

**IN THE COURT OF THE SESSIONS JUDGE, AMBEDKAR NAGAR****Bail Application No.:** 711/2026**CNR No.:** UPAN010046232026**In the Matter of:**

Mohd. Salim, Aged about 50 years, Son of Mohammad Shamim, Resident of Mohalla Kasba Chhoti Bazar, Police Station Aliganj, District Ambedkar Nagar.

... Applicant / Accused

Versus**State of Uttar Pradesh**

... Prosecution / Opposite Party

Order Date: June 12, 2026**Case Crime No.:** 72/2026

Under Sections: Sections 309(4) and 317(2) of the Bharatiya Nyaya Sanhita (BNS), 2023.

Police Station: Kotwali Tanda, District Ambedkar Nagar

This is the first regular bail application moved on behalf of the applicant/accused, Mohd. Salim, under **Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)** [corresponding to Section 439 of the Code of Criminal Procedure, 1973], seeking regular bail in connection with Case Crime No. 72/2026. The application is supported by an affidavit executed by the applicant's *paikar*, Mohd. Shamim.

Points for Determination

The following key legal and factual questions arise for adjudication in this regular bail application:

1. Whether a *prima facie* case of armed robbery and possession of stolen property under Sections 309(4) and 317(2) BNS is made out against the applicant based on a red-handed public apprehension, physical recovery, and corroborative digital evidence.

2. Whether the defense's plea of a pre-existing financial dispute and a simulated recovery is sufficient to dislodge the statutory presumption of culpability at this stage of the trial.
3. Whether the applicant is entitled to the concession of regular bail, considering the gravity of the offense, the employment of a firearm replica to instill terror, and the applicant's criminal history.

Findings

1. Factual Matrix of the Prosecution Case

The case for the prosecution was initiated via a prompt written complaint submitted on March 17, 2026, at 17:33 hours by the informant/shopkeeper, Gyanu Soni, at Police Station Kotwali Tanda. The primary facts of the occurrence are detailed below:

1. **The Incident:** On March 17, 2026, an individual entered the informant's jewelry shop, pretending to be a customer arriving from Bombay, and requested to see some gold jewelry pieces. While the informant was displaying the items, the individual suddenly placed one hand on his waist, threatened to shoot the informant dead, aggressively pushed the informant on the chest with his other hand, snatched a jewelry tray containing ornaments, and bolted from the shop.
2. **Public Apprehension and Recovery:** Hearing the informant's alarms, members of the general public chased and apprehended the fleeing suspect in an alley adjacent to the shop. The public subjected the suspect to a beating, during which **11 gold rings, 1 gold chain, and 1 fake/imitation pistol** were physically recovered from his possession.
3. **Arrest:** The informant, along with his associate Rajesh Kumar Sahu, took custody of the apprehended individual, who identified himself as Mohammad Salim, and brought him directly to the police station. The applicant was noted to have a pre-existing fracture with a splint/bandage on his arm and older marks on his face, alongside fresh minor injuries sustained during the public apprehension.

An FIR was accordingly registered against the applicant under Sections 309(4) [Robbery under aggravated circumstances] and 317(2) [Receiving/retaining stolen property] of the BNS.

2. Submissions on Behalf of the Parties

The learned counsel for the applicant/accused vehemently argued that:

1. The applicant is completely innocent and has been falsely implicated through a concocted narrative. He was already acquainted with the jeweler and had previously purchased gold and silver ornaments on credit.
2. On the day of the incident, the applicant merely visited the shop to explain that he would clear his outstanding financial arrears within a few days. The informant lost his temper, assaulted the applicant, and engineered a false robbery story in collusion with the local police.
3. The alleged "pistol" recovered from his possession is nothing more than a standard commercial gas lighter used for lighting stoves. Since the applicant has been incarcerated since March 18, 2026, he deserves to be released on bail.

The learned District Government Counsel (Criminal) fiercely opposed the bail application, highlighting that the accused was caught red-handed by the public on the spot with the looted gold ornaments. He presented the case diary and drew the Court's attention to a critical pen drive containing electronic video evidence of the search and recovery. Furthermore, he placed on record the applicant's active criminal history, which includes:

1. **Case Crime No. 30/2017**, under Sections 380 and 411 of the IPC, registered at Police Station Aliganj, District Ambedkar Nagar.

3. Judicial Analysis and Legal Rationale

This Court has examined the case diary, the recovery memos, the electronic evidence, and the statutory gravity of the charges:

1. ***Prima Facie* Evidence and Digital Corroboration:** The argument that the entire recovery was stage-managed falls flat in the face of direct evidence. This Court, during the bail hearing, viewed the video footage contained in the case diary's pen drive. The video explicitly records the contemporaneous interception and physical recovery of the weapon and stolen ornaments from the applicant. Whether the replica pistol was a operational firearm or a sophisticated gas lighter is immaterial under Section 309(4) BNS, as the primary legal ingredient is the intentional creation of a reasonable apprehension of death or grievous hurt to commit theft. The use of a realistic replica successfully subdued the shopkeeper.

2. **Gravity of the Offense:** Committing an audacious daytime robbery in a commercial marketplace impacts public safety and order. The applicant targeted a commercial establishment, used physical force, and threatened a citizen's life. The defense's plea of a credit dispute is a matter of trial and cannot override the heavy weight of a red-handed arrest with looted property.
3. **Impact of Criminal Antecedents:** The applicant is a repeat offender with a prior record for theft and retaining stolen property under Sections 380 and 411 IPC. This shows a clear propensity for property-related offenses. The Hon'ble Supreme Court in [Neeru Yadav v. State of U.P. \(AIR 2015 SUPREME COURT 3703\)](#) held that while evaluating bail applications, the court cannot ignore the criminal history of the accused, as the safety of the community must be balanced against individual liberty. A habitual offender involved in daylight robbery on gun point does not qualify for judicial discretion.
4. **Application of Core Bail Principles:** Guided by the landmark ruling in [Chaman Lal v. State of U.P. \(AIR 2004 SUPREME COURT 4267\)](#), the apex court fixed the criteria for bail as: the nature and gravity of the accusation, the severity of the punishment, the danger of the accused absconding, and the criminal character of the accused. In this case, all these factors weigh heavily against the applicant. If released, there is a strong possibility of him intimidating the informant and local merchant witnesses.

Reviewing the overall facts, the gravity of the crime, the strong *prima facie* evidence, and the applicant's past conduct, this Court finds no sufficient or justifiable ground to grant regular bail.

Order

The first regular bail application moved on behalf of the applicant/accused **Mohd. Salim** in connection with **Case Crime No. 72/2026** (erroneously indexed in parts as 72/2025), under Sections 309(4) and 317(2) of the Bharatiya Nyaya Sanhita (BNS), Police Station Kotwali Tanda, District Ambedkar Nagar, is hereby **Rejected**.

(**Chandroday Kumar**)

Sessions Judge, Ambedkar Nagar

J.O. Code No.: UP06553

Date: June 12, 2026

Place: Ambedkar Nagar