2026 INSC 367

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2026
(Arising out of SLP(Crl.) No(s). 5486 of 2026)

SHUVENDU SAHA ....APPELLANT(S)

VERSUS

THE STATE OF WEST BENGAL AND ANR. ....RESPONDENT(S)

O R D E R

Mehta, J.

1. Heard.

2. Issue notice.

3. Mr. Kunal Mimani, learned counsel appearing for the State of West Bengal, accepts notice on advance service. Mr. Rohit Dutta, learned counsel, appears *via* video conferencing on behalf of respondent No.2[1] on caveat.

4. Leave granted.

Signature Not Verified
Digitally signed by NEETU KHANDURIA
Date: 2026.04.15 19:55:26 IST
Reason:

[1] Hereinafter, referred to as the "respondent No.2-complainant".

5. Facts involved in the present appeal manifest a remarkably perverse exercise of revisional jurisdiction by learned Single Judge of the High Court at Calcutta[2] who has, in a revision filed at the instance of the respondent No.2-complainant, set aside the order granting bail to the accused-appellant[3] herein in a case involving offences triable by Court of Magistrate after a gap of nearly 8 years on absolutely hyper technical and untenable reasons.

6. The dispute between the appellant and respondent No.2-complainant is with regard to tenancy rights over a portion of a building, which was purchased by the appellant from its erstwhile owner. Respondent No.2-complainant instituted a civil suit against the appellant, being Title Suit No.328 of 2016, seeking declaration of her tenancy in respect of a room admeasuring approximately 150 sq. ft.

7. On 15th September, 2017, in the proceedings of the civil suit, the respondent No.2-complainant entered the witness box and deposed that the disputes between the parties had been amicably

[2] Hereinafter, referred to as the "High Court".
[3] Hereinafter, referred to as the "appellant" or "accused".

settled and, in view thereof, she did not wish to proceed with the said suit. The Court, taking note of the said statement, recorded that the dispute stood settled between the parties and dismissed the suit by an order of the even date. Concealing the factum of the aforesaid civil proceedings and the settlement, the respondent No.2-complainant filed a complaint on 28th November, 2017 before the learned Additional Chief Judicial Magistrate[4], Sealdah, who in turn, by order dated 28th November, 2017 exercised powers under Section 156(3) of the Code of Criminal Procedure[5] and forwarded the said complaint to the Officer-in-Charge, Cossipore Police Station, for investigation, leading to the registration of FIR No.257 dated 8th December, 2017 for the offences punishable under Sections 409, 417, 418, 419, 420, and 506(ii) of the Indian Penal Code, 1860[6].

8. The appellant was arrested in connection with the aforesaid case and was produced before the Magistrate concerned on 3rd May, 2018. His initial prayer for bail came to be rejected on the same day.

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[4] Hereinafter, referred to as the "Magistrate".
[5] For short, 'CrPC'.
[6] For short, 'IPC'.

Subsequently, the learned Magistrate granted interim bail to the appellant on 7th May, 2018, which was thereafter confirmed by the learned Magistrate on 4th July, 2018. The complainant challenged the order granting interim bail to the appellant by filing Criminal Revision No.1248 of 2018 before the High Court.

9. Learned Single Judge of the High Court allowed the said revision by the impugned order dated 6th March, 2026, holding that the Magistrate had acted contrary to Rule 183 of the Calcutta High Court Criminal (Subordinate Courts) Rules, 1985, and that there was an infirmity in the order of the learned Magistrate, which only bore his initials and lacked proper authentication. The High Court, accordingly, set aside the order granting interim bail as well as the subsequent orders confirming bail.

10. The learned Single Judge further held that the order granting bail was also vitiated on account of not providing an opportunity of effective hearing to the respondent No.2-complainant. While concluding the order, the learned Single Judge granted interim protection to the appellant.

11. The aforesaid order dated 6th March, 2026 is under challenge at the instance of the appellant in the present appeal by special leave.

12. We have extensively heard learned counsel for the parties and have gone through the impugned order and the material placed on record.

13. Learned counsel representing the appellant has placed for our perusal a copy of the order dated 16th March, 2026 passed by the learned ACJM, Sealdah, whereby the appellant, upon being re-arrested post passing of the impugned order, was presented before the learned Magistrate and was granted bail on certain terms and conditions. We could have closed these proceedings on this premise alone. However, we deem it necessary that some discussion be made on the order passed by the High Court, which, *ex facie*, suffers from gross perversity.

14. First of all, we may note that in a case involving Magistrate triable offences, the appellant had been granted bail by the jurisdictional Magistrate way back in the year 2018. The revision preferred by respondent No.2-complainant against the said order

granting bail came to be heard and decided by the learned Single Judge of the High Court in the year 2026, and on absolutely hyper-technical grounds and by undertaking a hair-splitting exercise, the learned Single Judge proceeded to set aside the order granting bail to the appellant.

15. We are of the firm opinion that the learned Single Judge misdirected himself while setting aside the order granting bail passed by the learned Magistrate. It is manifest from the impugned order that the learned Single Judge failed to advert to the fact that prior to the lodging of the complaint, respondent No.2-complainant had filed a civil suit in relation to the very same dispute, wherein, she made a deposition stating that the matter had been amicably settled and, therefore, the suit was not required to be proceeded with.

16. Consequently, based on the said statement, the civil suit was dismissed on 15th September, 2017 noting that the dispute stood amicably settled. Concealing this material fact, respondent No.2-complainant preferred the application under Section 156(3) of CrPC, on the basis whereof FIR No.257

dated 8th December, 2017 came to be registered against the appellant at Police Station Cossipore.

17. On going through the FIR, we find the same to be highly belated and additionally, even if the allegations set out in the FIR were accepted as true on the face of record, the case has overtones of a civil dispute, plain and simple, and hence, it was not a case wherein the accused could have been denied bail.

18. Needless to state that cancellation of bail/setting aside of the bail order impinges upon the liberty of an individual. Law is well settled by a catena of decisions[7] of this Court that orders granting bail ought not to be lightly interfered with.

19. In the present case, which involves magistrate triable offences, the accused had been arrested on 3rd May, 2018, and he was granted interim bail by the learned Magistrate on 7th May, 2018, which order was subsequently confirmed on 4th July, 2018.

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[7] ***X v. State of Telangana***, (2018) 16 SCC 511; ***Dolat Ram v. State of Haryana***, (1995) 1 SCC 349; ***CBI v. Subramani Gopalakrishnan***, (2011) 5 SCC 296; ***Neeru Yadav v. State of U.P.***, (2016) 15 SCC 422.

20. For the sake of ready reference, we extract the order dated 7th May, 2018, passed by the learned Magistrate: -

> "Heard both sides. Perused C/R and C/D perused petition filed by *defacto* complainant. Heard Ld. Advocate for the *defacto* complainant.
>
> Considering-
>
> a) Period of detention
>
> b) No progress in investigation during P/C period.
>
> c) No prayer for further P/C by I/O.
>
> d) No prayer for custodial interrogation.
>
> e) No mention to threat to *defacto* in today's remand by I/O.
>
> I do not find any reason for further detention of prosecute accused in I/C in the interest of investigation. Hence, all objections raised against bail are turned down. Bail prayer is allowed, albeit on interim basis.
>
> Sole accused may be enlarged on A/I bail of Rs.2000/-with 1 surety *(sic)* Rs. of like amount. ID to J/C.
>
> If no bail to 7.6.18 for app. Further order as to bail and report.
>
> Return C/D.
>
> Sd/-"

21. On a perusal of the above order, it is clear that all parameters for deciding a bail application filed under Section 437 CrPC (corresponding Section 480 of the BNSS) were considered by the learned Magistrate and even the respondent No.2-complainant was provided an opportunity of hearing. Hence, we have no hesitation in holding that there

was no justification whatsoever for the learned Single Judge to have interfered with the order granting bail, more so after a lapse of nearly eight years from the date of order granting bail.

22. We, emphatically reiterate that the issues highlighted in the complaint were predominantly having civil overtones, and yet the learned Single Judge proceeded to decide the revision as if it involved questions of grave legal importance. The following questions of law and fact were in fact formulated and thereafter adjudicated upon: -

> "**6.** The resolution of the instant revision hinges upon the following pivotal questions of law and fact:
>
> i. whether an order of interim bail is sustainable in law if it fails to comply with the mandatory procedural safeguards enshrined in Rule 183 of the Criminal Rules and Orders (Cr.R.O.) regarding authentication?
>
> ii. whether the Learned Magistrate's refusal to record specific reasons for "turning down" the victim's objections, despite the mandate of Section 2(wa) of the Code, constitutes an abdication of judicial duty?
>
> iii. whether this Court, in exercise of its supervisory jurisdiction under Article 227, is empowered to strike down an order passed in manifest violation of binding administrative directions and judicial precedents of the High Court?"

23. The learned Single Judge, for cancelling the bail granted to the accused in a case involving Magistrate's triable offences after 8 years of the event and after nearly 15 years of the alleged offence, assigned the following reasons in the impugned order: -

> "**21.** Upon a holistic consideration of the facts and the settled position of law, I am of the firm opinion that the impugned order of bail suffers from a dual infirmity-procedural and substantive. Procedurally, the total disregard for the authentication protocols under Rule 183 of the Cr.R.O. and the binding directives of this Court in Sharmistha Chowdhuri (supra) renders the record a mere scrap of paper lacking judicial solemnity. Substantively, the failure to recognize the statutory rights of the "victim" under Section 2(w)(a) of the Code and the summary dismissal of documented life-threats constitutes a manifest failure of justice.
>
> **22.** Therefore, this Court arrives at the legal conclusion that the liberty of an accused, while precious, cannot be protected by an order that is "born in sin," i.e., an order passed in defiance of the High Court's administrative and judicial discipline. A bail order which is (a) unsigned or partially initialled in violation of Rule 183 Cr.R.O., (b) unreasoned regarding the specific objections of a victim, and (c) indifferent to the history of witness intimidation, is a perverse order that the High Court is duty-bound to strike down under Section 482 and

under Article 227 of the Constitution to prevent a miscarriage of justice.

23. This Court finds that the Learned Magistrate exercised his discretion arbitrarily and in defiance of binding precedents. The subsequent confirmation of bail cannot validate an order that failed to consider the life-threat to the elderly widow/petitioner. Consequentially, it is ordered that:

a. the order dated May 7, 2018, and all subsequent orders confirming the bail of Opposite Party No. 2, Suvendu Saha, are hereby set aside and quashed. The liberty granted to the accused stands revoked with immediate effect.

b. the Opposite Party No. 2 is directed to surrender before the Learned Additional Chief Judicial Magistrate, Sealdah, within 48 hours from the communication of this order. Failure to do so shall result in immediate arrest of the petitioner / accused by the Officer-in-Charge, Cossipore P.S. and produce him before the Court below in custody.

c. Upon surrender/arrest, the Learned Additional Chief Judicial Magistrate shall hear the bail prayer de novo, providing a mandatory and meaningful hearing to the Victim or her authorized counsel, perusing the updated Case Diary and specifically record findings on the allegations of post-arrest threats and intimidation, and recording the order in strict compliance with Rule 183 Cr.R.O. and the format mandated in Sharmistha Chowdhuri.

d. The failure of the Learned Additional Chief Judicial Magistrate to comply with the mandatory requirements of Rule 183 of the Cr.R.O. and the administrative circulars issued by this Court, is a matter of grave concern. Judicial discipline requires that District courts strictly adhere to the formats and protocols established by the High Court to ensure the transparency and integrity of judicial records.

e. the Registrar (Judicial Service) is directed to call for an explanation from the concerned Judicial Officer as to why the mandatory provisions of Rule 183 and the administrative circulars of this Court were bypassed. A copy of this order shall be placed in the Annual Confidential Report (ACR) dossier of the said officer, and a formal warning shall be issued to ensure future circumspection.

f. To prevent such "jurisdictional insubordination" from becoming a norm, the Registrar General is directed to re-circulate the mandatory directions contained in Paragraphs 35, 36, and 37 of Sharmistha Chowdhuri to all judicial officers in the State of West Bengal and the Union Territory of Andaman and Nicobar Islands.

g. All District Judges are directed to ensure compliance through periodic inspections of order-sheets. Any persistent default by any judicial officer in signing order sheets in full or taking external assistance for recording orders shall be reported to the High Court on the administrative side for the initiation of appropriate departmental proceedings.

> h. The Director of the West Bengal State Judicial Academy is directed to include a specific module on the "Recording of Judicial Orders and Authentication of Records" in the induction and refresher courses for judicial officers, emphasizing the legal consequences of non-compliance with the Criminal Rules and Orders.
>
> i. The Commissioner of Police, Kolkata, is directed to ensure adequate and continuous protection for the Petitioner and her family. The interim protection already granted shall remain in force until the final disposal of the de novo bail prayer by the Court below."

24. Learned Single Judge, while setting aside the order of the Magistrate, held the order granting bail to be arbitrary and in defiance of binding precedents. The learned Single Judge also directed the Registrar General to call for an explanation from the concerned Judicial Officer and considered the same to be a case of "jurisdictional insubordination" which had to be prevented. We feel that the aforesaid observations were wholly misplaced and uncalled for.

25. The High Court proceeded on the premise of the latin maxim ***'sublato fundamento cadit opus'***, which, translated literally, means 'when infrastructure fails, superstructure must fail'. We are

of the firm opinion that the said maxim had no application to the case at hand as herein, the purported infrastructure was the order dated 7th May, 2018, granting interim bail to the accused which stood subsumed in the final order granting bail dated 4th July, 2018. It is absolutely unacceptable that the final order granting bail could have been set at naught merely because in the opinion of the High Court, some infirmities existed in the order granting interim bail to the accused. Once the trial Court had exercised jurisdiction under Section 437 CrPC to affirm the order of interim bail passed in favour of the accused, the same could only be cancelled or set aside on the principles governing cancellation of bail laid down by this Court in a catena of decisions. In this regard, we may gainfully refer to the judgment of this Court in ***Dolat Ram v. State of Haryana***[8], the relevant paragraph whereof is extracted hereinbelow:-

> "**4.** Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation

[8] (1995) 1 SCC 349: 1995 SCC (Cri) 237.

of the bail, already granted. **Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail.** However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a non-bailable case in the first instance and the cancellation of bail already granted."

[Emphasis supplied]

26. The discretion of the High Court was also heavily swayed by the reason that safety of the respondent No.2-complainant was at risk. We feel that the said observation of the High Court was far removed from reality.

27. The order granting bail was passed in the year 2018, whereas the revision came to be heard and decided in the year 2026. Neither does the order of the High Court reflect so nor was any such material available on record which could have compelled the High Court to hold that there was any risk to the life of the respondent No.2-complainant. The order of the High Court does not reflect or refer to any such event or incident which may have caused any life threat or risk to the respondent No.2-complainant. Hence, we are of the firm opinion that the order passed by the High Court suffers from total non-application of mind.

28. Graciously enough, while setting aside the bail granted to the accused, the High Court directed that adequate protection be provided to the respondent No.2-complainant and that the interim protection granted to the accused shall remain in force till the final disposal of the *de novo* bail prayer by the jurisdictional Court. In consequence thereof, the accused surrendered before the trial Court and has been released on bail by order dated 16th March,

2026, which has been placed for our perusal by learned counsel for the accused.

29. We find that the view taken by the High Court is wholly perverse, apart from being in gross disregard of the mandate of Section 437 of CrPC. The learned Single Judge gave primacy to Rule 183 of the Calcutta High Court Criminal (Subordinate Courts) Rules, 1985 to set at naught an order granting bail to the accused under the provisions of CrPC. We, *prima facie,* feel that a Rule contained in the Criminal Rules and Orders, which governs the procedural aspects of day-to-day functioning of criminal Courts, could not have been invoked to override the substantive mandate of the CrPC unless a gross failure of justice was demonstrated in the proceedings.

30. On going through the order dated 7th May, 2018 passed by the learned Magistrate granting interim bail to the accused, we find that the same records that an opportunity of hearing was granted to respondent No.2-complainant and assigns cogent and substantial reasons for releasing the accused on bail.

31. Rule 183 of Calcutta High Court Criminal (Subordinate Courts) Rules, 1985, on which the order of the learned Single Judge is premised, provides that orders requiring the exercise of judicial discretion and the final order shall be recorded by the Magistrate in his own hand or typed by him, others may be recorded under his direction by the Bench Clerk.

32. However, we do not find any palpable material on record to show that the learned Magistrate had substantially breached the procedure provided under the said rule while drawing up the order granting bail to the accused. The violation, if any, was too hyper-technical and trivial so as to be made a ground for setting aside the bail granted to the accused nearly 8 years ago.

33. Therefore, we have no option but to hold that the impugned order is audaciously perverse and illegal, and hence, the same cannot be sustained. The impugned order dated 6th March, 2026, is hence quashed and set aside.

34. Though we have already quashed and set aside the impugned order in entirety still, for ensuring that the service career of the concerned Judicial officer is not adversely effected, we further emphasize and provide that the directions given by the learned Single Judge in paragraphs e, f, g and h of the impugned order making observations on the conduct of the Ld. Judicial Officer; directing placement of the impugned order dated 6th March, 2026 in the Annual Confidential Report (A.C.R.) of the Judicial Officer; directing the Registrar (Judicial Service) to call for an explanation from the Judicial Officer and making an observation that the order passed by the Judicial Officer tantamounted to "jurisdictional insubordination" shall stand expressly omitted, quashed and set aside.

35. Before parting, we may record a discordant note that it has become a recent trend to castigate Judicial Officers and record adverse remarks/strictures against them in judicial orders passed by the High Court in the exercise of supervisory, appellate or revisional jurisdiction. The High Court, being a Court of record in the State, is expected to act as the

guardian of the Officers in district judiciary. While finding infirmities in the order passed by a Judicial Officer, the immediate reaction ought not to be to make adverse or disparaging observations against the concerned Judicial Officer in a judicial dispensation.

36. Such disparaging remarks/strictures may ruin the career of the Judicial Officer in addition to demoralising the district judiciary as a whole. Power of superintendence conferred upon the High Courts by Article 227 of the Constitution of India ought not to be used as a tool of oppression but rather as a mechanism for nurturing and guiding the Judicial Officers in the State.

37. In some High Courts an in-house mechanism is already in place to take care of a situation, whenever any flaw or infirmity is noted in any order passed by the trial Judge by the High Court while exercising the supervisory jurisdiction. The observations of the Hon'ble Judge/Bench on the merits or quality of the order or the proceedings of the presiding officer of the trial Court can be noted in a remark slip which, in turn, would be placed before the administrative

Judge or the Chief Justice of the High Court, as the case may be, for necessary follow-up action.

38. For the sake of illustration, the format of such remark-slip which is provided in the practice and procedure of the High Court of Judicature for Rajasthan is extracted hereinbelow: -

COURT REMARKS ON THE
JUDGMENT DATED .....
X *v.* Y
RENDERED BY SHRI.....

****

Description of case.
No. of 20
Date of Judgment .....

(a) Judgment dated .....: -

(1) Whether lucid, to the point, logical,
(2) Whether discussion of evidence and thorough.
(3) Whether sentence or order appropriate.
(4) Whether above standard or below standard.

(b) Conduct of proceedings: -

[Here any remarks about clearing of pleadings, framing of issues or charge sheets, control over examination of witnesses, proper keeping of double record, eliciting of all material facts, adjournments, delay in delivery of judgment and doing of full day's work may be entered.]

Note:- (1) Bench Reader will attach this slip at the top of the first page of each judgment when the Judge is

being asked to sign that judgment.

(2) The slip containing the remarks shall be sent to the Hon'ble Judge in the Administrative Department.

PROFORMA

S. No.	Particulars of the case in the lower court viz No. of case/appeal/tile/ date of decision	Particular of the case of the High Court viz. No. of appeal/revision, title and date of decision	Whether categories as standard or No remarks

39. It is our firm opinion that it would be highly advisable if similar practice of recording remarks on various facets of the judgments/orders passed by Officers in the district judiciary is adopted by all High Courts for appropriate action on the administrative side.

40. The Registry shall circulate a copy of this order to the Registrar Generals of all the High Courts for being placed before the Hon'ble Chief Justice for information and such follow-up action as may be deemed appropriate.

41. The appeal is allowed accordingly.

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

.....J.
(VIKRAM NATH)

.....J.
(SANDEEP MEHTA)

NEW DELHI;
APRIL 09, 2026.