

view that the objections of the petitioner were dealt with by the respondent authorities and the provisional attachment was justified under Section 83 of the Act for a period of one year. The said period would only come to an end on July 7, 2025. In the meantime, since show cause notice has already been adjudicated upon and order was passed under Section 74 of the Act, the petitioner has the statutory alternative remedy under the law to file an appeal against the same.

10. We have also examined and perused in great detail the order passed on October 30, 2024 that is indicating the reasons for provisional attachment and the manner in which petitioner has avoided paying the Goods and Service Tax dues to the coffers of the Government.

11. In light of the same, this writ petition is dismissed with liberty granted to the petitioner to approach the appellate authority in accordance with law.

(2025) 2 ILRA 366
ORIGINAL JURISDICTION
CRIMINAL SIDE
DATED: ALLAHABAD 20.02.2025

BEFORE

THE HON'BLE MRS. MANJU RANI
CHAUHAN, J.

Application U/S 482. No. 42213 of 2024

Shanu Saxena & Anr. ...Applicants
Versus
State of U.P. & Ors. ...Opposite Parties

Counsel for the Applicants:
 Sri Anjeet Singh

Counsel for the Opposite Parties:
 G.A.

Criminal Law - Indian Penal Code, 1860 - Sections 323,504,498-A & 506 - Dowry Prohibition Act, 1961 - Section 3/4 - Criminal Proceedings - Quashing of - Taking cognizance of inefficiencies in execution of judicial orders, Superintendent of Police directed to appear in person, submit personal affidavit - In compliance of order, officer present, filed compliance affidavit, fails to provide explanation for dereliction of duty - Court summoned Government Advocate seeking clarification - Furthermore, deeper examination of matter brought to light serious procedural impropriety - Private Secretary to Government Advocate found responsible for committing fraud upon court by unlawfully altering first page of affidavit, thereby misrepresenting identity of individual who dictated its contents - The act, reflects attempt to mislead judicial process and exercise functions beyond legally conferred authority - Assumption of powers by administrative officer, without any legal sanction, matter of grave concern - Purely clerical, does not extend to making substantive changes to official documents, particularly those submitted before court of law - Government Advocate granted time to file affidavit, interim order extended till next date of listing. (Para 2 to 5, 8, 10 11)

Application pending. (E-13)

List of Cases cited:

Vijay Kushwaha & ors. Vs St. of U.P. & anr.,
 Application U/s 482 No. 32395 of 2024

(Delivered by Hon'ble Mrs. Manju Rani
 Chauhan, J.)

1. The persistent failure of police officers to diligently fulfil their statutory obligations, particularly in the prompt service of summons and execution of judicial directives, significantly impedes the smooth functioning of the legal system. Their apathy and inefficiency contribute to

unwarranted delays, exacerbating the already staggering backlog of cases and severely hampering the expeditious dispensation of justice. This dereliction of duty not only prolongs legal proceedings, subjecting litigants to undue hardship and financial strain, but also erodes public confidence in the efficacy and integrity of the judicial process. When law enforcement officers neglect their fundamental responsibilities, they inadvertently perpetuate a cycle of inefficiency, causing systemic stagnation that undermines the rule of law. The judiciary, despite its best efforts, cannot function effectively in isolation; it relies on the seamless coordination of various stakeholders, including the police, to uphold the principles of justice. The failure of the police in this regard fosters a perception of institutional indifference and inefficacy, shaking the very foundation of public trust in the justice delivery mechanism.

2. Taking cognizance of the glaring inefficiencies in the execution of judicial orders in view of order dated 16.01.2025 passed in the case of **Vijay Kushwaha and 3 others v. State of U.P. and another**¹ this Court by order dated 31.01.2025 directed the Superintendent of Police to appear in person and submit a personal affidavit explaining the lapses that had led to unwarranted delays.

3. In compliance of the aforementioned order, Mr. Dhawal Jaiswal, Superintendent of Police, Fatehpur is present before this Court. He files compliance affidavit, which is taken on record. However, the officer fails to provide any substantial explanation or justification for the dereliction of duty, further exposing the systemic apathy within law enforcement.

4. In light of unsatisfactory response of the officer, this Court summoned the learned Government Advocate Mr. A.K. Sand, seeking clarification on the matter. When questioned, the learned Government Advocate assured the Court that a more comprehensive affidavit would be submitted. However, it became evident that neither the Superintendent of Police nor the learned Government Advocate was aware of the previous order dated 16.01.2025 passed in the case of **Vijay Kushwaha (supra)**, which was directly relevant to the case at hand. This lack of awareness resulted in an inadequate affidavit, demonstrating not only negligence in compliance but also a troubling disregard for judicial directives, thereby further eroding the credibility of the legal process.

5. Furthermore, when the learned Government Advocate was summoned in the present case, a deeper examination of the matter brought to light a serious procedural impropriety. It was revealed that, in reality, the affidavit in question had been dictated by the learned Government Advocate Mr. A.K. Sand himself. However, in a deliberate and misleading attempt to obscure this fact, the first page of the affidavit—where the name of the individual responsible for dictating the contents is typically recorded—had been altered. This change was made at the behest of Mr. Ghanshyam Kushwaha, Private Secretary to the learned Government Advocate, raising grave concerns about the integrity and transparency of the affidavit submission process. Such a manipulation of official records not only reflected an improper delegation of authority but also highlighted a blatant disregard for procedural propriety within the office of the Government Advocate. This deliberate alteration of official documents pointed to a

serious lapse in ethical responsibility, undermining the sanctity of judicial proceedings and calling into question the credibility of the affidavits filed on behalf of the State Government. The Court, upon recognizing this misconduct, was compelled to consider whether such actions amounted to an attempt to mislead the judiciary, further exacerbating the concerns regarding the inefficiencies and lack of accountability within the system.

6. When the learned Government Advocate was questioned regarding his awareness of the judgment previously passed in the case of **Vijay Kushwaha (supra)**, he stated that he had not been informed of it by the Additional Government Advocate assigned to the court. This response underscored a troubling pattern of evasion and deflection of responsibility within the office of the Government Advocate. Rather than providing a credible justification for the failure to comply with judicial directives, he sought to shift the blame onto his colleague, demonstrating a clear unwillingness to be held accountable for lapses in duty. This habitual passing of responsibility from one officer to another not only exposes a lack of coordination and diligence within the government's legal apparatus but also reflects a deeper issue of institutional apathy toward judicial orders. Such conduct not only delays the administration of justice but also erodes public trust in the state's ability to uphold the rule of law, as officers entrusted with legal responsibilities continually evade accountability instead of addressing and rectifying their shortcomings.

7. Furthermore, when the Court finally asked the learned Government Advocate whether he had read the judgment in the

present case, which already contained references to the **Vijay Kushwaha's case**, he admitted that he had not done so and proceeded to apologize before the Court. This revelation was deeply troubling, as it highlighted that the affidavit had been dictated without even a cursory reading of the relevant judicial orders. Such negligence raises serious concerns about the competence and accountability of those entrusted with representing the state in legal matters. If the very individual responsible for upholding the rule of law exhibits such a lackadaisical attitude, it casts a shadow over the credibility of the state's legal apparatus and severely hampers the judicial process. The role of the Government Advocate is not merely procedural but carries a duty to ensure that legal proceedings are conducted with diligence and adherence to judicial precedent. However, when such a high-ranking officer demonstrates such disregard for due process, it sets a dangerous precedent for others aspiring to join the legal system. It fosters a culture of carelessness and unaccountability, eroding the faith of litigants and the judiciary in the state's ability to enforce the law effectively. This incident, therefore, underscores the urgent need for systemic reforms to instill greater responsibility, scrutiny, and professionalism within the government's legal framework.

8. The Private Secretary to the Government Advocate, Mr. Ghanshyam Kushwaha, has been found responsible for committing fraud upon the court by unlawfully altering the first page of the affidavit, thereby misrepresenting the identity of the individual who had dictated its contents. This act, though seemingly minor, amounts to a serious impropriety, as it reflects an attempt to mislead the judicial

process and exercise functions beyond his legally conferred authority. The assumption of such powers by an administrative officer, without any legal sanction, is a matter of grave concern. The Court has unequivocally disapproved of this conduct, emphasizing that the role of a Private Secretary is purely clerical and does not extend to making substantive changes to official documents, particularly those submitted before a court of law. Such actions not only undermine the sanctity of judicial proceedings but also raise serious questions about the functioning and accountability of the Government Advocate's office. This incident calls for stringent corrective measures to ensure that procedural integrity is maintained and that unauthorized individuals do not interfere with matters of legal significance.

9. The events that have unfolded before this Court are both astonishing and deeply disconcerting, revealing a flagrant disregard for judicial authority and procedural integrity. The sheer negligence of responsible officials, coupled with unwarranted interference in legal proceedings, strikes at the very foundation of the justice system. Such egregious misconduct is utterly indefensible and demands immediate, uncompromising corrective action to prevent any future recurrence.

10. As prayed by learned Government Advocate, time is granted to file better affidavit. Put up this case on **12.03.2025**, as fresh, for further hearing. The Superintendent of Police, Fatehpur shall remain present before this Court, on the next date.

11. Interim order, granted earlier, is extended till the next date of listing.

12. Registrar (Compliance) shall communicate this order to Mr. A.K. Sand, learned Government Advocate, forthwith.

(2025) 2 ILRA 369

APPELLATE JURISDICTION

CRIMINAL SIDE

DATED: LUCKNOW 07.02.2025

BEFORE

THE HON'BLE SUBHASH VIDYARTHI, J.

Criminal Misc. Bail Application No. 12654 of
2023

Jaswant Singh	...Applicant
	Versus
State of U.P.	...Opposite Party

Counsel for the Applicant:

Vineet Kumar Mishra

Counsel for the Opposite Party:

G.A.

Criminal Law — Bail — Second Bail Application — Indian Penal Code, 1860 - Sections 302, 307, 286, 506 & 120-B- Delay in Trial — Criminal Law Amendment Act, Section 7- Applicability of Article 21 of the Constitution — Criminal Procedure Code, 1973, Section 439-Constitution of India, Article 21- Applicant accused of double murder by firearm — Co-accused father granted bail by Supreme Court on grounds of advanced age — Applicant in custody since 16.09.2018 — Seven out of twenty-three prosecution witnesses examined — All witnesses supported prosecution — No undue delay attributable to prosecution — Held, although prolonged incarceration may justify bail in exceptional cases, each bail application to be examined on its own facts — When trial is progressing and prosecution witnesses support case, no ground made out for bail merely on ground of co-accused's release or general delay — Bail rejected. (Paras 14,16,17, and 18)