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AFR

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 4880 of 2024
Applicant :- Anurudh
Opposite Party :- State Of UP And 3 Others
Counsel for Applicant :- Fakhr uz Zaman
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	Introduction
II	Bail Jurisdiction : Scope
III	Facts
IV	Submissions of learned counsels
V	Age of victim: Section 164-A of Cr.P.C., Section 27 of POCSO Act, Judgements in Monish Vs. State of U.P. and others; Aman @ Vansh v. State of U.P. and 3 others; Atul Mishra v. State of U.P. and 3 others.
VI	Judgement in Pradeep Kumar Chauhan and another v. State of U.P. and 3 others: Non applicability to police investigations into POCSO Act offences
VII	Conclusions & Directions
VIII	Order on Bail Application
IX	Post Script and Directions
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I. Introduction:

2. The question of law which arises for consideration in this bail application is the nature of the legal duty cast on the police to draw up a medical report determining the age of a victim while investigating POCSO Act offences.

The jurisdiction of this Court to determine this question will predicate the discussion on the merits of the bail.

II. Bail Jurisdiction: Scope

3. Right of bail is vested by virtue of Section 439 of Code of Criminal Procedure,1973[1].

4. With coming of the Constitution and development of constitutional law, the statutory domain of bails was transformed into a constitutional jurisdiction as well. The right to bail is derived from statute but cannot be removed from constitutional oversight. The right to seek bail is irretrievably embedded in the fundamental right of liberty enshrined under Article 21 of the Constitution of India by holdings of constitutional courts.

5. Good authority has long entrenched the right of an accused to seek bail in the charter of fundamental rights assured by the Constitution of India.

6. Bail jurisprudence was firmly ensconced in the constitutional regime of fundamental rights in ***Gudikanti Narasimhulu and Others Vs. Public Prosecutor, High Court of Andhra Pradesh***[2]. Casting an enduring proposition of law in eloquent speech, V.R. Krishna Iyer, J. held:

> "1. Bail or jail?" — at the pre-trial or post-conviction stage — belongs to the blurred area of the criminal justice system and largely hinges on the hunch of the Bench, otherwise called judicial discretion. The Code is cryptic on this topic

1 **hereinafter referred to as the Cr.P.C.**
2 **(1978) 1 SCC 240**

> and the Court prefers to be tacit, be the order custodial or not. And yet, the issue is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitized judicial process. As Chamber Judge in this summit court I have to deal with this uncanalised case-flow, ad hoc response to the docket being the flickering candle light. So it is desirable that the subject is disposed of on basic principle, not improvised brevity draped as discretion. Personal liberty, deprived when bail is refused, is too precious a value of our constitutional system recognised under Article 21 that the curial power to negate it is a great trust exercisable, not casually but judicially, with lively concern for the cost to the individual and the community. To glamorize impressionistic orders as discretionary may, on occasions, make a litigative gamble decisive of a fundamental right. After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of "procedure established by law". The last four words of Article 21 are the life of that human right."

7. More recently the interplay of constitutional liberty assured under Article 21 and statutory right of bail of an undertrial prisoner was affirmed by the Supreme Court in **Mohd. Muslim @ Hussain Vs. State (NCT of Delhi)[3].**

8. Engagement of fundamental rights in bail jurisprudence is a constant in constitutional law. The right of bail has statutory origins but can never be isolated from its constitutional moorings.

9. The aforesaid authorities establish the undeniable linkage between right to seek bail and the fundamental

right to personal liberty. Every prisoner has a fundamental right to file an application for bail before the competent court as per law and without delay.

10. 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. While deciding bail applications the High Court exercises a composite jurisdiction of statutory powers and constitutional obligations. At times legal issues which directly impinge on the fair administration of justice arise in bail jurisdiction. The High Court cannot neglect consideration of such issues on the footing that they are beyond the scope of bail jurisdiction. The High Court always possesses the necessary powers to decide such issues for dispensing fair justice and to realize the fundamental rights of an accused in bail jurisdiction. Refusal to decide the said issues would amount to abdication of constitutional obligations of this Court. Issues arising in the instant case (and those referred in the judgment) directly impact the right of a prisoner to seek bail. They have to be decided by this Court with clarity in lawful exercise of bail jurisdiction and in the interests of equal justice.

11. The judgements rendered by this Court in **Ajeet Chaudhary v. State of U.P. and another**[4]**, Junaid v.**

4. 2021 SCC OnLine All 17

State of U.P. and another[5], Monish v.State of U.P. and others[6], Anil Gaur @ Sonu Tomar v. State of U.P.[7] & Maneesh Pathak v. State of U.P.[8]] enable the court in bail jurisdiction to decide legal issues which arise in the facts and circumstances of the case and impede fair administration of justice or prevent realization of the right of bail of an accused accruing from statute or threaten to infringe the personal liberties of the accused vested by the Constitution.

12. While examining the scope of powers of this Court to decide legal issues in bail jurisdiction this Court in **Aman @ Vansh v. State of U.P. and 3 others[9]** held as under:

> "This Court has consistently held that while sitting in the bail determination the High Court is not denuded of its constitutional status. The bail jurisdiction though created under the statute is also a constitutional jurisdiction of first importance since the most precious right of life and liberty are engaged in the process of consideration of bail. Consequently when legal issues which directly impact the life and liberty of a citizen arise during consideration of a bail application, the Court has to squarely deal with the said (*sic*) issues."

[Also see: i. **(Anil Gaur @ Sonu @ Sonu Tomar v. State of U.P.[10])**

ii. **(Bhanwar Singh @ Karamvir v. State of U.P.[11])**

5. 2021 SCC OnLine All 463
6. Criminal Bail Application No. 55026 of 2021
7. 2022 SCC OnLine All 623
8. 2023 SCCOnLine All 64
9. **Criminal Misc. Bail Application No.2322 of 2024**

10 **2022 SCC Online All 623**
11 **2023 SCC Online All 734**

iii. **(Noor Alam v. State of U.P.[12])**.]

III. Facts:

13. In the instant case the age of the victim as depicted in the prosecution documents was contested in light of the judgement of this Court in **Monish Vs. State of U.P. and others[13]**. The medical report pertaining to the victim's age as contemplated in Section 164-A Cr.P.C. read with Section 27 of the POCSO Act was not produced by the police authorities.

14. Following the established practice this Court directed that the medical report of the victim's age be got drawn up by the competent medical officer/Chief Medical Officer, Jalaun in light of Section 164-A of Cr.P.C. read with Section 27 of the POCSO Act. **[See: Aman @ Vansh vs State of U.P.[14]]**

15. The issue of medical report determining the victim's age in POCSO Act offences has been regularly vexing the Courts, and hence is liable to be determined before deciding the bail application on merits.

IV. Submissions of learned counsels:

16. Shri Paritosh Kumar Malviya, learned A.G.A.-I submits that in view of the judgement rendered by this Court in **Pradeep Kumar Chauhan and another v. State of U.P. and 3 others[15]** the police authorities cannot get the medical examination of the victim conducted to determine her age. Hence the said medical report was

12 **Criminal Misc. Bail Application No.53159 of 2021**
13 **(2024) 6 ADJ 361**
14. **Criminal Misc. Bail Application No.2322 of 2024**
15. **Habeas Corpus Writ Petition No.733 of 2020**

not got drawn up by police in the instant case. Though in his customary fairness the learned AGA-I has referenced all relevant provisions of law including Section 164-A Cr.P.C. read with Section 27 of POCSO Act. According to the learned A.G.A.-I, the legal position regarding applicability of **Pradeep Kumar Chauhan (supra)** to POCSO Act offences and investigations needs clarification.

17. Per contra, Shri Shams uz Zaman, learned counsel holding brief of Shri Fakhr uz Zaman, learned counsel for the applicant contends that the judgement of this Court in **Pradeep Kumar Chauhan (supra)** is not a binding precedent for the purposes of determination the age of the victim under Section 164-A of the Cr.P.C. read with Section 27 of the POCSO Act. The Court rightly called for the medical report regarding the victim's age on account of the failure of the police authorities to do so and to uphold the said provisions of law. The order of the Court calling for the medical report of the victims age was consistent with the law laid down in **Aman (supra)**. **Aman (supra)** is a binding authority for medical determination of the victim's age in POCSO Act offences. In a bail application the victim’s age has to be determined by a conjoint reading of **Monish (supra)** and **Aman (supra)**.

18. Heard the learned counsel for the parties.

V. Age of victim: Section 164-A of Cr.P.C., Section 27 of POCSO Act, Judgements in

Monish Vs. State of U.P. and others and Aman @ Vansh v. State of U.P. and 3 others; Atul Mishra v. State of U.P. and 3 others.[16]

19. Large variations in the documents pertaining to the victim's age are being noticed in an overwhelming number of cases under the POCSO Act. Challenges laid to the victim's age as depicted in the prosecution case are also a regular feature in bail applications under the POCSO Act. Victim's age related documents are often put under a cloud in bail hearings. Medical report determining the victim's age as per Section 164-A of Cr.P.C. read with Section 27 of the POCSCO Act thus becomes critical even in bail matters. In fact in POCSO Act offences the victim's age is also a jurisdictional issue.

20. Section 164-A of the Code of Criminal Procedure Code as well as Section 27 of the POCSO Act are extracted hereunder for ease reference:

"**Section 164-A of Cr.P.C. Medical examination of the victim of rape**.-(1) Where, during the stage when an offence of committing rape or attempt to commit rape is under investigation, it is proposed to get the person of the woman with whom rape is alleged or attempted to have been committed or attempted, examined by a medical expert, such examination shall be conducted by a registered medical practitioner employed in a hospital run by the Government or a local authority and in the absence of such a practitioner, by any other registered medical practitioner, with the consent of such woman or of a person competent to give such consent on her behalf and such woman shall be sent to such registered medical practitioner within twenty-four hours from the time of receiving the information relating to the commission of such offence.

16 **2022 SCCOnline All 420**

(2) The registered medical practitioner, to whom such woman is sent shall, without delay, examine her person and prepare a report of his examination giving the following particulars, namely—

(i) the name and address of the woman and of the person by whom she was brought;

(ii) the age of the woman;

(iii) the description of material taken from the person of the woman for DNA profiling;

(iv) marks of injury, if any, on the person of the woman;

(v) general mental condition of the woman; and

(vi) other material particulars in reasonable detail.

(3) The report shall state precisely the reasons for each conclusion arrived at.

(4) The report shall specifically record that the consent of the woman or of the person competent, to give such consent on her behalf to such examination had been obtained.

(5) The exact time of commencement and completion of the examination shall also be noted in the report.

(6) The registered medical practitioner shall, without delay forward the report to the investigating officer who shall forward it to the Magistrate referred to in section 173 as part of the documents referred to in clause (a) of Sub-Section (5) of that section.

(7) Nothing in this section shall be construed as rendering lawful any examination without the consent of the woman or of any person competent to give such consent on her behalf."

"**Section 27 of POCSO Act. Medical examination of a child**-(1) The medical examination of a child in respect of whom any offence has been committed under this Act, shall notwithstanding that a First Information Report or complaint has not been registered for the offences under this Act, be conducted in accordance with section 164A of the Code of Criminal Procedure, 1973.

(2) In case the victim is a girl child, the medical examination shall be conducted by a woman doctor.

(3) The medical examination shall be conducted in the presence of the parent of the child or any other person in whom the child reposes trust or confidence.

(4) Where, in case the parent of the child or other person referred to in sub-section (3) cannot be present, for any reason, during the medical examination of the child, the medical examination shall be conducted in the presence of a woman nominated by the head of the medical institution."

21. Section 164-A of Cr.P.C. read with Section 27 of the POCSO Act provide for a specific method to determine the age of the victim in POCSO Act offences. The said provisions underscore the importance of medical age determination of victims under the POCSO Act. Age determined under Section 164-A of Cr.P.C. read with Section 27 of the POCSO Act is not an exercise in futility, and cannot be excluded from consideration by courts. Omission by the police to get the medical report of age drawn up during the investigation and neglect of the said report by the court while deciding the bail application will render the said statutory provisions redundant and negate the scheme of the POCSO Act.

22. This Court in **Aman (supra)** held that Section 164-A Cr.P.C. read with Section 27 of the POCSO Act insofar as they contemplate medical determination of the age of the victim are mandatory. **Aman (supra)** accordingly directed the police authorities to get the medical report determining the victim's age drawn up by the competent medical authority at the start of the investigations into POCSO Act offences.

23. Age of a child victim of a sexual offence is also liable to be determined in light of the procedure laid down in Section 94 of the Juvenile Justice (Care and Protection of Children) Act (as applicable to the POCSO Act). This Court in **Monish (supra)** had examined the manner and scope of applicability of Section 94 of the Juvenile Justice (Care and Protection of Children) Act to determine the age of victims in bails under the POCSO Act offences. In **Monish (supra)** due weight was given to the medically determined age of the victim apart from consideration of other documentary evidences of age including those referenced in Section 94 of the of the Juvenile Justice (Care and Protection of Children) Act.

25. The implementation of the mandatory provisions of Section 164-A of the Cr.P.C. read with Section 27 of the POCSO Act and compliance of **Aman (supra)** are imperative necessities to secure the ends of justice. Medical determination the age of victims is based on scientific parameters and has a high standing in courts. Medical report of the victim's age given by the competent medical authority in POCSO Act cases has a statutory basis and is a reliable document to assist the court in forming an opinion or conclusion about her age even while deciding bail applications under the POCSO Act. Particularly in bails where the accused shows that prosecution documents pertaining to the victim's age are contradictory, unreliable or otherwise rendered doubtful for credible reasons. [See: **Monish Vs. State of U.P. and others**] Failure to consider or to accord due weight or to

discord the same without good cause to medical report determining the victim's age contravenes the law and vitiates the order of court.

26. The predicaments faced by this Court while examining the age of the victim in a bail application under the POCSO Act were resolved by this Court in the judgement rendered in **Monish (supra)**. However, the dilemma of the Court persists on account of the recurrent failure of the police authorities to get the victim's age determined by the competent medical authority during investigations of POCSO Act offences. As seen earlier this omission of the police authorities is in the teeth of Section 164-A Cr.P.C. read with Section 27 of the POCSO Act and also violates the explicit judicial directions in **Aman (supra)**.

27. The determination of victim's age in a bail under POCSO Act offences has to be made upon an integrated reading of Section 94 of the of the Juvenile Justice (Care and Protection of Children) Act and Section 164-A of Cr.P.C. read with Section 27 of the POCSO Act in light of the judgements of this Court in **Monish (supra)** and **Aman (supra)**.

28. **Monish (supra)** contemplates consideration of various documents pertaining to the victim's age in bail proceedings. **Aman (supra)** reinforced the significance of the medical age determination in the scheme of the POCSO Act. The trial court has to make an opinion on

the credibility of the respective documents while deciding the bail application. In appropriate cases the age of the victim determined by the competent medical authority can prevail over other age related documents (including school records). Infact in the instant case this Court has relied upon the medical determination of the victim's age in preference to the school records pertaining to her age.

29. False depiction of the victim's age is a favoured tactic used by unscrupulous litigants to frame innocent persons under the stringent provisions of the POCSO Act. False cases under the POCSO Act are an abuse of the process of court which frustrate the laudable intent of the said enactment. As a result thereof innocent persons are subjected to malicious prosecution and undergo long periods of imprisonment. Widespread misuse of the POCSO Act was also noticed in **Aman (supra)**.

30. This Court in **Atul Mishra v. State of U.P. and 3 others**.[17] noted the legislative object of POCSO Act, and also found abuse of the enactment. Balancing the need to implement the statute while taking social realities into account, Rahul Chaturvedi J. in **Atul Mishra (supra)** held:

"13. Growing incidences where teenagers and young adults fall victim of the offences under the POCSO Act, being slapped by the penal provisions of POCSO Act without understanding the far reaching implication of the severity of the enactment, is an issue that brings much concern to the conscience of this Court. A reading of the statement of objects and reasons of POCSO Act would show that, as

17 **2022 SCCOnline All 420**

mentioned, to protect the child from the offences of sexual abuse, sexual assault and harassment, pornography, pursuant to the Article-15 of the Constitution of India, 1950 and the Conservation on the Rights of the children. However, a large array of the cases filed under the POCSO Act seems to be those arising on the basis of the complaints/F.I.Rs. lodged by the families of adolescents and teenagers who are involved in romantic relationship with each other. The scheme of the Act clearly shows that it did not intend to bring within its scope or limits, the cases of the nature where the adolescents or teenagers involved in the dense romantic affair.

14. This Court deems it fit and necessary to take a moment to delve into an important aspect, the awareness of which is crucial in understanding and appreciating with the cases of instant nature. It is crucial to accept the science and psychology of an adolescent and young adulthood at this juncture. This is because social and biological phenomenons are widely recognised as determinates of human development, health and socio-economic attainment across the life course, but our understanding of the underlying pathways and processes remains limited. Therefore, a "bio-social approach" needs to be adopted and appreciated i.e. one that conceptualizes the biological and social requirements of two teenagers, who on account of mutual infatuation are attracted and decide for their future. Their decision could be impulsive, immature but certainly not sinful or tainted as branded in the F.I.R. or complaint of the informant."

31. Medical determination of the victim's age by the competent medical authority at the commencement of the police investigation will ensure implementation of the statutory mandate of Section 164-A of Cr.P.C. read with Section 27 of POCSO Act, comply with the law laid down by this Court in **Aman (supra),** and will help curb the menace of false cases under the POCSO Act.

VI. Judgement in Pradeep Kumar Chauhan

and another v. State of U.P. and 3 others: Non applicability to police investigations into POCSO Act offences:

32. The facts and the legal issues which arose for consideration in **Pradeep Kumar Chauhan (supra)** have to be noticed first. **Pradeep Kumar Chauhan (supra)** was a Habeas Corpus Writ Petition which was filed by the petitioner No.1 claiming that the petitioner No.2 was his legally wedded wife. During the pendency of the habeas corpus petition, a medical report determining the corpus's age was drawn up.

33. In those facts and circumstances while considering the said medical report of the corpus; this Court in **Pradeep Kumar Chauhan (supra)** held as under:

"At this stage, Sri Vinod Kumar Yadav, learned counsel for the petitioners submits that the Investigating Officer got examined the corpus at Pt. D.D.U. Govt. Hospital, Varanasi by the concerned radiologist and Chief Medial Officer whereupon in examination, age of the victim has been determined to be 19 years. This medical was conducted on 13.11.2019. It is further pointed out by the learned counsel for the petitioners that the statement of victim was recorded under Section 164 Cr.P.C. before the concerned Chief Judicial Magistrate, Court No.1 Mirzapur on 08.11.2019 wherein the victim has admitted that she and petitioner No.1 Pradeep Kumar Chauhan were studying in the same school, therefore, in the light of this statement given by the victim, the conduct of Investigating Officer becomes doubtful.

It appears that either Investigating Officer is not aware of the procedure and the provisions contained in the Juvenile Justice (Care and Protection of Children) Act, 2015 or with a view to shield the accused person, he has directed the victim to undergo medical

examination.

This requires thorough enquiry in the matter.

The Director General of Police, U.P. is directed to immediately issue a circular/order informing all the investigating Officers through respective Superintendents of Police, the manner in which investigations to be carried out. He shall also ensure that all the Investigating officers are given periodic training and Ist phase of periodic training be completed within one year after drawing a time-table/ roaster for said training to be imparted in various Police Academies of the State including training for forensic and scientific investigation.

The Director General will submit first report before the Registrar General before expiry of three months from today as to the steps taken from rendering training on the aspect of the investigation to all the Investigating Officers posted in the State of Uttar Pradesh.

He shall also cause conduct of an inquiry to be carried out in relation to be alleged misconduct of the Investigating Officer of the present case viz. Sanjeev Kumar Singh, Narayanpur, Police Station-Adalhat, Mirzapur and to take strict disciplinary action against the Investigating Officer, who conducted the Investigation."

34. **Pradeep Kumar Chauhan (supra)** did not arise out of a criminal investigation for an offence under the POCSO Act. The provisions of Section 164-A of the Cr.P.C. read with Section 27 of the POCSO Act were not in issue and never arose for consideration before this Court in **Pradeep Kumar Chauhan (supra)**. Further this Court in **Pradeep Kumar Chauhan (supra)** did not even reference or examine Section 164-A of the Cr.P.C. read with Section 27 of the POCSO Act.

35. The directions of this Court issued in **Pradeep Kumar Chauhan (supra)** do not prevent the police

authorities to get the age of a victim determined by the competent medical authority under Section 164-A of the Cr.P.C. read with Section 27 of the POCSO Act. Infact directions in **Pradeep Kumar Chuahan (supra)** are not applicable to investigation of POCSO Act offences.

36. Non applicability of the directions in **Pradeep Kumar Chauhan (supra)** to POCSO Act offences is supported by authorities in point. A Full Bench of this Court in **Chandrapal Singh v. State of U.P. and another**[18] was squarely faced with the issue of determining the binding precedent in a judgement rendered by a Constitutional Court.

37. The Full Bench of this Court in **Chandrapal Singh (supra)** examined various judgements in point and held thus:

"158. The law is settled to the point that it is axiomatic that only the ratio decidendi in a judgement constitutes the binding precedent.

159. The Civil Appeal before the Supreme Court in *State of Orissa v. Sudhansu Sekhar Misra and others*[19] was an outcome of the conflict between the High Court and the Government of Orissa. The High Court effected transfers of judicial officers in light of its reading of the judgment of the Supreme Court in *State of Assam v. Ranga Muhammad and others*[20]. The High Court relied on the observations in *Ranga Muhammad (supra)* that after a judicial officer is posted to the cadre it is for the High Court to effect his transfers and accordingly passed orders transferring judicial officers to posts in the State Government.

18. **2023 SCC OnLine All 2443**

19. AIR 1968 SC 647
20. (1967) 1 SCR 454

160. The Supreme Court in *Sudhansu Sekhar Misra (supra)* clarified the ratio in *Ranga Muhammad (supra)* as follows:

> "13. ...Obviously relying on the observation of this Court that after a judicial officer is posted to the cadre, it is for the High Court to effect his transfers, the court below has come to the conclusion that as the posts of the law secretary, deputy law secretary and superintendent and legal remembrancer are included in the cadre, the High Court has the power to fill those posts by transfer of judicial officers. The cadre this Court was considering in *Ranga Mahammad case* [(1967) 1 SCR 454] , namely, Assam Superior Judicial Services Cadre consisted of the Registrar of the Assam High Court and three district judges in the first grade and some additional district judges in Grade II. In that cadre, no officer holding any post under the government was included. Hence the reference by this Court to the cadre is a reference to a cadre consisting essentially of officers under the direct control of the High Court. It was in that context this Court spoke of the cadre. The question of law considered in that decision was as regards the scope of the expression "control over District Court" in Article 235. The reference to the cadre was merely incidental."

161. The principle that only the ratio decidendi of a judgement that is treated as a binding precedent was reflected in *Sudhansu Sekhar (supra)* wherein after relying on British authorities it was held:

> " 13. ...A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. On this topic this is what Earl of Halsbury L.C. said in Quinn v. Leathem [[1901] AC 495]:
>
> > "Now before discussing the case of Allen v. Flood, [1898] AC 1 and what was decided therein, there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical code, whereas every lawyer must acknowledge that the law is not always logical at all.

> It is not a profitable task to extract a sentence here and there from a judgment and to build upon it."

162. The said judgment was also followed by the Supreme Court in *H.H. Maharajadhiraja Madhav Rao Jivaji Rao Scindia Bahadur of Gwalior, etc. v. Union of India and another*[21]. *Madhav Rao Scindia Bahadur (supra)* also cautioned:

> "It is not proper to regard a word, a clause or a sentence occurring in a judgment of the Supreme Court, divorced from its context, as containing a full exposition of the law on a question when the question did not even fall to be answered in that judgment."

164. The scope of law declared within the meaning of Article 141 of the Constitution of India arose for consideration before the Supreme Court in *Dalbir Singh and others v. State of Punjab*[22]. The process to isolate the ratio decidendi from the judgment was set out in *Dalbir Singh (supra)* as under:

> "22. With greatest respect, the majority decision in Rajendra Prasad case does not lay down any legal principle of general applicability. **A decision on a question of sentence depending upon the facts and circumstances of a particular case, can never be regarded as a binding precedent, much less "law declared" within the meaning of Article 141 of the Constitution so as to bind all courts within the territory of India. According to the well-settled theory of precedents every decision contains three basic ingredients:**
>
> > **"(*i*) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct or perceptible facts;**
> >
> > **(*ii*) statements of the principles of law applicable to the legal problems disclosed by the facts; and**
> >
> > **(*iii*) judgment based on the combined effect of (*i*) and (*ii*) above."**
>
> For the purposes of the parties themselves and their privies, ingredient (*iii*) is the material element in the decision for it determines finally their rights and liabilities in relation to the subject-matter of the action. It is the judgment that estops the parties from reopening the dispute. **However, for the purpose of the doctrine of precedents, ingredient (*ii*) is the vital element in the decision. This indeed is the ratio decidendi. [R.J. Walker & M.G. Walker : The English Legal System. Butterworths, 1972, 3rd Edn., pp. 123-24] It is not everything said by a judge when giving judgment that constitutes a precedent. The only**

21. (1971) 1 SCC 85
22. (1979) 3 SCC 745

> **thing in a judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi. In the leading case of *Qualcast (Wolverhampton) Ltd*. v. *Haynes* [LR 1959 AC 7 43 : (1959) 2 All ER 38] it was laid down that the ratio decidendi may be defined as a statement of law applied to the legal problems raised by the facts as found, upon which the decision is based. The other two elements in the decision are not precedents. The judgment is not binding (except directly on the parties themselves), nor are the findings of facts.** This means that even where the direct facts of an earlier case appear to be identical to those of the case before the court, the judge is not bound to draw the same inference as drawn in the earlier case."

(emphasis supplied)

166. The discussion on binding precedents was initiated in *Jayant Verma (supra*) by citing from authorities of repute. Precedent in English Law by Cross and Harris (4th Edn.) was quoted and the dissenting judgement of A.P. Sen, J. in *Dalbir Singh v. State of Punjab*[23], was also cited with approval :

> "54. This question is answered by referring to authoritative works and judgments of this Court. In Precedent in English Law by Cross and Harris (4th edn.), 'ratio decidendi' is described as follows:
>
> > "The ratio decidendi of a case is any rule of law expressly or impliedly treated by the judge as a necessary step in reaching his conclusion, having regard to the line of reasoning adopted by him, or a necessary part of his direction to the jury."

170. Analysis of facts of a case and the process of reasoning were part of the process to ascertain the ratio decidendi of a judgement or the principle of law having binding force in all Courts in India according to the Supreme Court in *Krishena Kumar v. Union of India and others*[24]. *Krishena Kumar (supra)* also clarified if the ratio is not clear the Court is not bound by the judgement:

> "19. **The doctrine of precedent, that is being bound by a previous decision, is limited to the decision itself and as to**

23 (1979) 3 SCC 745
24 1990 (4) SCC 207

what is necessarily involved in it. It does not mean that this Court is bound by the various reasons given in support of it, especially when they contain "propositions wider than the case itself required". This was what Lord Selborne said in *Caledonian Railway Co.* v. *Walker's Trustees* [(1882) 7 App Cas 259 : 46 LT 826 (HL)] and Lord Halsbury in *Quinn* v. *Leathem* [1901 AC 495, 502 : 17 TLR 749 (HL)] . Sir Frederick Pollock has also said : **"Judicial authority belongs not to the exact words used in this or that judgment, nor even to all the reasons given, but only to the principles accepted and applied as necessary grounds of the decision."**

(emphasis supplied)

20. **In other words, the enunciation of the reason or principle upon which a question before a court has been decided is alone binding as a precedent. The ratio decidendi is the underlying principle, namely, the general reasons or the general grounds upon which the decision is based on the test or abstract from the specific peculiarities of the particular case which gives rise to the decision. The ratio decidendi has to be ascertained by an analysis of the facts of the case and the process of reasoning involving the major premise consisting of a pre-existing rule of law, either statutory or judge-made, and a minor premise consisting of the material facts of the case under immediate consideration. If it is not clear, it is not the duty of the court to spell it out with difficulty in order to be bound by it. In the words of Halsbury (4th edn., Vol. 26, para 573)**

> **"The concrete decision alone is binding between the parties to it but it is the abstract ratio decidendi, as ascertained on a consideration of the judgment in relation to the subject matter of the decision, which alone has the force of law and which when it is clear it is not part of a tribunal's duty to spell out with difficulty a ratio decidendi in order to bound by it, and it is always dangerous to take one or two observations out of a long judgment and treat them as if they gave the ratio decidendi of the case. If more reasons than one are given by a tribunal for its judgment, all are taken as forming the ratio decidendi."**

(emphasis supplied)

33**.** *Stare decisis et non quieta movere*. To adhere to precedent and not to unsettle things which are settled. But it applies to litigated facts and necessarily decided questions. Apart from Article 14 of the Constitution of India, the policy of courts is to stand by precedent and not to disturb settled point. **When court has once laid down a principle of law as applicable to certain state of facts, it will adhere to that principle, and apply it to all future cases where facts are substantially the same. A deliberate and solemn decision of court made after argument on question of law fairly arising in the case, and necessary to its**

> **determination, is an authority, or binding precedent in the same court, or in other courts of equal or lower rank in subsequent cases where the very point is again in controversy unless there are occasions when departure is rendered necessary to vindicate plain, obvious principles of law and remedy continued injustice.** It should be invariably applied and should not ordinarily be departed from where decision is of long standing and rights have been acquired under it, unless considerations of public policy demand it. But in *Nakara* [(1983) 1 SCC 305 : 1983 SCC (L&S) 145 : (1983) 2 SCR 165] it was never required to be decided that all the retirees formed a class and no further classification was permissible."
>
> (emphasis supplied)

171. In *State of Orissa and others v. Md. Illiyas*[25], the Supreme Court iterated the well settled position of law that it is only the ratio decidendi which comes within the ambit of the law declared by Supreme Court and is binding precedent by stating the law as follows:

> "12. When the allegation is of cheating or deceiving, whether the alleged act is wilful or not depends upon the circumstances of the case concerned and there cannot be any straitjacket formula. The High Court unfortunately did not discuss the factual aspects and by merely placing reliance on an earlier decision of the Court held that prerequisite conditions were absent. **Reliance on the decision without looking into the factual background of the case before it, is clearly impermissible. A decision is a precedent on its own facts. Each case presents its own features. It is not everything said by a Judge while giving judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi. According to the well-settled theory of precedents, every decision contains three basic postulates : (*i*) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (*ii*) statements of the principles of law applicable to the legal problems disclosed by the facts; and (*iii*) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment. The enunciation of the reason or principle on which a question before a court has been decided is alone binding as a precedent. (See *State of Orissa* v. *Sudhansu Sekhar Misra* [(1968) 2 SCR 154 : AIR**

25. 2006 (1) SCC 275

> **1968 SC 647] and *Union of India* v. *Dhanwanti Devi* [(1996) 6 SCC 44] .) A case is a precedent and binding for what it explicitly decides and no more. The words used by Judges in their judgments are not to be read as if they are words in an Act of Parliament. In *Quinn* v. *Leathem* [1901 AC 495 : 85 LT 289 : (1900-03) All ER Rep 1 (HL)] the Earl of Halsbury, L.C. observed that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which are found there are not intended to be the exposition of the whole law but governed and qualified by the particular facts of the case in which such expressions are found and a case is only an authority for what it actually decides."**
>
> (emphasis supplied)

172. It would be apposite to refer to the following observations of the three-Judge Bench of the Supreme Court in *Regional Manager and another v. Pawan Kumar Dubey*[26], wherein it was held that even a single fact could make a difference in conclusions drawn in two cases:

> "7. ...**It is the rule deducible from the application of law to the facts and circumstances of a case which constitutes its ratio decidendi and not some conclusion based upon facts which may appear to be similar. One additional or different fact can make a world of difference between conclusions in two cases even when the same principles are applied in each case to similar facts."**
>
> (emphasis supplied)

173. While deducing the ratio in a judgement, the Supreme Court in *Delhi Airport Metro Express Private Limited v. Delhi Metro Rail Corporation*[27] held:

> "35. This Court has held that the **ratio decidendi is the rule deducible from the application of law to the facts and circumstances of a case which constitutes its ratio decidendi and not some conclusion based upon facts which may appear to be similar.** It has been held that one additional or different fact can make a world of difference between conclusions in two cases even when the same principles are applied in each case to similar facts."
>
> (emphasis supplied)

174. The process of deducing the ratio of the binding statement of law made in a judgment arose for consideration before the

26. (1976) 3 SCC 334
27. (2022) 9 SCC 286

Supreme Court in *Union of India and others v. Dhanwanti Devi and others*[28]. *Dhanwanti Devi (supra)* after emphasizing the need to examine the established facts of a case and the principle of law on which the issue was decided, the law of precedents was encapsulated as under:

> "9. Before adverting to and considering whether solatium and interest would be payable under the Act, at the outset, **we will dispose of the objection raised by Shri Vaidyanathan that *Hari Krishan Khosla case* [1993 Supp (2) SCC 149] is not a binding precedent nor does it operate as *ratio decidendi* to be followed as a precedent and is *per se per incuriam*. It is not everything said by a Judge while giving judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the *ratio decidendi*. According to the well-settled theory of precedents, every decision contains three basic postulates—(*i*) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (*ii*) statements of the principles of law applicable to the legal problems disclosed by the facts; and (*iii*) judgment based on the combined effect of the above. A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in the judgment. Every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there is not intended to be exposition of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. It would, therefore, be not profitable to extract a sentence here and there from the judgment and to build upon it because the essence of the decision is its ratio and not every observation found therein. The enunciation of the reason or principle on which a question before a court has been decided is alone binding as a precedent. The concrete decision alone is binding between the parties to it, but it is the abstract *ratio decidendi*, ascertained on a consideration of the judgment in relation to the subject-matter of the decision, which alone has the force of law and which, when it is clear what it was, is binding. It is only the principle laid down in the judgment that is binding law under Article 141 of the Constitution. A deliberate judicial decision arrived at after hearing an argument on a question which arises in the case or is put in**

28. (1996) 6 SCC 44

> **issue may constitute a precedent, no matter for what reason, and the precedent by long recognition may mature into rule of *stare decisis*. It is the rule deductible from the application of law to the facts and circumstances of the case which constitutes its *ratio decidendi.***
> **10. Therefore, in order to understand and appreciate the binding force of a decision it is always necessary to see what were the facts in the case in which the decision was given and what was the point which had to be decided. No judgment can be read as if it is a statute. A word or a clause or a sentence in the judgment cannot be regarded as a full exposition of law. Law cannot afford to be static and therefore, Judges are to employ an intelligent technique in the use of precedents.**
>
> (emphasis supplied)

176. Deriving the ratio of a judgement arose for consideration in *Islamic Academy Education and another v. State of Karnataka and others*[29] wherein the Supreme Court explained the process as follows:

> "2. Most of the petitioners/applicants before us are unaided professional educational institutions (both minority and non-minority). On behalf of the petitioners/applicants it was submitted that the answers given to the questions, as set out at the end of the majority judgment, lay down the true ratio of the judgment. It was submitted that any observation made in the body of the judgment had to be read in the context of the answers given. We are unable to accept this submission. The answers to the questions, in the majority judgment in *Pai case* [(2002) 8 SCC 481] are merely a brief summation of the ratio laid down in the judgment. **The *ratio decidendi* of a judgment has to be found out only on reading the entire judgment. In fact, the ratio of the judgment is what is set out in the judgment itself. The answer to the question would necessarily have to be read in the context of what is set out in the judgment and not in isolation. In case of any doubt as regards any observations, reasons and principles, the other part of the judgment has to be looked into. By reading a line here and there from the judgment, one cannot find out the entire *ratio decidendi* of the judgment.** We, therefore, while giving our clarifications, are disposed to look into other parts of the judgment other than those portions which may be relied upon.
>
> 139**. A judgment, it is trite, is not to be read as a statute. The *ratio decidendi* of a judgment is its reasoning which can be deciphered only upon reading the same in its entirety. The *ratio decidendi* of a case or the principles and reasons on which it is based is distinct from the relief finally granted or**

29 (2003) 6 SCC 697

> **the manner adopted for its disposal.** (See *Executive Engineer, Dhenkanal Minor Irrigation Division* v. *N.C. Budharaj* [(2001) 2 SCC 721] .
>
> 143**. It will not, therefore, be correct to contend, as has been contended by Mr Nariman, that answers to the questions would be the ratio to a judgment. The answers to the questions are merely conclusions. They have to be interpreted, in a case of doubt or dispute with the reasons assigned in support thereof in the body of the judgment, wherefor, it would be essential to read the other paragraphs of the judgment also. It is also permissible for this purpose (albeit only in certain cases and if there exist strong and cogent reasons) to look to the pleadings of the parties.**
>
> 146. The judgment of this Court in *T.M.A. Pai Foundation* [(2002) 8 SCC 481] will, therefore, have to be construed or to be interpreted on the aforementioned principles. The Court cannot read some sentences from here and there to find out the intent and purport of the decision by not only considering what has been said therein but the text and context in which it was said. For the said purpose the Court may also consider the constitutional or relevant statutory provisions vis-à-vis its earlier decisions on which reliance has been placed."
>
> (emphasis supplied)

177. Ratio decidendi of a judgement alone constituted the law declared in a judgment rendered by the Supreme Court and the method to cull out the ratio from a judgement in *Natural Resources Allocation, In Re, Special Reference No.1 of 2012*[30] was restated after referencing good authorities in point:

> "69**.** Article 141 of the Constitution lays down that the "law declared" by the Supreme Court is binding upon all the courts within the territory of India. **The "law declared" has to be construed as a principle of law that emanates from a judgment, or an interpretation of a law or judgment by the Supreme Court, upon which, the case is decided. (See *Fida Hussain* v. *Moradabad Development Authority* [(2011) 12 SCC 615 : (2012) 2 SCC (Civ) 762] .) Hence, it flows from the above that the "law declared" is the principle culled out on the reading of a judgment as a whole in light of the questions raised, upon which the case is decided.** [Also see *Ambica Quarry Works* v. *State of Gujarat* [(1987) 1 SCC 213] and *CIT* v. *Sun Engg. Works (P) Ltd.* [(1992) 4 SCC 363]] **In other words, the "law declared" in a judgment, which is binding upon courts, is the ratio decidendi of the judgment. It is the essence of a decision and the principle upon which the case is decided which has to be ascertained in relation to the subject-matter of the decision.**

30 (2012) 10 SCC 1

> 70. **Each case entails a different set of facts and a decision is a precedent on its own facts; not everything said by a Judge while giving a judgment can be ascribed precedential value. The essence of a decision that binds the parties to the case is the principle upon which the case is decided and for this reason, it is important to analyse a decision and cull out from it the ratio decidendi. In the matter of applying precedents, the erudite Justice Benjamin Cardozo in *The Nature of the Judicial Process*, had said that "if the Judge is to pronounce it wisely, some principles of selection there must be to guide him among all the potential judgments that compete for recognition" and "almost invariably his first step is to examine and compare them;" "it is a process of search, comparison and little more" and ought not to be akin to matching "the colors of the case at hand against the colors of many sample cases" because in that case "the man who had the best card index of the cases would also be the wisest Judge". Warning against comparing precedents with matching colours of one case with another, he summarised the process, in case the colours do not match, in the following wise words:**
>
> > **"It is when the colors do not match, when the references in the index fail, when there is no decisive precedent, that the serious business of the Judge begins. He must then fashion law for the litigants before him. In fashioning it for them, he will be fashioning it for others. The classic statement is Bacon's: 'For many times, the things deduced to judgment may be meum and tuum, when the reason and consequence thereof may trench to point of estate. The sentence of today will make the right and wrong of tomorrow."**
>
> 73. **It is also important to read a judgment as a whole keeping in mind that it is not an abstract academic discourse with universal applicability, but heavily grounded in the facts and circumstances of the case.** Every part of a judgment is intricately linked to others constituting a larger whole and thus, must be read keeping the logical thread intact.
>
> (emphasis supplied)

178. The process of deciphering the ratio of decidendi in a judgement was elaborated in *Sanjay Singh and another v. U.P. Public Service Commission, Allahabad and another*[31] in the following terms :

> "10. The contention of the Commission also overlooks the fundamental difference between challenge to the final order forming part of the judgment and challenge to the ratio decidendi of the judgment. **Broadly speaking, every judgment of superior courts has three segments, namely, (*i*) the facts and the point at**

31 (2007) 3 SCC 720

> **issue; (*ii*) the reasons for the decision; and (*iii*) the final order containing the decision.** The reasons for the decision or the ratio decidendi is not the final order containing the decision. In fact, in a judgment of this Court, though the ratio decidendi may point to a particular result, the decision (final order relating to relief) may be different and not a natural consequence of the ratio decidendi of the judgment. This may happen either on account of any subsequent event or the need to mould the relief to do complete justice in the matter. It is the ratio decidendi of a judgment and not the final order in the judgment, which forms a precedent. The term "judgment" and "decision" are used, rather loosely, to refer to the entire judgment or the final order or the ratio decidendi of a judgment. *Rupa Ashok Hurra* [(2002) 4 SCC 388] is of course, an authority for the proposition that a petition under Article 32 would not be maintainable to challenge or set aside or quash the final order contained in a judgment of this Court. It does not lay down a proposition that the ratio decidendi of any earlier decision cannot be examined or differed in another case. Where violation of a fundamental right of a citizen is alleged in a petition under Article 32, it cannot be dismissed, as not maintainable, merely because it seeks to distinguish or challenge the ratio decidendi of an earlier judgment, except where it is between the same parties and in respect of the same cause of action. **Where a legal issue raised in a petition under Article 32 is covered by a decision of this Court, the Court may dismiss the petition following the ratio decidendi of the earlier decision. Such dismissal is not on the ground of "maintainability" but on the ground that the issue raised is not tenable, in view of the law laid down in the earlier decision.** But if the Court is satisfied that the issue raised in the later petition requires consideration and in that context the earlier decision requires re-examination, the Court can certainly proceed to examine the matter (or refer the matter to a larger Bench, if the earlier decision is not of a smaller Bench). When the issue is re-examined and a view is taken different from the one taken earlier, a new ratio is laid down. When the ratio decidendi of the earlier decision undergoes such change, the final order of the earlier decision as applicable to the parties to the earlier decision, is in no way altered or disturbed. Therefore, the contention that a writ petition under Article 32 is barred or not maintainable with reference to an issue which is the subject-matter of an earlier decision, is rejected."
>
> (emphasis supplied)

179. The need to study the whole judgment in light of facts and circumstances of a case, and to avoid cherry picking select facts was essential while determining the precedential value of a decision as held by the Supreme Court in *Commissioner of Income Tax v. Sun Engineering Works (P) Ltd.*[32]*:*

32 (1992) 4 SCC 363

> "39. ...Such an interpretation would be reading that judgment totally out of context in which the questions arose for decision in that case. **It is neither desirable nor permissible to pick out a word or a sentence from the judgment of this Court, divorced from the context of the question under consideration and treat it to be the complete 'law' declared by this Court. The judgment must be read as a whole and the observations from the judgment have to be considered in the light of the questions which were before this Court. A decision of this Court takes its colour from the questions involved in the case in which it is rendered and while applying the decision to a later case, the courts must carefully try to ascertain the true principle laid down by the decision of this Court and not to pick out words or sentences from the judgment, divorced from the context of the questions under consideration by this Court, to support their reasonings."**
>
> (emphasis supplied)

180. The dictum of law that the ratio of a decision must be understood in the facts situation of a case and that a judgment is an authority for what it actually decides and not what logically follows from it was reiterated by the Supreme Court in *Ambica Quarry Works and others v. State of Gujarat and others*[33]:

> "18...**The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it.**"
>
> (emphasis supplied)

181. The Supreme Court in *Prakash Amichand Shah v. State of Gujarat and others*[34] cautioned that a judgement is not a statute, and underscored the need to carefully ascertain the true principles laid down by the previous decision and outlined when decisions are liable to be disregarded:

> "26. **Before embarking upon the examination of these decisions we should bear in mind that what is under consideration is not a statute or a legislation but a decision of the court. A decision ordinarily is a decision on the case before the court while the principle underlying the decision would be binding as a precedent in a case which comes up for decision subsequently. Hence while applying the decision to a later case, the court which is dealing with it should carefully try to ascertain the true principle laid**

33 (1987) 1 SCC 213
34 1986 (1) SCC 581

> **down by the previous decision. A decision often takes its colour from the questions involved in the case in which it is rendered. The scope and authority of a precedent should never be expanded unnecessarily beyond the needs of a given situation.**
>
> 31. Expressions like "virtually overruled" or "in substance overruled" are expressions of inexactitude. In such circumstances, it is the duty of a Constitution Bench of this Court which has to consider the effect of the precedent in question to read it over again and to form its own opinion instead of wholly relying upon the gloss placed on it in some other decisions. It is significant that none of the learned judges who decided the subsequent cases has held that the Act had become void on account of any constitutional infirmity. They allowed the Act to remain in force and the State Governments concerned have continued to implement the provisions of the Act. What cannot be overlooked is that the decision in *Shantilal Mangaldas case* [(1969) 1 SCC 509 : AIR 1969 SC 634 : (1969) 3 SCR 341] was quoted in extenso with approval and relied on by the very same judge while deciding the *Bank Nationalisation case* [(1970) 1 SCC 248 : AIR 1970 SC 564 : (1970) 3 SCR 530] . He may have arrived at an incorrect or contradictory conclusion in striking down the Bank Nationalisation Act. The result achieved by him in the subsequent case may be wholly wrong but it cannot have any effect on the efficacy of the decision in *Shantilal Mangaldas case* [(1969) 1 SCC 509 : AIR 1969 SC 634 : (1969) 3 SCR 341] . **An inappropriate purpose for which a precedent is used at a later date does not take away its binding character as a precedent. In such cases there is good reason to disregard the later decision. Such occasions in judicial history are not rare."**
>
> (emphasis supplied)

182. The Supreme Court in *Delhi Administration in the NCT of Delhi v. Manohar Lal*[35] reiterated the need to find out the ratio of a decision and cautioned against following decisions which do not lay down any principle of law:

> "5**. The High Court and all other courts in the country were no doubt ordained to follow and apply the law declared by this Court, but that does not absolve them of the obligation and responsibility to find out the ratio of the decision and ascertain the law, if any, so declared from a careful reading of the decision concerned and only thereafter proceed to apply it appropriately, to the cases before them.** Considered in that context, we could not find from the decisions reported

35 (2002) 7 SCC 222

> in *Sukumaran* [(1997) 9 SCC 101 : 1997 SCC (Cri) 608] and *Santosh Kumar* [(2000) 9 SCC 151 : 2000 SCC (Cri) 1184 : 2000 Cri LJ 2777] any law having been declared or any principle or question of law having been decided or laid down therein and that in those cases this Court merely proceeded to give certain directions to dispose of the matter in the special circumstances noticed by it and the need felt, in those cases, by this Court to give such a disposal. **The same could not have been mechanically adopted as a general formula to dispose of, as a matter of routine, all cases coming before any or all the courts as a universal and invariable solution in all such future cases also.”**
>
> (emphasis supplied)

184. The need to ascertain the principle of law in a judgement and caution against unnecessary expansion of the scope and authority of the precedent was restated by the Supreme Court in *Divisional Controller, KSRTC v. Mahadeva Shetty*[36] *:*

> “23. So far as *Nagesha case* [(1997) 8 SCC 349] relied upon by the claimant is concerned, it is only to be noted that the decision does not indicate the basis for fixing of the quantum as a lump sum was fixed by the Court. The decision ordinarily is a decision on the case before the court, while the principle underlying the decision would be binding as a precedent in a case which comes up for decision subsequently. **Therefore, while applying the decision to a later case, the court dealing with it should carefully try to ascertain the principle laid down by the previous decision. A decision often takes its colour from the question involved in the case in which it is rendered. The scope and authority of a precedent should never be expanded unnecessarily beyond the needs of a given situation. The only thing binding as an authority upon a subsequent Judge is the principle upon which the case was decided. Statements which are not part of the ratio decidendi are distinguished as obiter dicta and are not authoritative. The task of finding the principle is fraught with difficulty as without an investigation into the facts, it cannot be assumed whether a similar direction must or ought to be made as a measure of social justice. Precedents sub silentio and without argument are of no moment.** Mere casual expressions carry no weight at all, nor every passing expression of a Judge, however eminent, can be treated as an ex cathedra statement having the weight of authority.”
>
> (emphasis supplied)

186. A blind reliance on judgments without considering the fact situation was disapproved in *Ashwani Kumar Singh v. U.P.*

36 (2003) 7 SCC 197

Public Service Commission and others[37]*:*

> "10**. <u>Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of courts are not to be read as Euclid's theorems nor as provisions of the statute. These observations must be read in the context in which they appear. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for Judges to embark upon lengthy discussions, but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments.</u>** They interpret words of statutes; their words are not to be interpreted as statutes. In *London Graving Dock Co. Ltd.* v. *Horton* [1951 AC 737 : (1951) 2 All ER 1 (HL)] (AC at p. 761) Lord McDermott observed : (All ER p. 14 C-D)
>
> > "The matter cannot, of course, be settled merely by treating the *ipsissima verba* of Willes, J., as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished Judge…."
>
> 11. In *Home Office* v. *Dorset Yacht Co.* [(1970) 2 All ER 294 : 1970 AC 1004 : (1970) 2 WLR 1140 (HL)] Lord Reid said, "Lord Atkin's speech … is not to be treated as if it were a statutory definition. It will require qualification in new circumstances" (All ER p. 297*g-h*). Megarry, J. in *Shepherd Homes Ltd.* v. *Sandham (No. 2)* [(1971) 1 WLR 1062 : (1971) 2 All ER 1267] observed : (All ER p. 1274*d-e*) "One must not, of course, construe even a reserved judgment of even Russell, L.J. as if it were an Act of Parliament;" In *Herrington* v. *British Rlys. Board* [(1972) 2 WLR 537 : (1972) 1 All ER 749 : 1972 AC 877 (HL)] Lord Morris said : (All ER p. 761*c*)
>
> > "There is always peril in treating the words of a speech or a judgment as though they were words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case."
>
> 12. **<u>Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.</u>"**
>
> (emphasis supplied)

37 (2003) 11 SCC 584

187. The ratio decidendi was distinguished from the obiter dicta in *Director of Settlement, A.P. and others v. M.R. Apparao and another*[38] as under:

> "7. So far as the first question is concerned, Article 141 of the Constitution unequivocally indicates that the law declared by the Supreme Court shall be binding on all courts within the territory of India. The aforesaid Article empowers the Supreme Court to declare the law. It is, therefore, an essential function of the Court to interpret a legislation. **The statements of the Court on matters other than law like facts may have no binding force as the facts of two cases may not be similar. But what is binding is the ratio of the decision and not any finding of facts. It is the principle found out upon a reading of a judgment as a whole, in the light of the questions before the Court that forms the ratio and not any particular word or sentence. To determine whether a decision has "declared law" it cannot be said to be a law when a point is disposed of on concession and what is binding is the principle underlying a decision. A judgment of the Court has to be read in the context of questions which arose for consideration in the case in which the judgment was delivered. An "obiter dictum" as distinguished from a ratio decidendi is an observation by the Court on a legal question suggested in a case before it but not arising in such manner as to require a decision. Such an obiter may not have a binding precedent as the observation was unnecessary for the decision pronounced, but even though an obiter may not have a binding effect as a precedent, but it cannot be denied that it is of considerable weight. The law which will be binding under Article 141 would, therefore, extend to all observations of points raised and decided by the Court in a given case.** So far as constitutional matters are concerned, it is a practice of the Court not to make any pronouncement on points not directly raised for its decision. The decision in a judgment of the Supreme Court cannot be assailed on the ground that certain aspects were not considered or the relevant provisions were not brought to the notice of the Court (see *Ballabhadas Mathurdas Lakhani* v. *Municipal Committee, Malkapur* [(1970) 2 SCC 267 : AIR 1970 SC 1002] and AIR 1973 SC 794 [(sic)]). When the Supreme Court decides a principle it would be the duty of the High Court or a subordinate court to follow the decision of the Supreme Court. A judgment of the High Court which refuses to follow the decision and directions of the Supreme Court or seeks to revive a decision of the High Court which had been set aside by the Supreme Court is a nullity. (See *Narinder Singh* v. *Surjit Singh* [(1984) 2 SCC 402] and *Kausalya Devi*

38 (2002) 4 SCC 638

> *Bogra* v. *Land Acquisition Officer* [(1984) 2 SCC 324] .) We have to answer the first question bearing in mind the aforesaid guiding principles. We may refer to some of the decisions cited by Mr Rao in elaborating his arguments contending that the judgment of this Court dated 6-2-1986 [*State of A.P.* v. *Rajah of Venkatagiri*, (2002) 4 SCC 660] cannot be held to be a law declared by the Court within the ambit of Article 141 of the Constitution. Mr Rao relied upon the judgment of this Court in the case of *M.S.M. Sharma* v. *Sri Krishna Sinha* [AIR 1959 SC 395 : 1959 Supp (1) SCR 806] wherein the power and privilege of the State Legislature and the fundamental right of freedom of speech and expression including the freedom of the press was the subject-matter of consideration. In the aforesaid judgment it has been observed by the Court that the decision in *Gunupati Keshavram Reddy* v. *Nafisul Hasan* [(1952) 1 SCC 343 : AIR 1954 SC 536 : 1954 Cri LJ 1704] relied upon by the counsel for the petitioner which entirely proceeded on a concession of the counsel cannot be regarded as a considered opinion on the subject. There is no dispute with the aforesaid proposition of law."
>
> (emphasis supplied)

191. *Gasket Radiator Pvt. Ltd. v. Employees' State Insurance Corporation and another*[39] rendered by the Supreme Court highlighted the importance of not construing judgments as statutes held thus:

> "8. ….**We once again have to reiterate what we were forced to point out in *Amar Nath Om Prakash* v. *State of Punjab* [(1985) 1 SCC 345 : 1985 SCC (Tax) 92 : AIR 1985 SC 218] that judgments of courts are not to be construed as Acts of Parliament. Nor can we read a judgment on a particular aspect of a question as a Holy Book covering all aspects of every question whether such questions and facets of such questions arose for consideration or not in that case."**
>
> (emphasis supplied)

192. In *Sreenivasa General Traders and others v. State of Andhra Pradesh and others*[40], the Supreme Court explained the concept of binding precedents and expounded that observations in a judgment which were not necessary for the purpose of the decision are not binding precedents:

> "30. In the ultimate analysis, the Court held in *Kewal Krishan Puri case* [(1980) 1 SCC 416 : AIR 1980 SC 1008 : (1979) 3

39 (1985) 2 SCC 68
40 (1983) 4 SCC 353

> SCR 1217] that so long as the concept of fee remains distinct and limited in contrast to tax, such expenditure of the amounts recovered by the levy of a market fee cannot be countenanced in law. **A case is an authority only for what it actually decides and not for what may logically follow from it. Every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law but governed or qualified by the particular facts of the case in which such expressions are to be found. It would appear that there are certain observations to be found in the judgment in *Kewal Krishan Puri case* [(1980) 1 SCC 416 : AIR 1980 SC 1008 : (1979) 3 SCR 1217] which were really not necessary for purposes of the decision and go beyond the occasion and therefore they have no binding authority though they may have merely persuasive value.** The observation made therein seeking to quantify the extent of correlation between the amount of fee collected and the cost of rendition of service, namely: (SCC p. 435, para 23) "At least a good and substantial portion of the amount collected on account of fees, maybe in the neighbourhood of two-thirds or three-fourths, must be shown with reasonable certainty as being spent for rendering services in the market to the payer of fee", appears to be an obiter."
>
> (emphasis supplied)

195. The Supreme Court in *Government of India v. Workmen and State Trading Corporation and others*[41] opined that a decision which does not set out the facts or the reasons for the conclusion given cannot be treated as a binding precedent and held:

> "4. ….**The decision of this Court is virtually a non-speaking order which does not set out the facts and the circumstances in which the direction came to be issued against the Government.** It is not clear as to what was the connection between the respondent-Corporation and the State Government. In the present case the Government of India had clearly averred that it had nothing to do with the State Trading Corporation and there was no relationship of master and servant between the petitioners and the Government of India and, therefore, the Government of India was not in any manner concerned with the closure of the Leather Garment unit of the State Trading Corporation and the consequences thereof. **Mr Usgaocar rightly emphasised that the decision on which the High Court had relied could not be treated as a precedent and in support of this contention he drew our attention to a Constitution Bench judgment in the case of *Krishena Kumar* v. *Union of India*** [(1990) 4 SCC 207 : 1991 SCC (L&S) 112 : (1990) 14 ATC 846 : AIR 1990 SC 1782 : JT (1990) 3 SC 173] . **In paras**

41. (1997) 11 SCC 641

> **18 and 19 the question as to when a decision can have binding effect has been dealt with. We need say no more as it is obvious from the decision relied on that it does not set out the facts or the reason for the conclusion or direction given. It can, therefore, not be treated as a binding precedent."**
>
> (emphasis supplied)

219. The process of distilling the ratio in a judgment is a deliberative process governed by a long line of legal precedents. It is the duty of all Courts (including trial courts and tribunals) to cull out the ratio of a judgement in light of the cases in point before following it as a binding precedent. The first step in isolating the ratio of a judgment requires a full reading of the judgment. The material facts and the legal issues in the controversy have to be then ascertained from the judgement as a whole. Finally the principle of law on which the decision was rendered on the subject matter under consideration has to be identified. The said statement of law so extracted is the binding precedent in the said judgement. Courts have to observe the caution of not picking up stray facts or observations and apply them mechanically or out of context as binding precedents."

VII. Conclusions & Directions:

38. In light of the law laid down by the Full Bench of this Court in **Chandrapal Singh (supra)**, it can be safely stated that the directions contained in **Pradeep Kumar Chauhan (supra)** are not binding judicial authority for determination of the victim's age by the competent medical authority under Section 164-A of the Cr.P.C. read with Section 27 of the POCSO Act. **Pradeep Kumar Chauhan (supra)** does not restrain the police authorities investigating POCSO Act offences to get the victim's age determined by the competent medical authority. Infact the police authorities while

investigating POCSO Act offences are bound to comply with the judgement of this Court rendered in **Aman (supra)** wherein Section 164-A of the Cr.P.C. read with Section 27 of the POCSO Act squarely arose for consideration in the facts of POCSO Act offences. During investigations of POCSO Act offences violation of the statutory mandate of Section 164 of Cr.P.C. read with Section 27 of POCSO Act and non compliance of the directions of this court in **Aman (supra)** are liable to be viewed seriously and cannot be justified on the basis of **Pradeep Kumar Chauhan (supra)**.

39. In wake of the preceding discussion, the following directions are issued:

I) The judgement of this Court in **Pradeep Kumar Chauhan (supra)** is not applicable to POCSO Act offences. The police authorities/investigation officers are directed to strictly comply with the directions of this Court in **Aman (supra)** and ensure that the medical report determining the age of the victim is drawn up by the competent medical authority at the commencement of the investigations of POCSO Act offences in accordance with the provisions of the Section 164-A Cr.P.C. read with Section 27 of the POCSO Act.

II) The medical report of the victim determining her age and drawn up under Section 164-A Cr.P.C. read with Section 27 of the POCSO Act shall be produced by the police authorities/investigation officers before the court hearing the bail application. The learned courts while

hearing bail applications shall make due enquiries about the compliance of these directions and **Aman (supra)** during the bail proceedings.

III) The judgement of this Court rendered in **Monish (supra)**, **Aman (supra)** as well as this case have to be read together and not in isolation. The directions in **Aman (supra)** as well as this case will be of little avail, if not examined and implemented in light of the directions made in **Monish (supra)**.

IV) The age of the victim in bails arising out of POCSO Act offences has been determined by a composite reading of Section 94 of the Juvenile Justice (Care and Protection of Children) Act and Section 164-A of Cr.P.C. read with Section 27 of the POCSO Act in light of the judgements rendered in **Monish (supra)**, **Aman (supra)** and this case.

V) The court hearing the bail application has to accord full weight to the medical age determination report of the victim and also carefully examine all other documents relating to the victim's age. The court has to determine the credibility of the respective age related documents while deciding the bail application in the facts of the case. In appropriate facts and circumstances as in the instant case, the age determined by the competent medical authority under Section 164-A of Cr.P.C. read with Section 27 of the POCSO Act can prevail over other age related documents (including school records).

VIII. Order on Bail Application:

40. Shri Paritosh Kumar Malviya, learned A.G.A.-I for the State contends that the police authorities in compliance of the directions issued by this Court in **Junaid Vs State of U.P. and another**[42] and with a view to implement the provisions of POCSO Act, 2012 read with POCSO Rules, 2020, have served the bail application upon the victim/legal guardian as well as upon the CWC.

41. By means of this bail application the applicant has prayed to be enlarged on bail in Case Crime No.622 of 2022 at Police Station-Kotwali Orai, District-Jalaun under Sections 363, 366, 376(3) IPC and Section 3/4(2) of POCSO Act. The applicant is in jail since 05.08.2023.

42. The interim bail of the applicant was granted by this Court on 08.05.2024.

43. The following arguments made by Shri Samshuzzaman, learned counsel holding brief of Shri Fakhruzzaman, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Paritosh Kumar Malviya, learned A.G.A.-I from the record, entitle the applicant for grant of bail:

I. The victim was wrongly shown as a minor of 12 years in the F.I.R. only to falsely implicate the applicant under the stringent provisions of the POCSO Act and cause his imprisonment.

II.The age of the victim set out in the prosecution case is

42. **2021 (6) ADJ 511**

refuted in light of the judgement of this Court in **Monish (supra)** and on the following grounds:

(a) There are material contradictions in the age of the victim as recorded in various prosecution documents.

(b) The age of the victim was incorrectly got registered in the school records by the victim's parents to give her an advantage in life. There is no lawful basis for the age related entry of the victim in the school records. The school records disclosing her age as 13 years and 2 months are unreliable.

(c) The victim in her statement under Section 161 Cr.P.C. has stated that she is 15 years of age respectively.

(d) The medical report sent by the Chief Medical Officer, Jalaun to determine the age of the victim opines that she is 18 years of age.

(e) There is a margin of error of two years in medical reports determining the age, which has to be read in favour of the applicant.

III. Delay in lodgement of the F.I.R. in the facts of this case is fatal to the prosecution case.

IV. The victim and the applicant were intimate.

V. The F.I.R. is the result of opposition of the victim's family to the said relationship with the applicant.

VI. The victim in her statements under Section 161 Cr.P.C. and Section 164 Cr.P.C. has admitted to intimacy with the applicant and that she eloped with the applicant

to Delhi and thereon to Faridabad. The victim has stated that she had consensual physical relations with the applicant. The victim in her statement under Section 164 Cr.P.C. has further added that she has got married to the applicant.

VII. The victim has not made any allegation of commission of rape, wrongful detention or forceful assault against the applicant in her statements under Sections 161 Cr.P.C. and 164 Cr.P.C.

VIII. Major inconsistencies in the statements of the victim under Sections 161 Cr.P.C. and Section 164 Cr.P.C., as well as the recitals in the F.I.R. discredit the prosecution case.

IX. The victim was never confined or bound down. She was present at various public places but never resisted the applicant nor raised an alarm. Her conduct shows that she was a consenting party.

X. Medical evidence to corroborate commission of rape by the applicant with the victim has not been produced by the prosecution.

XI. The applicant does not have any criminal history apart from the instant case.

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

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

45. Let the applicant- **Anurudh** 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.

46. The learned trial court is directed to fix the sureties after due application of mind in light of the judgement rendered by this Court in **Arvind Singh v. State of U.P. Thru. Prin. Secy. Home Deptt.**[43].

The learned trial court shall ensure that the right of bail of the applicant granted by this Court is not frustrated by arbitrary demands of sureties or onerous conditions which are unrelated to the socioeconomic status of the applicant.

47. Photostat copy of the medical report drawn up by the Chief Medical Officer to determine the age of the victim shall be duly attested and retained by the Registry as part of the records of the Court.

The original medical report, if any, shall be returned to the concerned Chief Judicial Magistrate for

43**. Application U/S 482 No.2613 of 2023**

onward transmission to the concerned Investigating Officer.

IX. Post Script and Directions:

48. Lack of compliance of the directions of this Court rendered in **Monish (supra)** and lately **Aman (supra)** by the trial courts while deciding bail applications under the POCSO Act is being noticed regularly. This approach of trial courts is resulting in repeated miscarriages of justice as in this case. A list of some cases by way of exemplars is appended as Appendix-I[i].

49. The following facts are common in each case listed in the appendix-I:

i). The medical report determining the age of the victim opines that she is 18 years (or above).

ii). There are contradictions in age related documents of the victim available with the prosecution.

iii). The victim in her statements under Sections 161 Cr.P.C. and 164 Cr.P.C. has admitted to intimacy and consensual physical relations with the accused. As per the said statements of the victim, she had eloped with the accused. (In some cases the couple had got married).

iv). The victim has not made any allegation of abduction, wrongful detention, rape or inappropriate sexual behaviour against the accused in her statements under

Sections 161 Cr.P.C. and 164 Cr.P.C.

v). The victim was never confined or bound down. The victim was present at various places, but never raised an alarm and did not resist the accuAsed. Her conduct showed that she was a consenting party.

vi). Medical report to corroborate rape or forceful assault was not produced by the prosecution.

vii). **All the aforesaid bails (Appendix I) were dismissed by the learned trial courts.**

50. This Court regrets to say that in the said cases the learned trial courts have rejected all the bail applications in a mechanical manner without proper consideration of relevant facts in the record and in contravention of law laid down in **Monish (supra)**.

51. The said orders (Appendix-I) show that regardless of the facts of a case there was a bias in the institution[44] (trial courts) towards rejection of bail applications. Hundred percent dismissal of the said bail applications is reflective of “bias” and not divergent judicial opinions which come in the category of “noise”[45]. The issue needs to be examined and the failings of the learned trial courts have to be addressed by various stakeholders i.e. the learned trial courts, the learned Districts Judges and the Judicial Training & Research Institute, Lucknow, Utrar Pradesh. The culture or if one may say the mindset of the

44**. For institutional bias see “Noise: A Flaw in Human Judgment” by Daniel Kahneman, Olivier Sibony and Cass R. Sunstein**

learned trial judges (collectively speaking) that dismissal of bails in POCSO Act offences irrespective of the facts and circumstances of the case is the only way to show one's integrity and a fail safe way of discharging judicial functions has to change. This can achieved by regular training at the JTRI which is consistently reinforced at the district judgeships in the "Continuous Learning Programmes" being run in the district judgeships. **Needless to add, the observations made in this order shall not operate adversely against the judicial officers who had handed down the said orders.** The issue has to seen less as an individual infirmity but more as an institutional inadequacy.

52. There is an urgent need for the Judicial Training & Research Institute, Lucknow, Utrar Pradesh and all learned District Judges to study the aforesaid systemic faults in depth, and create appropriate training programmes for the learned POCSO judges and to sensitize them for fair administration of justice in bails arising out of POCSO Act offences.

53. The High Court too has a responsibility in this regard. The supervisory jurisdiction of the High Court under Article 227 of the Constitution of India and also the appellate and revisional jurisdictions possessed by this Court have to be exercised with care and caution. By virtue of Article 227 of the Constitution of India, the High Court is the guardian court of the district judgeships. When challenge is laid to a judgment of a trial court before the High Court, the correctness of the

impugned judgement is examined by this Court. To correct an error in a judgment one need not condemn the judge. For in the latter case it is often not clear whether the judgment is in appeal or the judge is on trial. The High Court as a benign guardian has to be a pillar of strength and not a source of fear for the trial judiciary. A solemn obligation is cast by the Constitution on the High Court to nurture the autonomy of the trial judges to enable them to act independently and to build the capacity of the trial judges to judge fairly and to foster the esteem of the trial judges to fortify the citizens' faith in the judiciary.

54. Registry is directed to send this order as well as the judgment of this Court rendered in **Aman (supra)** to the learned Government Advocate for communication to the Director General of Police, Lucknow, Uttar Pradesh, Director General (Prosecution), Lucknow, Uttar Pradesh and other police authorities for necessary action.

55. Registry is also directed to send a copy of this order to the Director, Judicial Training & Research Institute, Lucknow, Utrar Pradesh and learned District Judges for necessary action.

Order Date :-29.05.2024

Ashish Tripathi

i **Appendix-I**

1. CRIMINAL MISC. BAIL APPLICATION No. - 6066 of 2024

[Guddu vs State Of U.P. And 3 Others]

2. CRIMINAL MISC. BAIL APPLICATION No. - 7172 of 2024

[Balakram Chaurasiya v State Of U.P. And 3 Others]

3. CRIMINAL MISC. BAIL APPLICATION No. - 12178 of 2024

[Bullet Gupta @ Shivkumar Sah v. State Of U.P. 3 Others]

4.CRIMINAL MISC. BAIL APPLICATION No. - 7328 of 2024

[Arun Alias Happy vs State Of U.P. And 3 Others]

5. CRIMINAL MISC. BAIL APPLICATION No. - 8309 of 2024

[Jai Sondhiya @ Chhotu vs State Of Up 3 Others]

6. CRIMINAL MISC. BAIL APPLICATION No.16395 of 2024

[Vikram Verma vs State Of U.P. And 3 Others]

7. CRIMINAL MISC. BAIL APPLICATION No. - 3261 of 2024

[Sarfaraj vs State Of U.P. 3 Others]

8. CRIMINAL MISC. BAIL APPLICATION No. - 3843 of 2024

[Anand Patel Alias Anto vs State Of U.P. Others]

9. CRIMINAL MISC. BAIL APPLICATION No. - 5064 of 2024

[Rohit Kumar @ Rohit vs State Of U.P. 3 Others]

10. CRIMINAL MISC. BAIL APPLICATION No. - 5098 of 2024

[Vikas vs State Of U.P. And 3 Others]

11. CRIMINAL MISC. BAIL APPLICATION No. - 10446 of 2024

[Ramanpal vs State Of U.P. And 3 Others]

12. CRIMINAL MISC. BAIL APPLICATION No. - 10391 of 2024

[Chhotu vs State Of U.P. And 3 Others]

13. CRIMINAL MISC. BAIL APPLICATION No. - 8671 of 2024

[Raju Maurya vs State Of Up And 3 Others]

14. CRIMINAL MISC. BAIL APPLICATION No. - 12015 of 2024

[Somveer vs State Of U.P. & 3 Others]

15. CRIMINAL MISC. BAIL APPLICATION No. - 10485 of 2024

[Rohit Gupta v. State Of U.P. And 3 Others]

16. CRIMINAL MISC. BAIL APPLICATION No. - 8023 of 2024

[Vikas Yadav v. State of U.P. and 3 Others]

17. CRIMINAL MISC. BAIL APPLICATION No. - 39386 of 2024

[Rakesh Yadav Urf Saral v. State Of U.P. And 3 Others]

18. CRIMINAL MISC. BAIL APPLICATION No. - 11162 of 2024

[Raj Alias Baniya v. State Of U.P. And 3 Others]

19. CRIMINAL MISC. BAIL APPLICATION No. - 11450 of 2024

[Chandra Shekhar Bharti Alias Sikandar v. State Of U.P. And 3 Others]

20. CRIMINAL MISC. BAIL APPLICATION No. - 11477 of 2024

[Rahul Alias Jigar v. State Of U.P. And 3 Others]

21. CRIMINAL MISC. BAIL APPLICATION No. - 11518 of 2024

[Dinesh Kundu v. State Of U.P. And 3 Others]

22. CRIMINAL MISC. BAIL APPLICATION No. - 11953 of 2024

[Karan Prajapati v. State Of U.P. And 3 Others]

23. CRIMINAL MISC. BAIL APPLICATION No.16372 of 2024

[Arib v. State Of U.P. & 3 Others]

24. CRIMINAL MISC. BAIL APPLICATION No. - 12374 of 2024

[Happy v. State Of U.P. And 3 Others]

25. CRIMINAL MISC. BAIL APPLICATION No. - 12686 of 2024

[Bechu Bind v. State Of U.P. And 3 Others]

26.CRIMINAL MISC. BAIL APPLICATION No.7864 of 2024

[Bulat Tiwari v. State Of U.P. and others]

27.CRIMINAL MISC. BAIL APPLICATION No.-14638 of 2024

[Rahul Pal v. State Of U.P. and 3 others]

28. CRIMINAL MISC. BAIL APPLICATION No. - 13479 of 2024

[Sonu Saini v. State Of U.P. And 3 Others]

29. CRIMINAL MISC. BAIL APPLICATION No. 15262 of 2024

[Ashish Kumar v. State Of U.P. And 3 Others]

30. CRIMINAL MISC. BAIL APPLICATION No.15357 of 2024

[Dinesh v. State Of U.P. and 3 others]

31. CRIMINAL MISC. BAIL APPLICATION No. - 7787 of 2024

[Raj Kumar v. State Of U.P. And 3 Others]

32.CRIMINAL MISC. BAIL APPLICATION No.16570 of 2024

[Arvind Prasad v. State Of U.P. and 3 others]

33. CRIMINAL MISC. BAIL APPLICATION No. - 4092 of 2024

[Laturi @ Dharmraj v. State Of Up 3 Others]

34. CRIMINAL MISC. BAIL APPLICATION No. - 9881 of 2024

[Narad Nishad v. State Of U.P. And 3 Others]

35. CRIMINAL MISC. BAIL APPLICATION No. - 8145 of 2024

[Subham Kumar v. State Of U.P. And 3 Others]

36. CRIMINAL MISC. BAIL APPLICATION No. - 17165 of 2024

[Ravindra v. State Of U.P. And 3 Others]

37. CRIMINAL MISC. BAIL APPLICATION No.15944 of 2024

[Mister Alias Babu Alias Rajababu v. State Of U.P. and 3 others]

38. CRIMINAL MISC. BAIL APPLICATION No. - 10724 of 2024

[Satish @ Tribhuwan Bind v. State Of U.P. And 3 Others]

39. CRIMINAL MISC. BAIL APPLICATION No. - 14400 of 2024

[Dharmendra @ Koiri v. State Of U.P. And 3 Others]

40. CRIMINAL MISC. BAIL APPLICATION No.14081 of 2024

[Rajesh v. State Of U.P. and 3 others]

Order Date :-29.05.2024

Ashish Tripathi