

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO(S). OF 2026
(Arising out of SLP(Crl.) No(s). 908 of 2026)

STATE OF UTTARAKHAND APPELLANT(S)

VERSUS

JAVED SIDDIQUI & ANR. RESPONDENT(S)

ORDER

1. Heard.
2. Leave granted.
3. The State of Uttarakhand is before us by way of this appeal with special leave challenging the order dated 8th January, 2025 passed by the Division Bench of the High Court of Uttarakhand at Nainital¹ in Criminal Appeal No. 495 of 2024, whereby the respondents, namely Javed Siddiqui and Arshad Ayub, were granted default bail in connection with FIR No. 21 of 2024 registered at Police Station Banbhoolpura, District Haldwani for the offences

¹ Hereinafter referred as "high court "

punishable under Sections 147, 148, 149, 307, 395, 323, 332, 341, 342, 353, 427, 436 and 120-B of the Indian Penal Code, 1860² read with Sections 3 & 4 of the Prevention of Damage to Public Property Act, 1984, read with Section 7 of the Criminal Law Amendment Act, 1932, read with Sections 3/25, 4/25 and 7/25 of the Arms Act, 1959 and Sections 15 and 16 of the Unlawful Activities (Prevention) Act, 1967³.

4. We have heard and considered the submissions advanced by Mr. Jatinder Kumar Sethi, learned D.A.G. appearing for the State of Uttarakhand and Mr. Siddharth Agarwal, learned senior counsel appearing for the respondents and have gone through the impugned judgment and the material placed on record.

5. In our opinion, the High Court committed grave error in facts as well as in law in extending the benefit of default bail to the respondents. We shall assign our reasons for holding so.

6. FIR No. 21 of 2024 dated 8th February, 2024 came to be registered at Police Station Banbhoolpura,

² For short, "IPC"

³ Hereinafter referred as "UAPA"

District Haldwani in relation to an incident of arson, widespread rioting and causing extensive damage to public property including the building of the police station.

7. The respondents were arrested on 9th February, 2024. Before the period of 90 days from their arrest had expired, the investigating agency, moved an application under Section 43D(2)(ii)(b) of UAPA dated 10th, May, 2024 seeking extension of time to complete the investigation and to continue the detention of the accused for another 28 days.

8. Notice on the application was served on the accused and two learned counsel, namely Mr. Piyush Garg and Shri Manish Pandey were present in the Court who were heard on the said application. Learned trial Judge, passed a detailed order dated 10th May, 2024 extending the time for completion of investigation by another 28 days.

9. On 3rd June, 2024, the accused respondents preferred an application seeking default bail on the ground of non-conclusion of investigation within the period of 90 days prescribed under Section 167(2) of the Code of Criminal Procedure, 1973 (CrPC) read with Section 43D(2) of UAPA which came to be

rejected by the learned trial Court *vide* a reasoned order dated 3rd June, 2024.

10. The time for completion of investigation was further extended on 6th June, 2024 and 1st July, 2024 and ultimately chargesheet against the accused came to be filed on 7th July, 2024 within the extended period which was coming to an end on 11th July, 2024.

11. In September, 2024, the accused respondents preferred an appeal before the High Court for assailing the orders dated 10th May, 2024, 6th June, 2024, 1st July, 2024 and so also the order rejecting bail dated 3rd June, 2024 passed by the learned trial Court.

12. The High Court proceeded to allow the appeal of the accused respondents assigning the following reasons: -

“24. Having heard learned counsel for the parties in great detail and having gone through the record of the case, in particular the Lower Court Record, it is noticed that the appellants are in judicial custody since the date of their arrest and a considerable period of 90 days expired, during which period it is noticed that no substantial progress has been made in the investigation.

25. The manner in which investigation proceeded clearly reveals the carelessness on the part of the Investigating Officer as to how slow the investigation

proceeded with, that too in such a situation where the appellants were languishing in judicial custody.

26. In three months time statements of only 8 official witnesses and four public witnesses were recorded. The height of sluggish investigation is that in the first month only two public witnesses and one official witness were examined.”

13. Having gone through the record, we find that the High Court has completely gone wrong in casting aspersions on the conduct of the Investigating Officer in failing to complete the investigation within a period of 90 days. It may be noted here that the FIR had been filed in relation to an incident of widespread arson, rioting and damage to public property including the building of the police station wherein large number of accused persons were arraigned with the allegation of using petrol bombs and other arsenal in the incident. Few other incidents of the similar nature took place in the nearby areas in relation to which separate FIRs were filed. In our opinion, it was absolutely unreasonable of the High Court to have observed that the investigating agency had not proceeded with investigation at a reasonable pace or that it had acted with lethargy. The observation that only 8 official witnesses and 4 public witnesses had been examined in three months is

factually incorrect as has been pointed out by learned D.A.G. representing the appellant because in the said period of 90 days, the statements of 65 witnesses had been recorded by the investigating agency. Thus, without a doubt, the investigation was proceeding with utmost expediency in a case which would have presented grave challenges to the investigation agency, considering the magnitude of the crime and the large number of accused and witnesses

14. Further, the High Court failed to advert to the important fact that the accused respondents never challenged the orders of extension of time and rejection of bail by promptly approaching the High Court and instead waited till September, 2024 before filing the appeal. It is not in dispute that long before the appeal came to be filed, investigation was completed and chargesheet had been filed.

15. Thus, we are of the opinion that by the time, the accused respondents approached the High Court, they had lost the right to seek default bail by their acquiescence. Consequently, the impugned order does not stand to scrutiny and is hereby set aside.

16. The accused respondents shall surrender before the trial Court within a period of two weeks from

today failing which the trial Court shall take stringent measures to take them into custody. The accused respondents shall be at liberty to apply for regular bail which shall be considered on its own merits without being influenced by any observations made hereinabove.

17. The appeal is allowed accordingly.

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

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI;
MAY 04, 2026.