



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(i) CRA-D-1438-2024 (O&M)

Gagandeep Singh @ Goldy
...Appellant

VERSUS

National Investigation Agency
...Respondent

(ii) CRA-D-958-2026 (O&M)

Gurwinder Singh @ Gurvinder Singh @ Laddy
...Appellant

VERSUS

National Investigation Agency
...Respondent

Reserved on: September 02, 2026
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CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI
HON'BLE MS. JUSTICE MANDEEP PANNU

Argued by: Mr.Animesh Sharma, Mr.Sudhir Passi,
Mr.Japandeep Singh Brar and Mr.Gurfateh Singh Khosa, Advocates
for the appellant (in CRA-D-1438-2024).

Mr.Aman Sapiyah and Mr.Rahul Rana, Advocates
for the appellant (in CRA-D-958-2026).

Mr.Sukhdeep Singh Sandhu, Special Prosecutor,
for the respondent-NIA

Mr.Rajiv Vij, Additional Public Prosecutor, UT Chandigarh.

ARCHANA PURI, J.

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orders of denial of regular bail, dated 18.09.2024 and 16.05.2026 respectively, in case FIR No.RC-03/2024/NIA/DLI dated 08.03.2024.

In pursuance of the notice issued, learned Special Prosecutor for National Investigation Agency appeared and filed separate replies. Learned Addl. Public Prosecutor for U.T. Chandigarh also appeared.

Counsel for the parties heard and with their able assistance, we have perused the documents on record.

The essential facts, to be noticed are as follows:-

That, FIR No.4 dated 20.01.2024, under Sections 384, 336, 506, 120-B IPC and Sections 25 and 27 of the Arms Act, was registered at Police Station North, Sector-3, Chandigarh. Later, on the basis of the investigation conducted, Chandigarh Police invoked Sections 10, 11, 13, 18 and 18B of Unlawful Activities (Prevention) Act. As per the version put forth, on 18.01.2024, at about 4.38 p.m., complainant Kuldeep Singh had received a whatsapp call from a foreign phone number and the caller introduced himself as Kali/Kala and conveyed to the complainant that he has been assigned a duty by Goldy Bhai and further directed him to fulfill the demand of Goldy Bhai. On 19.01.2024, at about 4.14 a.m., firing was done at the house of the complainant i.e. House No.71, Sector-5, Chandigarh. On the same very day, at about 3.31 p.m., the complainant received calls from another foreign number, but he did not respond. Subsequently, complainant received a whatsapp voice note from the same mobile number. The sender identified himself as Goldy Brar, who acknowledged that the early morning firing at the complainant's house was done, on his instructions. Goldy Brar then threatened the complainant to pay Rs.3 crore extortion money.

During the investigation, the Chandigarh Police had arrested as many

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as eight persons, who were given numbers as A-1 to A-8. Appellant-Gurwinder Singh @ Gurvinder Singh @ Laddy is A-1 and appellant-Gagandeep Singh @ Goldy is A-8. Considering the seriousness of the offences, the Central Government in exercise of powers conferred under Sub-section (5) of Section 6 read with Section 8 of the National Investigation Agency Act, 2008, had directed the NIA to take up the investigation of the requisite FIR and thereupon, the case in question was registered as RC-03/2024/NIA/DLI under Sections 10, 11, 13, 18 and 18B of UP (P) Act and Sections 25 and 27 of the Arms Act against Goldy and others and took over the investigation.

During the course of investigation, it became evident that the arrested accused of the present case i.e. A-1 to A-8, were the members of terrorist gang formed by Designated Individual Terrorist (DIT) Satwinder Singh alias Goldy Brar (A-9), with the assistance of his associate Gurpreet Singh @ Goldy Rajpura (A-10). This terrorist gang was formed for carrying out unlawful and terror activities in India. Goldy Brar had assigned his associate Gurpreet Singh @ Goldy Rajpura to recruit members to the terror gang, whereupon, Amritpal Singh @ Gujjar (A-4) was recruited. A-10 promised A-4 to give money in return for executing various tasks assigned by A-10. Goldy Rajpura introduced Amritpal Singh @ Gujjar (A-4) to Goldy Brar (A-9).

On further instructions of Goldy Brar and Goldy Rajpura, Amritpal Singh @ Gujjar recruited Gurwinder Singh @ Gurvinder Singh @ Laddy (A-1) as well as Gagandeep Singh @ Goldy (A-8) and various other persons i.e. A-2, A-3 and A-5. The investigation established that A-4 Amritpal Singh @ Gujjar revealed the conspiracy hatched by A-9 and A-10 for



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targeting affluent businessmen for extortion, upon which, Gagandeep Singh @ Goldy agreed to help A-4. After the incident of firing at Sector-5, Chandigarh, Amritpal Singh @ Gujjar handed over pistols, magazines and live rounds to Gagandeep Singh @ Goldy, with the directions to conceal them.

Investigation also evidently spelt that when A-4 was recruited in the terror gang of Goldy Brar, appellant-Gagandeep Singh @ Goldy (A-8) arranged a rented room for A-4 and his associates, which became a regular meeting point for A-4 and his associates, till 20.01.2024. Even, Gagandeep Singh @ Goldy was himself a regular visitor to that place.

Furthermore, both Goldy Brar (A-9) and Goldy Rajpura (A-10) had arranged arms and ammunition for the terror gang, which were shown to appellant (A-8) and confided that the weapons have been provided by Goldy Brar (A-9). From the date of procurement to the day of attack in Sector-5, Chandigarh, appellant-Gagandeep Singh @ Goldy was aware of the weapons, procured on the instructions of Goldy Brar, from the instant conspiracy. Subsequent to the carrying out of the attack upon the complainant's house on 19.01.2024, the members of said terror gang, inclusive of Gagandeep Singh @ Goldy, continued meeting for other criminal activities. Also, it became evident that recce was got conducted, wherein, A-8 had participated. Even, after conducting of second recce, the target continued to receive death threats from A-10, even after the arrest of the accused in the present case.

After conducting of the recce in Rajpura, Amritpal Singh @ Gujjar had handed over the weapons used in the crime at Sector-5 Chandigarh, to his associate Gagandeep Singh @ Goldy, who concealed them, knowing

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itself that the weapons had been used in the crime. Thereafter, as per the instructions, he handed over the arms and ammunition to Shubham Kumar @ Giri @ Pandit.

Further, it emerged that Gagandeep Singh @ Goldy had arranged accommodation for the members of the terror gang. He also concealed the weapons used in the crime. He kept two magazines and seven live cartridges with himself, which were thereafter, recovered in pursuance of the disclosure statement made by him. He also accompanied his co-accused to conduct recce of new extortion target after 19.01.2024 attack in Chandigarh, which indicates his readiness to be available for the criminal illegal task, assigned by the foreign based handlers.

Based on the evidence, collected during the course of the investigation, final report was filed on 20.07.2024 under Section 120-B, 201 IPC and Sections 25 and 27 of the Arms Act as well as Section 18 of UA(P) Act against ten accused persons and wanted accused, including the appellants in question, as incriminating role came forth in the crime and conspiracy in the criminal task. Finding the prima facie case, the charge was framed against eight arrested accused including the appellants on 03.10.2024.

Charge was framed against appellant-Gurwinder Singh @ Gurvinder Singh @ Laddy (A-1) under Sections 120-B, 307, 384 IPC, Sections 16, 18, 18-B and 20 of UAPA as well as Sections 25(1A), 25(1AA) and 25(1B) of the Arms Act. Against appellant-Gagandeep Singh @ Goldy, the charge was framed under Sections 120-B, 201 IPC, Sections 18, 18-B of UAPA as well as Sections 25(1A), 25(1AA), 25(1B) and 27(2) of the Arms

Act.

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In the final report presented to the Special Court, NIA had also given the detailed background of the Designated Individual Terrorist Satwinder Singh @ Goldy Brar and the manner of association of various other persons, entering into conspiracy to create terror and violent acts in India, while his location is in US/Canada. It also gave the modus operandi of accused A-1 to A-10, being members of the terrorist gang formed by the notified terrorist Goldy Brar. The details of the manner of association of both the appellants, in the same gang and about the role assigned to them and fellow companions was also given.

In the reply filed by NIA, the details of linkage of the appellants in the terrorist gang and their involvement was revealed by NIA.

In the light of the aforesaid, at the very outset, learned counsel for both the appellants, in unison, have assiduously submitted that the appellants have been falsely implicated. In fact, they were never named in the FIR. There is no incriminating evidence against them. Appellant Gagandeep Singh @ Goldy is in custody since 17.02.2024 and appellant Gurwinder Singh @ Gurvinder Singh @ Laddy is in custody since 23.01.2024. The trial is going on at a snail's pace. The long custody, in such circumstances, in itself is a good ground for grant of bail, while invoking Article 21 of the Constitution of India. In fact, counsel submits that the factum of long undue delay in progress of the trial and long incarceration of the appellants, have been totally ignored by the Special Judge, which renders the orders impugned, unsustainable and deserve to be set aside. Further, it is also submitted that even the recovery has been implanted upon them.

To so substantiate their claim, learned counsel for the appellants



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have relied upon *Gurjant Singh @ Janty vs. State of Punjab, 2024 NCPHHC 168260*, wherein, it was held that the bail under UAPA can be granted, when the accused has been in long custody and no substantial evidence is found against him and the trial is unlikely to conclude in a reasonable time. Also, reliance has been placed upon *Sarabjot Singh @ Sabhi Sandhu vs. State of Punjab, 2024 NCPHHC 145358*, wherein, it was held that long period of incarceration under UAPA, without substantial evidence and no likelihood of trial concluding soon, entitles an accused to bail, invoking Article 21 of the Constitution of India. Even, reliance has been placed upon *Rameez Raja vs. State of Punjab, 2025(1) RCR (Criminal) 163*, *Athar Parwez vs. Union of India, 2024 SCC Online SC 3762* and *Union of India vs. K.A.Najeeb, 2021 (3) SCC 713*.

On the other hand, Special Prosecutor for the respondent-NIA has resisted the grant of bail to both the appellants. In fact, he made reference to the various documents, forming part of the final report, to emphasize that there is sufficient evidence collected during the course of investigation to prove the incriminating roles of the appellants. Since, sufficient material of linkage with the terror gang is evidently there and witnesses have also been examined to so substantiate, to which he made reference, therefore, he submits that provisions of Section (5) of 43D of UAP Act, are completely applicable to this case and therefore, bail has been very rightly denied to the appellants.

Further, the Special Prosecutor submits that till date, 35 witnesses, out of 137 cited witnesses have been examined. 23 witnesses are the protected witnesses. Further, other material witnesses, including the independent witnesses are yet to be examined. Thus, he submits that release of the

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appellants on bail, will hamper the efforts made to carry on the trial in purity. In fact, he submits that the role assigned and the active preparatory participation of the appellants is there. He refers to the various documents, copies whereof, have been placed on record, to establish linkage of the appellants with the terror group and their incriminating roles, spelt out. Thus, looking at this evidence, learned Special Prosecutor submits that it is quite obvious that there is every likelihood that in the eventuality of bail granted, the appellants shall interfere in the progress of the trial, by influencing the key witnesses, hampering the process of justice. Further, he submits that long incarceration in itself is no ground for grant of bail, when there is material coming forth to establish case against the appellants.

To substantiate his claim, learned Special Prosecutor has relied upon, *Gurwinder Singh vs. State of Punjab and another, 2024 INSC 92, Mamta and another vs. The State (NCT of Delhi) and another, 2022 INSC 626* as well as *Gulfisha Fatima vs. State (Govt. of NCT of Delhi), 2026 INSC 2*.

While laying special emphasis upon *Gurfisha's case (supra)*, learned Special Prosecutor submits that Hon'ble Supreme Court had considered **the aspect of delay in conducting of the trial under UAP Act and thereupon, addressed the question, vis-a-vis, the prosecution under UAP Act, when delay and prolonged incarceration are invoked as grounds for bail, what should be the principled approach by which a constitutional Court is to examine such a plea.** In the light of the same, Special Prosecutor has also made reference to various paragraphs of the judgment, wherein, the balancing of interest of the accused as well as the State, was made and thereupon, law was laid down to proceed further in the bail applications.

Thus, concluding his arguments, learned Special Prosecutor for NIA,

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made a prayer for denial of bail to both the appellants.

In view of the submissions aforesaid, it is apt to make reference to *Gurfisha's case (supra)*, wherein, observations made by the Hon'ble Supreme Court, are reproduced, as herein given:-

“30. Article 21 occupies a central place in the constitutional scheme. The right to life and personal liberty, and the insistence that any deprivation must conform to procedure established by law, are foundational guarantees. The right to a speedy trial has been recognised as an important facet of this guarantee. It follows that pre-trial incarceration cannot, by the mere passage of time, be permitted to assume the character of punishment.

31. At the same time, Article 21 has never been understood as operating in isolation from law. The constitutional promise is not that liberty will be unregulated, but that deprivations of liberty will not be arbitrary, unconscionable, or unfair. The expression “procedure established by law” reflects that balance. The UAPA, as a special statute enacted to address offences alleged to affect the security of the State and the stability of civic life, represents a legislative judgment as to the conditions under which bail may be granted at the pre-trial stage. Section 43D(5) of UAPA embodies the exercise of that judgment.

32. In Union of India v. K.A. Najeeb, this Court recognised a constitutional safeguard that cannot be ignored: statutory restrictions cannot be applied so as to render the guarantee of personal liberty illusory. It was held that where the trial is not likely to commence or conclude within a reasonable period, constitutional courts retain the jurisdiction to grant bail notwithstanding statutory restraints. The decision thus operates as a protection against unconscionable detention and there can be no second opinion on the said principle.

33. The same decision, however, does not indicate as laying down a mechanical rule under which the mere passage of time becomes determinative in every case arising under a special



statute. The jurisprudence of this Court does not support a construction whereby delay simpliciter eclipses a statutory regime enacted by Parliament to address offences of a special category.

34. The constitutional inquiry into delay is not an inquiry into guilt. It is an inquiry into whether continued detention remains constitutionally permissible in the circumstances of the case. That inquiry is necessarily contextual. Context includes the nature of the allegation, the statutory field, the stage of the proceedings, the realistic trajectory of the trial, the causes contributing to delay, and the risks attendant upon release. Delay cannot be detached from these considerations and treated as a solitary determinant.

35. The proper constitutional question, therefore, is not whether Article 21 is superior to Section 43D (5). The proper question is how Article 21 is to be applied where Parliament has expressly conditioned the grant of bail in relation to offences alleged to implicate national security. The law does not contemplate an either-or approach. Nor does it contemplate an unstructured blending of statutory and constitutional considerations. What is required is disciplined judicial scrutiny that gives due regard to both.

36. The appellants have urged that their continued incarceration over a prolonged period, coupled with the pace at which the trial has progressed, warrants their enlargement on bail notwithstanding the statutory embargo contained in Section 43D (5) of the Unlawful Activities (Prevention) Act, 1967. Prolonged custody undoubtedly implicates the constitutional guarantee of personal liberty under Article 21 of the Constitution, and such a plea cannot be rejected on the basis of duration alone without a careful and fact-sensitive examination. At the same time, the Court is required to examine whether the narrative of delay, as projected, is borne out by the record, and



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whether such delay is of a nature that constitutionally displaces the statutory mandate.”

The Hon’ble Supreme Court had also made observations, with regard to various aspects of delay to be considered, for the purposes of grant of bail or not. While considering the claim of the appellants in the ibid case, it was also observed that the appellants in present appeal, may not stand on identical factual footing, in all respects with the co-accused, whose appeal was considered by the High Court. It was also observed that since, they arise from the same trial, they are required to be considered.

Further also, it is apt to make reference to the observations made by Hon’ble Supreme Court in succeeding paragraphs, as herein given:-

*“42. The approach of addressing delay-related concerns through calibrated judicial supervision, rather than automatic enlargement on bail, stands reinforced by the decision of this Court in **Union of India v. Saleem Khan**. In that case, despite the accused having remained in custody for over five years and the trial not having commenced, this Court declined to interfere with the rejection of bail qua one accused, while upholding bail granted to another, thereby reiterating that delay-based pleas must necessarily be adjudicated on an accused-specific footing. Significantly, even while acknowledging the constitutional imperative of a speedy trial, the Court did not eclipse the statutory rigour under Section 43D(5) of the UAPA but instead directed expeditious conclusion of the trial and cautioned against any conduct on the part of the accused that may further protract the proceedings. The decision thus affirms that prolonged custody, though a matter of concern, does not operate as an automatic ground for grant of bail where the statutory threshold continues to be attracted.*

43. Viewed cumulatively, the record does not support the



absolute proposition that the appellants have remained “innocently incarcerated” without any contribution to delay, nor does it disclose a situation where the delay is so wholly unjustified as to override the statutory embargo contained in Section 43D (5). The appropriate constitutional response, at this stage, lies in ensuring vigilant oversight of the trial and its expeditious progression, rather than in eclipsing the statutory mandate governing bail in offences of the present nature. The plea of delay in the facts of the particular case, therefore, does not warrant enlargement on bail, though it justifies continued judicial emphasis on the timely conduct of the proceedings.

44. It is in this sense that the plea of delay must first be examined to see whether it arises in a manner that warrants constitutional scrutiny of continued custody. Broadly stated, the Court must consider whether the custody undergone is substantial, whether the proceedings have made meaningful progress, and whether there exists a realistic prospect of conclusion of trial within a reasonable period. The Court must also take note of the causes contributing to delay, including whether delay is attributable to the inherent complexity of the prosecution or to the conduct of parties, including the accused.

45. A finding that these circumstances exist does not, by itself, compel bail. It merely calls for the next level of constitutional consideration. At that stage, the Court is required to examine whether, notwithstanding delay, continued detention remains constitutionally justified having regard to the statutory context and the facts of the case. This examination is not a free-ranging balancing exercise; it is structured by legally relevant considerations.

46. One such consideration is the gravity of the alleged offence in its statutory setting. Under the UAPA, Parliament has legislatively characterised certain conduct as implicating the security of the State and the peace of society. That legislative characterisation does not conclude the judicial inquiry, but it is not constitutionally irrelevant. It forms part of the context in



which the Article 21 claim is assessed.

47. A closely allied consideration is the role attributed to the accused. Prosecutions under the UAPA may allege varying degrees of participation, ranging from peripheral acts to strategic, organisational, or ideological centrality. The constitutional significance of prolonged incarceration cannot be assessed uniformly for all accused regardless of role. Where the attribution suggests a central or organising role in the alleged design, the need for circumspection before constitutional intervention displaces a statutory embargo is correspondingly greater. Conversely, where the role is peripheral or episodic, prolonged incarceration may more readily assume a punitive character.

48. Another consideration is the prima facie strength of the accusation at the limited threshold contemplated by Section 43D(5). At this stage, the Court does not weigh evidence, test defences, or conduct a mini trial. Yet, the constitutional inquiry cannot proceed as if all allegations are identically situated. Whether the prosecution material, taken at its highest, discloses a prima facie nexus between the accused and the statutory ingredients is a circumstance that informs the assessment of continued detention.

49. Consideration must also be given to the integrity of the trial process and the risks associated with release. Depending on the nature of the case, these may include the possibility of influencing witnesses, tampering with evidence, or undermining the fairness of the proceedings. In prosecutions alleging organised activity, the assessment of such risks may differ from that in ordinary criminal cases. This is not to presume guilt, but to recognise that bail decisions are necessarily forward-looking in terms of ensuring an effective trial.”

The Hon’ble Supreme Court, while making reference to the



K.A.Najeeb's case (supra), had also observed as herein given:-

*“52. The consequence of the above is that **Najeeb(supra)** must be understood as a principled safeguard against unconscionable detention. Prolonged incarceration is a matter of serious constitutional concern and carries great weight. It is not, however, the sole determinant. The Court must consider, in totality, whether continued detention has become constitutionally unjustifiable, having regard to the role attributed, the statutory context, the limited prima facie material, the trajectory of the trial, the causes of delay, and the availability of intermediate remedies.*

53. This approach does not dilute Article 21. It gives Article 21 structured content in a field where the Constitution itself recognises competing interests. Nor does it render Section 43D(5) absolute. It recognises that statutory restraint must yield in an appropriate case where detention becomes punitive by reason of unreasonable and unjustified delay. What it excludes is a mechanical override based on time alone, divorced from legal context.”

It was observed that when the composite evaluation, yields a clear conclusion that continued detention has crossed the bounds of constitutional permissibility, that the Court may justifiably intervene, notwithstanding statutory restrictions. It also made reference to ***Gurwinder Singh's case (supra)***, in paragraphs No.58 and 59 and also observations were made in paragraph No.60, which are reproduced as under:-

*“58. In **Gurwinder Singh v. State of Punjab**, this Court expressly cautioned against the mechanical invocation of prolonged incarceration as a ground for bail in cases involving serious offences under special enactments. The judgment reiterates that the gravity of the offence, the legislative context, and the prima facie material on record cannot be eclipsed*



*merely because the trial has taken time. 59. This Court in **CBI v. Dayamoy Mahato** reiterated that while Article 21 remains paramount, it does not operate in a vacuum divorced from competing constitutional interests. The Court emphasized that claims to liberty must be examined in the totality of circumstances, particularly where allegations implicate organised criminality or matters of public interest. Delay, though undoubtedly significant, was held not to assume the character of an absolute or solitary determinant. The emphasis, once again, was on structured judicial reasoning rather than on formulaic outcomes.*

60. Read together, these decisions do not dilute the constitutional guarantee of personal liberty; they explain the manner in which it is to be applied. They do not support an approach of automatic displacement of statutory restraint, but instead emphasise a contextual and measured exercise of judicial scrutiny.”

While taking into consideration, **K.A.Najeeb’s case (supra)**, it also made observations, as herein given:-

*“61. To read **Najeeb (supra)** as mandating bail solely on account of prolonged incarceration, irrespective of the statutory context or the nature of the allegations, would be to attribute to the decision a consequence it neither intended nor supports. Such a construction would also lead to an interpretive absurdity, whereby a special statute enacted by Parliament to address offences implicating the sovereignty, integrity, and security of the State would stand effectively neutralised by the mere passage of time, even at a pre-trial stage. Such an outcome cannot be countenanced in constitutional adjudication. Accordingly, the finding in **Najeeb(supra)** is properly situated as a constitutional safeguard to be invoked in appropriate cases, and not as a mathematical formula of universal application.”*

Further also, while considering the provisions of Section

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43D(5) of UAP Act, it was observed that the expression “**prima facie true**”, which lies at the heart of Section 43D(5), does not invite a detailed examination of evidence, nor does it require the Court to assess the probability of conviction. The Court is not called upon to weigh the probative value of evidence, to assess its admissibility, or to determine whether the prosecution version will ultimately withstand trial.

Furthermore, Hon’ble Supreme Court also called upon the Court to examine the role attributed to the individual accused and that the provision does not demand mechanical denial, nor casual grant of bail, but a principled application of statutory standard, within its clearly defined limits.

Considering the aforesaid, it is apt to make reference to the observations made by the Hon’ble Supreme Court in paragraphs No.80 to 82, which are reproduced here under:-

*“80. From the foregoing discussion, certain propositions governing the application of Section 43D(5) emerge with clarity. **First**, the provision embodies a deliberate legislative departure from ordinary bail jurisprudence, premised upon the distinctive nature of offences under Chapters IV and VI of the Act. **Second**, the expression “prima facie true” mandates a threshold judicial inquiry which is neither perfunctory nor adjudicatory, requiring the Court to examine whether the prosecution material, taken at face value, discloses the essential statutory ingredients of the alleged offence. **Third**, the inquiry is necessarily accused-specific, directed to the role and attribution qua the individual, and does not admit of collective or undifferentiated treatment merely because allegations arise from a common transaction or conspiracy. **Fourth**, the bail stage under Section 43D(5) is not a forum for evaluating defences, weighing evidence, or conducting a mini-trial; judicial restraint at this stage is not an abdication of duty but a fulfilment of the statutory mandate.*



These propositions, read together, define the contours of judicial power and responsibility under the provision.

81. The correct application of Section 43D(5), therefore, requires the Court to undertake a structured inquiry confined to the following:

i. whether the prosecution material, accepted as it stands, discloses a prima facie case satisfying the statutory ingredients of the offence alleged;

ii. whether the role attributed to the accused reflects a real and meaningful nexus to the unlawful activity or terrorist activity proscribed under the Act, as distinguished from mere association or peripheral presence; and

iii. whether the statutory threshold is crossed qua the individual accused, without embarking upon an assessment reserved after full- fledged trial.

82. Where these requirements are met, the statutory restraint on the grant of bail must operate with full force; where they are not, the embargo stands lifted. This approach preserves the legislative purpose of the Act, and ensures that the exceptional nature of the bail regime under Section 43D(5) is neither diluted by overreach nor distorted by mechanical application.”

Thus, the Hon’ble Supreme Court also rejected the appeals filed, vis-a-vis, the denial of bail to the accused, while considering the material to be suggestive of involvement, at the level of planning, mobilisation, and strategic direction, extending beyond episodic or localised acts. The statutory threshold under Section 43D(5) of the Unlawful Activities (Prevention) Act, therefore, was held to be attracted qua the appellants, whose appeals were rejected. Furthermore, it was observed that the complexity of prosecution, the nature of evidence relied upon and the stage of the proceedings, do not justify their enlargement on bail, at that

stage.

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The above case law sums up the manner, in which the balancing of interest of the accused and the protective manner, to proceed while considering the interest of the State, has to be made. One is as important as the other but not the one above the another. These all factors touched and considered by the Hon'ble Supreme Court, have to be looked into and an attempt be made by the Courts to create a balance, while watching the interest of both the sides and evaluate the material, brought on record.

Of course, there cannot be any strait-jacket formula to be adopted to adjudicate on the matters of grant/denial of bail. Each case, has to be adjudicated in its own factual background. One distinctive circumstance, may lead to different decision. However, the Courts ought to remain sensitized that the appreciation of the material brought on record, is not with the purpose of conducting of mini trial. It is only to pin point, as to whether, there are reasonable grounds for believing that accusations against the persons concerned, are prima facie true or not.

Adverting to the case in hand, more particularly, the copies of the documents prepared/produced, during the course of trial, to which learned Special Prosecutor had made reference to, apparently linkage of the appellants to the gang involved in spreading terror and violent acts in the country, is evident at this stage. Of course, merits/demerits of the same shall be the subject matter of appreciation, at the final stage. Anyhow, it fulfills the requirements of Section 43D(5) of the ibid Act.

Learned Special Prosecutor has referred to the documents prepared, during the course of investigation, copies whereof, have been placed on record. He made reference to the arrest memo of accused

Gurwinder Singh @ Gurvinder Singh @ Laddy, dated 23.01.2024 as well as

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the search memo. Thereupon, he also made reference to the disclosure statement of aforesaid accused (A-1) dated 25.01.2024, regarding his role in the instant crime, where he disclosed that he conducted recce of House No.71, Sector-5, Chandigarh on 18.01.2024 along with fellow accused A-4, A-2 and A-5. He also disclosed about subsequent stay at Hotel Satkar and then returning to House No.71, Sector-5, Chandigarh, on next day morning, for carrying out firing and further about the positioning of the persons, near that house, during the course of incident. Pursuant to his disclosure statement, even visitor entry register of Hotel Satkar and DVR containing CCTV footage of the hotel were recovered. Further, seizure memo relating to the same was also prepared.

The entry of the visitor register on 18.01.2004 was allegedly made by Gurwinder Singh @ Gurvinder Singh @ Laddy, who furnished his Aadhaar Card, at the time of taking a room. Seizure memo of DVR, containing CCTV footage of Hotel Satkar was also prepared, visibly depicting Gurwinder Singh @ Gurvinder Singh @ Laddy (A-1), besides fellow accused. On the basis of the disclosure statement, even Splendor motorcycle as well as two live rounds were also recovered. Even, the clothes worn by Gurwinder Singh @ Gurvinder Singh @ Laddy, which was also visible in CCTV footage, were also taken into possession. Even, the comparison of the handwriting of Gurwinder Singh @ Gurvinder Singh @ Laddy with the recitals of the entry made in the visitor register, was done; CFSL report was obtained, which allegedly confirmed about the specimen questioned signatures to be of the same person. Likewise, report of CFSL came forth of the confirmation about two live rounds recovered from the accused, to be constituting ammunition falling within the purview of Arms Act.

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Furthermore, on the record, is the technical report, which connects the location of stay of Gurwinder Singh @ Gurvinder Singh @ Laddy with his fellow companions at Hotel Satkar and further also, his proceeding at the place of recce.

Besides the aforesaid, counsel had also made reference to the statements of the various witnesses recording during the course of the trial, but however, this Court is intentionally not making reference to the same, lest it may hamper the interest of either side. Otherwise also, no mini trial, as such, is to be conducted, at this stage. Broadly the documents, coming forth, are to be considered.

No doubt, arrest of appellant-Gagandeep Singh @ Goldy was effected on 17.02.2024 and Gurwinder Singh @ Gurvinder Singh @ Laddy on 23.01.2024, but this long detention is one of the circumstance, to be considered, while considering the interest of the appellants and also of the State, vis-a-vis, other circumstances spelt out, as held in *Gulfisha's case (supra)*.

In the case in hand, charge was framed on 03.10.2024. As evident from the record, there were 137 cited witnesses and 35 have already been examined till date. The protected witnesses were 23 and out of them, 20 have been examined and NIA was not inclined to examine other three witnesses.

Such being the position, firstly it be noted that there are other material witnesses, including independent witnesses, who are yet to be examined. Though, the Special Prosecutor had made reference to the role assigned to the appellants, as deposed by the witnesses, but however, this Court is intentionally not making reference to their testimonies. Anyway, it is

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evident that more witnesses are yet to be examined. Ever since the framing of charge, 35 witnesses have already been examined. One cannot lose sight of the fact that the evidence, generally in such cases, is quite lengthy and consumes lot of time in recording of the same.

The complexity of the prosecution and nature of evidence relied upon and the stage of the proceedings, ought to be taken into consideration. Such being the state of affairs, in any case, it cannot be said that the trial is proceeding at snail's pace, for which, the bail is to be granted to the appellants. The allegations are quite grave. The participation in the conspiracy by the appellants associating terrorist gang is there. The material on record, spells about the involvement of the appellants, in the conspiracy, knowing fully well, the consequential implications of the same, even though, it is a preparatory act.

Section 18 of Unlawful Activities (Prevention) Act, provides punishment for conspiracy and therein, it specifically states about, whoever conspires or attempts to commit, or advocates, abets, advises or [incites, directly or knowingly facilitates], the commission of, a terrorist act or any act preparatory to the commission of a terrorist act, and it provides punishment for the same.

In the case in hand, the association, as such, of conducting of the recce, spells out the involvement in the conspiracy, even though, it was a preparatory act, knowing fully well the consequential implications of the same. Even Gagandeep Singh @ Goldy, concealed the weapons and made arrangement for stay of the fellow companions, after conducting recce.

Thus, considering the totality of the circumstances and making

the balance of the same and to secure the trial being conducted in continuity,

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thereby, having no scope of winning over or breaking of the witness or obstruction of their examination, during the course of the trial and also considering the complexity of the prosecution, the nature of evidence relied upon and further about the number of witnesses already examined, the same do not, in any manner, justify the enlargement of the appellants, on bail, at this juncture.

To so conclude, another factor which also weighs the mind of this Court is that creating of more exclusive Courts for NIA in Punjab is under way, which shall soon become operational. Precisely, on this account, there is hope for the continuation of the trial of this case, to be put on high track, thereby, leading to expeditious conclusion of the trial, which is so expected and desired from the Special Court. At the same time, the prosecution is also expected to make efforts to ensure presence of the witnesses and further to make an effort to avoid recording of the multiple witnesses to prove the same fact from the bunch of multiple facts, to establish the guilt of the appellants. This shall also considerably reduce the time consumed in conducting and concluding of the trial, which ultimately is also beneficial to reduce the detention period of the accused persons. Working in this harmony shall in itself watch the interest of the accused also.

Considering the composite evaluation of the entire material on record and more particularly, considering the involvement of the appellants, as spelt out, we are not inclined for granting benefit of bail to the appellants. Hence, the appeals are hereby dismissed.

However, the observations aforesaid, are circumscribed only for the purposes of the disposal of the present appeals and the same shall have



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no bearing on the merits of the case, pending before the trial Court, in any manner.

(ARCHANA PURI)
JUDGE

(MANDEEP PANNU)
JUDGE

September 14, 2026
Vgulati

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No