecution case by drawing distinction and variations of the prosecution version from the F.I.R. and the statements of the witnesses recorded during investigation cannot be done and the same cannot be appreciated as mini trial cannot be done at this stage. It is submitted that looking to the facts of the case, nature of case, evidence available on record, it cannot be said that no offence is made out against the applicant. Thus the present application deserves to be dismissed.

31. Learned counsel appearing for the accused-applicant Vishal Tiwari adopted the arguments of learned counsel for the accused- applicatnt Prachand Pratap Singh but further supplemented his argument that while submitting charge sheet the Investigating Officer deleted Section 379 I.P.C. and added Section 389 I.P.C. apart from other sections. It is submitted while placing para-28, 37, 38, 41 and 42 of the affidavit that the applicant is a student and thus offence under the Prevention of Corruption Act would not be attracted, there is no recovery from the applicant, no test identification parade was conducted to get the identity of the applicant fixed, no offence whatsoever is made out against the applicant- Vishal Tiwari and further offence under Sections 406 and 420 I.P.C. is not made out as both the offences cannot exist simultaneously as has been held by the Apex Court in the case of *Delhi Race Club (1940) Ltd. and others vs. State of Uttar Pradesh and another: 2024 INSC 626*.

32. Learned State counsel while refuting the arguments of learned counsel for the applicant Vishal Tiwari, submitted that complicity of the applicant surfaced in the present matter during investigation. The applicant is named by the first informant in his statement recorded

during investigation and specific role has been assigned to him. It is submitted further that the investigation shows implication of the applicant for offences under Sections 420 I.P.C. and 406 I.P.C. distinctly and thus he can be tried for them together. It is submitted that the prayers as prayed for be dismissed.

33. After having heard learned counsels for the parties and perusing the records, it is evident that these two petitions under Section 528 B.N.S.S. have been filed for quashing of charge sheet and order taking cognizance and the entire proceedings therein. Law with regard to the same is trite. The scope and ambiguity of powers to be exercised under section 482 Cr.P.C. has been elaborately dealt with and considered by the Apex Court in the case of *Neeharika Infrastructure (P) Ltd. v. State of Maharashtra : (2021) 19 SCC 401* and it has been observed and held as under:

“**13.** From the aforesaid decisions of this Court, right from the decision of the Privy Council in Khwaja Nazir Ahmad [King Emperor v. Khwaja Nazir Ahmad, 1944 SCC OnLine PC 29 : (1943-44) 71 IA 203 : AIR 1945 PC 18], the following principles of law emerge:

13.1. Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences.

13.2. Courts would not thwart any investigation into the cognizable offences.

13.3. However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on.

13.4. The power of quashing should be exercised sparingly with circumspection, in the “rarest of rare cases”. (The rarest of rare cases standard in its application for quashing under Section 482 CrPC is not to be confused with the norm which has been formulated

in the context of the death penalty, as explained previously by this Court.)

13.5. While examining an FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint.

13.6. Criminal proceedings ought not to be scuttled at the initial stage.

13.7. Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule.

13.8. Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 CrPC.

13.9. The functions of the judiciary and the police are complementary, not overlapping.

13.10. Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences.

13.11. Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice.

13.12. The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance

in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.

13.13. The power under Section 482 CrPC is very wide, but conferment of wide power requires the Court to be cautious. It casts an onerous and more diligent duty on the Court.

13.14. However, at the same time, the Court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in R.P. Kapur [R.P. Kapur v. State of Punjab, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] and Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426], has the jurisdiction to quash the FIR/complaint.

13.15. When a prayer for quashing the FIR is made by the alleged accused, the Court when it exercises the power under Section 482CrPC, only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR.”

34. The Apex Court in the case of *Pradeep Kumar Kesarwani Versus State of Uttar Pradesh and Another : 2025 SCC OnLine SC 1947* has laid a four-step test for High Courts to follow while considering petitions for quashing criminal proceedings under Section 482 of the Code of Criminal Procedure. It has been held as under:

“20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:—

(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal - proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused. [(See:Rajiv Thapar v. Madan Lal Kapoor (Criminal Appeal No. 174 of 2013))”

35. Merely on the ground that the applicants were not named in the F.I.R. cannot be a ground for coming to the conclusion that their implication in the present matter is false and no offence whatsoever is made out against them. Investigation of the matter is done to unfurl the truth and to see the complicity of the accused in the matter. During investigation the first informant has specifically disclosed the names of both the applicants namely Prachand Pratap Singh and Vishal Tiwari and has assigned specific roles to them and as such it cannot be said that there is no evidence whatsoever on record against them.

36. Law for quashing is strict and trite. The present cases do not fall within the category of cases as enumerated in the judgement of Apex Court in the case of *Neeharika Infrastructure (P) Ltd. (Supra)* and also on the four-steps test in the case of *Pradeep Kumar Kesarwani (Supra)*.

No ground for interference is made out. Thus, it is trite law that at the stage of quashing only the material of the prosecution has to be seen and the court cannot delve into the defence of the accused and then proceed to examine the matter on its merit by weighing the evidence so produced. The disputed questions of facts of the case cannot be adjudged and adjudicated at this stage while exercising powers under Section 482 Cr.P.C. and only the prima facie prosecution case has to be looked into as it is. Evidence needs to be led to substantiate the defence of the accused. Further it is also well settled that that while exercising powers under section 482 Cr.P.C., the High Court is not required to conduct a mini trial.

37. Both the said applications of the applicant Prachand Pratap Singh and Vishal Tiwari are dismissed.

38. Interim order, if any, shall stand vacated in both the matters.

39. The trial court concerned is directed to proceed with the trial expeditiously without granting any undue adjournment to either of the parties.

Order on Criminal Misc. Bail Application No.32305 of 2025 (Alok Singh vs. State of U.P.)

40. The bail of the applicant Alok Singh has been pressed mainly on the ground of parity with the co-accused. It is submitted that the Apex Court vide order dated 19.12.2025 passed in Petition(s) for Special Leave to Appeal (Crl.) No(s). 16835 of 2025, Prince Srivastava vs. The State of U.P., has granted bail to the co-accused Prince Srivastava. It is submitted that the Apex Court has in the said order observed that he is in jail since 09.4.2024 and charges have not yet been framed and there are as many as 11 witnesses and thus having regards to long incarceration and the fact that charges are yet to be framed and the trial is yet to be commenced, bail has been granted to him.

41. This Court vide order dated 5.1.2026 passed in the bail application sought a report from District and Sessions Judge concerned/trial court concerned regarding status/stage of trial and also the reason for delay in framing of charge, to which a report has been sent which has been placed

by the office on record. This Court has perused the said report dated 13.1.2026 sent by the Additional Sessions Judge/Special Judge (P.C.Act), Court No. 1, Gorakhpur, duly forwarded by District Judge, Gorakhpur on the said date. Perusal of the said report goes to show that trial court has in para-3 stated that in a Petition No. 6664 of 2024, Prachand Pratap Singh and 2 others vs. State of U.P., arrest of the petitioners has been stayed vide order dated 27.4.2024. Further in para-4 of the said report it is stated that in Application U/S 528 BNSS No. 18833/2025, Prachand Pratap Singh vs. State of U.P. and another, an order dated 26.5.2025 has been passed directing no coercive measures against the said accused. Further in para-6 of the said report it is mentioned that since arrest of the accused Mukesh Kumar, Prachand Pratap Singh and Vishal Tiwari has been stayed by the High Court no warrants of arrest can be issued against them and they are regularly absenting before the trial court. The accused Prince Srivastava and Alok Kumar Singh are appearing before the trial court from jail. It further states that since arrest has been stayed the said three accused persons have not appeared before the trial court and thus charge is not being framed. Further in para-4 it is mentioned that the matter is now fixed for 20.01.2026 and the accused have been summoned and effort will be made to frame charge on priority. The fact thus as reported is that charge in the matter could not be framed due to said 3 accused not appearing before the trial court due to protective order passed by the High Court for which the prosecution cannot be faulted.

42. Looking to the fact that the co-accused Prince Srivastava has been granted bail by the Apex Court vide order dated 19.12.2025, it is provided that the applicant- **Alok Singh** be released on bail for a period of *four (04) months* 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 concerned with the following conditions which are being imposed in the interest of justice:-

(i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

(ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 82 Cr.P.C., may be issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 174-A I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

(vii) The applicant shall surrender before the court concerned after expiry of four(04) months.

43. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

44. The applicant shall file his surrender certificate by the next date.

45. Since trial of the matter has already been expedited by this Court for which direction have been passed the trial court is expected to comply with the same.

46. Let the matter be listed on 29.05.2026.

47. Registrar (Compliance) to communicate this order to the District and Sessions Judge, Gorakhpur and the trial court concerned for information and necessary action within one week from today.

(Samit Gopal,J.)

January 30, 2026

Naresh.