



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1244 of 2026

Nandlal Rai Alias Babloo Rai

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Devendra Deo Gupta
Counsel for Respondent(s)	:	Anurag Singh Yadav, G.A., Suraj Kumar Singh

Court No. - 43

HON'BLE SIDDHARTH, J.

HON'BLE VINAI KUMAR DWIVEDI, J.

Order on Criminal Misc. Bail Application

1. Heard Sri Devendra Deo Gupta and Sri P.K. Singh, learned counsel for the appellant; learned A.G.A. for the State and perused the record.
2. This bail application has been moved on behalf of appellant-applicant, **Nandlal Rai @ Babloo Rai**, praying to enlarge him on bail and also stay his conviction and sentence in pursuance of the judgment and order dated 15.04.2025 in **S.T. no. 176 of 2017, State vs Nandlal Rai and another, Case crime no. 54 of 2017, u/s 302, 34 L.P.C., P.S. Sigra, District Varanasi.**, during the pendency of this appeal.
3. The prosecution case is that the father of the informant was returning to his house at 07:30 p.m from market when some unknown accused cause his murder by firing on him.
4. Learned counsel for the appellant has submitted that the appellant was not named in the First Information Report. It is contended that P.W.-1, who claimed to be a very close friend of the first informant, disclosed the name and complicity and stay of his conviction in pursuance of the judgment and order dated 11.09.2023 passed by Addl. District and Sessions Judge/Fast Track Court no.5, Kanpur Nagar, in Sessions Trial No. 1833 of 1995 (State Vs. Rajit Ram and Others), under section 147, 148, 149, 307 and 302 I.P.C., Police Station- Sachendij, District-Kanpur Nagar.ity of the appellant only after about 17 days of the lodging of the F.I.R. The learned trial court, however, illegally relied upon such delayed disclosure and proceeded to convict the appellant. It has further been submitted that P.W.-2 was not an eye-witness to the incident and was subsequently set up by the prosecution with a view to falsely implicate the appellant. The deceased was a politically active person, and the appellant was implicated merely on the basis of suspicion and conjecture. The alleged complicity of the appellant was disclosed for the first time on 02.02.2017, when the first informant allegedly received

information from Sandeep Singh @ Pintuu, i.e., after about 17 days of the lodging of the F.I.R. A similar delayed disclosure is attributed to Himanshu Srivastava (P.W.-2). It is further argued that P.W.-1, Himanshu Nigam, was admittedly not an eye-witness to the occurrence. Although P.W.-2 and P.W.-6 were projected by the prosecution as eye-witnesses, P.W.-6, during his cross-examination, specifically stated that he had not seen the incident. Thus, his testimony materially undermines the prosecution case regarding the presence of eye-witnesses. The alleged recovery of the pistol from the co-accused, Sheshnath Sharma. It is submitted that the recovery was fabricated and planted and was allegedly shown to have been made at the pointing out of co-accused, Nandlal Rai. The evidentiary value of such recovery, therefore, is highly doubtful.

5. Learned counsel for appellant has finally submitted that the prosecution case, insofar as the appellant is concerned, rests substantially upon circumstantial evidence. The prosecution has failed to establish a complete and unbroken chain of circumstances conclusively pointing towards the guilt of the appellant and excluding every hypothesis consistent with his innocence. In the absence of a complete chain of circumstances and in view of the material contradictions, delayed disclosure of the appellant's name, doubtful eye-witness testimony and questionable recovery, the conviction of the appellant is unsustainable in law and is liable to be set aside. This appeal is of the year 2026. It is not likely to be heard in near future.

6. It has been stated that the appellant is a political person and was active worker of Bhartiya Janta Party before his conviction, and he desires to contesting election for Member of Legislative Assembly, 2027 as independent candidate or if possible from BJP.

7. Learned A.G.A. has vehemently opposed the prayer for bail of applicant-appellant but could not dispute the contentions of the learned counsel for the appellant.

8. This Court after hearing rival submissions finds that the Apex Court has stayed conviction of number of public representatives holding that the politicians bear special duty towards their constituent and failure to secure stay of conviction may lead to loss of opportunity to contest election and granted stay of conviction to the politicians/legislators. The Apex Court in the case of **Afjal Ansari Vs. State of U.P. (2024) 2 SCC 187** has held in paragraph 15 as follows:-

"This Court has undertaken a comprehensive examination of this issue on multiple occasions, laying down the broad parameters to be appraised for the suspension of a conviction under [Section 389\(1\)](#) of the CrPC. There is no gainsaying that in order to suspend the conviction of an individual, the primary factors that are to be looked into, would be the peculiar facts and circumstances of that specific case, where the failure to stay such a conviction would lead to injustice or irreversible consequences.⁵ The very notion of irreversible consequences is centered on factors, including the individual's criminal antecedents, the gravity of the offence, and its wider social

impact, while simultaneously considering the facts and circumstances of the case."

9. Let the applicant-appellant convicted and sentenced in the aforesaid crime be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned. Keeping in view the right to livelihood of a common man which is not less important than the right to contest election by a politician, conviction and sentence of appellant deserves to be stayed so that he may be able to survive for hearing the final verdict in his above noted appeal.

10. Under the totality, facts and circumstances we are of the view that the conviction and sentence awarded to the appellant deserves to be stayed during the pendency of this appeal.

11. The sentence awarded to applicant-appellant shall also remain suspended during the pendency of this appeal.

12. Applicant-appellant shall not transfer, sell, alienate or create any charge on the immovable property in his name, while on bail save with leave of this court.

13. The appellant shall inform the change of address, if any, within ten days, failing which the State shall be at liberty to request for cancellation of his bail.

14. As soon as personal and surety bonds are furnished, photocopies of the same are directed to be transmitted to this Court forthwith by the concerned court to be kept on record.

15. The appellant-applicant is directed to deposit 50% of fine within a period of one month from the date of his release from jail. Remaining 50% of fine shall remain stayed till the pendency of criminal appeal.

16. It is made clear that in case, the fine is not deposited within the time as specified above, the same shall be recovered in accordance with law.

Order on Criminal Appeal

1. Office is directed to get the paper book prepared within six weeks, if not prepared.

2. List this appeal for hearing in due course.

October 5, 2026
Abhishek

(Vinai Kumar Dwivedi,J.) (Siddharth,J.)