

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2025:PHHC:160394-DE



Reserved on : 03.11.2025
Pronounced on : 17.11.2025

CRA-D No. 1396 of 2023 (O&M)

1. Bhola SinghAppellant
versus
State of PunjabRespondent

CRA-D No. 1586 of 2023 (O&M)

2. Baljit Singh @ MahnaAppellant
Versus
State of PunjabRespondent

CRA-D No. 695 of 2024 (O&M)

3. Harjinder Singh @ RajuAppellant
versus
State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MRS. JUSTICE RAMESH KUMARI

Present : Mr. Baltej Singh Sidhu, Senior Advocate with
Mr. Chandan Singh, Advocate,
Mr. Gurmeet Singh Budhiraja, Advocate,
Mr. Himmat Singh Sidhu, Advocate;
Ms. Reema, Advocate, for the appellant in
CRA-D No. 1396 of 2023.

Mr. Kamal Narula, Advocate for the appellant in
CRA D No. 1586 of 2023.

Mr. Sandeep Kumar Bokolia, Advocate,
for the appellant in CRA D No. 695 of 2024.

Mr. Siddharth Attri, Deputy Advocate General, Punjab.

RAMESH KUMARI, J.

By way of this common order, all these three appeals are disposed of as common questions of law and facts are involved therein.

2. Criminal Appeals No. 1586 of 2023 is preferred by the appellant-Baljit Singh @ Mahna challenging the order dated 21.09.2023 (hereinafter referred to as 'the impugned order') passed by learned Additional Sessions Judge, Special Court, Faridkot. Appeal Nos. 1396 of 2023 and 695 of 2024 have been filed by the appellants, namely Bhola Singh and Harjinder Singh @ Raju against the two separate impugned orders of the same date i.e. 29.08.2023 passed by learned Additional Sessions Judge, Special Court, Faridkot.

3. The above noted orders dismissing the applications of these appellants (hereinafter referred to as 'the accused') are rendered in case arising out of FIR No. 228 dated 10.11.2022 under Sections 302, 307, 148, 149, 120-B, 201, 473, 411 and 212 of the Indian Penal Code, under Section 25 of the Arms Act and under Sections 16,18,20 of Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as 'UAPA Act'), registered at Police Station City Kotakpura.

4. Briefly stated, the facts germane to the present appeals are as follow:-

a) On 10.11.2022, at about 07.15 P.M. murder of Pardeep Singh Kataria @ Raju Dodhi, husband of complainant Simran, took place and the above referred FIR was registered on the basis of the statement of his wife/complainant Simran. No person was named by complainant Simran in her statement dated 10.11.2022 recorded by Sub Inspector Pritam Singh.

b) The statement of Simran wife of deceased Pardeep Singh Kataria Raju Dodhi, is in Punjabi script and when translated to English, it makes the following reading:-

"I would like to state that I am resident of above noted address and am running a boutique. My husband Pardeep Singh runs a milk Dairy and grocery shop at Hari Nau Kotkapura and my boutique is adjoining to our Dairy/shop. We have three children and our entire family has taken "Naam" of Dera Sacha Saudha, Sirsa Wala. A police security official has been provided by the administration to my husband. Today when I and my husband Pardeep Singh along with his security official Hakam Singh were present at our grocery shop at Hari Nau Road Kotkapura then at about 7:15 AM, two unknown youngmen who had parked their motorcycle in the street came into our shop on the pretext of purchasing some material. Another four more unknown youngmen had also stopped their two motorcycles in the street at some distance ahead of our shop and came outside our shop. In the meantime, the two youngmen who were already into our shop took out pistols from their respective Dabs and fired at my husband Pardeep Singh, who got injured. Our security official- Hakam Singh present in the shop tried to save my husband with official weapon but the assailants also fired upon him hitting his left leg and thereafter the four persons standing outside the shop also fired with their respective weapons, due to which Amar Singh Ex-M.C. resident of Kotkapura who is our neighbor got injured. The youngmen while firing left one motorcycle at the spot and ran away with their respective weapons on their second motorcycle. In the mean time our relative Hardeep Singh Insan son of shri Devinder Kumar resident of Tota, District Moga who had come yesterday to meet us also reached there and had also seen the said incident. The public gathered there who arranged vehicle and took these three injured persons to Civil Hospital Kotkapura where due to serious condition of my husband Pardeep Singh, and of his security official, they were taken to Medical College Faridkot, where my husband died during treatment. Our security official Hakam Singh and neighbour M.C. Hakam Singh are under treatment. I and my relative Hardeep Singh can identify the above said assailants if they appear before me. The above said six unknown persons have committed the murder of my husband by shooting him and caused injuries to security official Hakam Singh and M.C. Amar Singh. There is deep conspiracy behind the murder of my husband. The big reason behind this incident is also that the

previous governments have indulged into petty politics for their vote bank and innocent Dera Premis have been made accused in the pending cases of sacrilege pertaining to Guru Granth Sahib and other cases and have given religious colour to such incidents. We Dera Premis are respecting all the religious and are serving the society without any aim but the government, while misusing media, have been defaming us in the society due to which such, anti-social elements got a chance and they have committed above said incident. Other persons may be involved in this case. Justice be provided to me by taking action against them. I have got recorded my statement in the presence of my relative Hardeep Singh, which is correct.”

(c) After registration of FIR, inquest report with respect to the dead body of Pardeep Singh Kataria alias Raju Dodhi son of Jaspal Singh @ Sadhu Singh, was prepared. Post mortem examination of the dead body was got conducted and the post mortem proceedings were also videographed by the Board of Doctors under the chairmanship of Dr. Ravdeep Singh and by Dr. Atul and Dr. Arun, as members. The dead body was handed over to the legal heirs of deceased. On the basis of application moved by the family of deceased regarding donation of eyes, the dead body was handed over to Dr. Supreet for further proceedings where one part of eye was retrieved and the dead body was again subjected to post mortem examination by the Board of Doctors. The proceedings of post mortem were video-graphed and dead body was handed over to legal heirs of deceased.

(d) The clothes of the deceased duly sealed with seal, post mortem report and videography recording of the post mortem proceedings was also obtained in the memory card from the Doctor by SI Pritam Singh. SI Pritam Singh inspected the spot, prepared site plan and lifted the empty cartridges. He also lifted blood with cotton swabs from the shop of deceased as well as from the adjoining shop and from the shop of Amar Singh. Plain soil was also lifted. One iron lock having mark of bullet was also lifted from the spot and were

separately parceled, sealed by the Investigating Officer with his seal and taken in police possession.

(e) Motor cycle with broken rear number plate and having number HR14-A-4083 on the front number plate was also taken into possession from the street near the shop of deceased.

(f) During the course of investigation, SI Pritam Singh received information that two unclaimed motor cycles are parked near the truck union, Bajakhana and these can be connected with the incident of this case. One motor cycle make Hero Splendor without number and another motor cycle of Hero Honda Super Splender without number and whose chassis number could not be decipherable, black coloured with front light part stained with were taken into possession by SI Pritam Singh. Samples of blood lifted from the motor cycle were also sealed by SI Pritam Singh and other proceedings were conducted.

(g) On 12.11.2024, Inspector Lachhman Singh, SHO of Police Station, City South Moga, telephonically informed SI Pritam Singh that during investigation in case FIR No. 235 dated 04.11.2022 under Sections 387, 506 read with Section 120-B of the Indian Penal Code, Police Station, City South Moga, **Harjinder Singh @ Raju** son of Nirmal Singh @ Nimma, resident of Manavan Police Station Kot Ise Kha District Moga, after seeing the photographs of murder of deceased of this case, identified the assailants as Manpreet Singh and Bhupinder Singh and also informed that murder was committed at the instance of Goldi Brar who resides abroad and he was in contact with Goldi Brar and Goldi Brar informed him about the known persons of the area and he gave the contact numbers of Manpreet Singh @ Mani and Bhupinder Singh. On the basis of investigation and other secret enquiry,

Manpreet Singh @ Mani, Bhupinder Singh, Balwinder Singh, Harjinder Singh @ Raju, Nirmal Singh @ Nimma and Satinderjit Singh @ Goldi Brar were nominated as accused in this case.

(h) During investigation of FIR No. 323 dated 23.10.2022 under Section 25 of the Arms Act, Special Cell, Delhi, by SI Ankur Sojwal, accused Jatinder Singh @ Jeetu son of Kashmiri, resident of Banyani Police Station Klasaur, District Rohtak, Mohit Chauhan son of Satbir, resident of Ward No.3, village Dhanana, District Bhiwani, Haryana and Manish Nand Lal @ Goli son of Deepak Kumar, resident of Panna Chopan Village Boar, District Rohtak admitted their involvement in the murder of Pardeep Singh Kataria @ Raju Dodhi and SI Ankur Sojwal informed about it telephonically to the police of Police Station Kotakpura on 12.11.2022 and these accused were nominated in this case.

(i) CCTV footages of the areas around the commission of offence were checked and taken into possession vide separate DVB by SI Pritam Singh.

(j) On 14.11.2022, Harjinder Singh @ Raju was arrested in this case after obtaining his transit warrant from Chief Judicial Magistrate, Moga.

(k) On 17.11.2022, Juveniles (M.C. and M.A.) (juveniles identity withheld) were taken in protective custody and were lodged in Juvenile Home, Faridkot. Juveniles were questioned with the permission of the Principal Magistrate, Juvenile Justice Board, Faridkot and they admitted their involvement in the commission of offence. They also suffered their disclosure statements that after murder of Pardeep Singh Kataria @ Raju Dodhi, **Baljit Singh @ Mana** son of Gurmeet Singh assisted them to escape and accused

Baljit Singh @ Mana was nominated as accused vide Rapat No. 35/17.11.2022.

(l) On 17.11.2022, accused **Baljit Singh @ Mana** was arrested in this case. **Rs. 13,000/- was recovered during personal search of accused Baljit Singh @ Mana.** On the same day, accused Manpreet Singh @ Mani and Bhupinder Singh @ Goldi were arrested and Rs. 7000/- were recovered during personal search of accused Bhupinder Singh @ Goldi.

(m) Accused **Bhola Singh** and Vicky Chauhan were nominated vide Rapat No. 70 dated 18.11.2022 on the basis of disclosure statement of accused Manpreet Singh @ Mani and accused Bhupinder Singh @ Goldi.

(n) On 19.11.2022, on the basis of disclosure statement and identification of co-accused Manpreet Singh @ Mani, one pistol 9 MM and 4 live cartridges and on the basis of disclosure statement and identification of co-accused Bhupinder Singh @ Goldi, one pistol .30 bore pistol and 3 live cartridges and one white cap were got recovered.

(o) On 19.11.2022, accused Vicky Chauhan son of Balwinder Singh was arrested and on the basis of his interrogation and report of indulgence, accused Swaran Singh @ Sunny son of Amrik Singh was nominated in this case vide DDR No. 54 dated 19.11.2022. Accused Swaran Singh @ Sunny was also arrested on 19.11.2022 and one Car Ritz bearing registration No. PB10DZ-5283 alongwith registration certificate was got recovered which was used to ferry the accused to a safe place after commission of offence.

(p) Accused Ramjan Khan @ Raj Hooda son of Mahbub Khan, resident of Rohtak was nominated in this case vide Rapat No. 36 of 20.11.2022 as a shooter (who actually fired shots) on the basis of interrogation of co-accused Manpreet Singh @ Money and Bhupinder Singh @ Goldi.

(q) Co-accused Pawandeep Singh @ Pavna was also nominated vide Rapat No. 58 dated 21.11.2022 on the basis of interrogation of co-accused Swaran Singh @ Sunny, Manpreet Singh @ Mony and Bhupinder Singh @ Goldi, who confessed that before murder of Pardeep Singh Kataria @ Raju Dodhi, assailants stayed at Avtar Palace, Jaito, where Pawandeep @ Pavna son of Harpreet Singh and another person came in Swift car and handed over 100 cartridges of 9.mm and .30 bores to Manpreet Singh @ Mani and Bhupinder Singh @ Goldi, who kept 9 mm and 30 bore 100 cartridges and returned 32 bore cartridges to Pawandeep Singh @ Pavna and only Pawandeep knew about the same.

(r) **On 22.11.2022, accused Bhola Singh was arrested on the basis of production warrant as he was in custody in modern Jail, Faridkot.** On the same day, co-accused Pawandeep @ Pavna was arrested and on the basis of disclosure statement of co-accused Pawandeep @ Pavna, co-accused Harpreet Singh @ Bhau son of Sukhpal Singh, resident of village Dhapai, District Faridkot was nominated vide Rapat No. 68 dated 22.11.2022.

(s) During investigation of this case, on **23.11.2022 accused Bhola Singh confessed his involvement in the commission of offence and vide Rapat No. 80 dated 23.11.2022, offences punishable under Sections 16, 18 and 20 of UAPA Act was added.**

(t) On 26.11.2022, co-accused Pawandeep @ Pavna as per his statement got recovered 50 cartridges of 32 bore pistol to the police

(u) On 02.12.2022 co-accused Ramzan Khan @ Raj Hooda was produced in the Court of Judicial Magistrate Ist Class, Faridkot from Central Jail, Jaipur on the basis of production warrant since he was lodged in the said jail in connection with FIR No. 473 dated 20.11.2022 under Sections 307, 332,

353, 216, 120-B of the Indian Penal Code and under Section 25 of the Arms Act.

(v) On 09.12.2022, co-accused Jitender @ Jitu was produced in the Court of learned Illaqa Magistrate of Delhi Police on the basis of his production warrant. On the basis of disclosure statement and identification of co-accused Jitender Singh @ Jeetu, one Scooter No. HR02-AM-3585 used in the commission of offence was got recovered on 14.12.2022. On the basis of information given by accused Jitender Singh @ Jeetu and other investigation, co-accused Parvinder Singh @ Kala and Manpreet Singh @ Lata were nominated as accused vide DDR Rapat No. 61 dated 15.12.2022.

(w) On 18.12.2022, above named accused Parvinder Singh @ Kala and Manpreet Singh @ Lata were arrested and during investigation it was found that accused Parvinder Singh @ Kala used his Car No. PB11-CR-5757 to facilitate escape of the accused till Bajakhana after commission of the offence by them. During investigation, both the above named accused also suffered their disclosure statements on 20.12.2022 that after offence of murder of Pardeep Singh Kataria @ Raju Dodhi on 10.11.2022, they took the assailants Jitender Singh @ Jeetu and his companions in Car No. PB-11-CR-5757 towards the fields of Manpreet Singh @ Lata. Jitender Singh @ Jeetu had fired arm injury on his foot and shoes/socks and the cotton used to clean the injury of Jitender Singh @ Jeetu, cover of pillow, coat & tie of companions of Jitender Singh @ Jeetu can be got recovered by him and the same were got recovered.

(x) The case property collected during the course of investigation was deposited with MHC. The ownership of vehicles recovered during investigation was got verified from the concerned registration authorities. The

incriminating substance was deposited with FSL and FSL reports were obtained.

(y) After completion of investigation, challan against the accused persons, namely (i) **Harjinder Singh @ Raju** (ii) **Baljeet Singh @ Mana** (iii) Manpreet Singh @ Mani (iv) Bhupinder Singh @ Goldy (v) Vicky Chauhan (vi) Swaran Singh @ Sunny (vii) **Bhola Singh** (viii) Pawandeep Singh alia Pavna (ix) Ramjan Khan @ Raj Hooda (x) Jatinder @ Jeetu (xi) Parwinder Singh @ Kala (xii) Manpreet Singh @ Lata whereas challan against co-juvenile, namely, (MN) was presented before the Juvenile Justice Board whereas 2nd Juvenile, namely, (MC) was found to be adult as his date of birth was 14.07.2023. Offence punishable under section 201 IPC was also invoked against co-accused (MC) (who was earlier declared as juvenile) and co-accused juvenile (MC), Jitender @ Jeetu and Ramjan Khan @ Raj Hooda because they did not got recovered the weapons used in the commission of offence.

5. Accused Satinder Jit @ Goldy Brar and Harman Singh could not be arrested. Challan against two juveniles was presented before the Juvenile Justice Board.

6. Vide order dated 28.11.2023, accused, namely, Harjinder Singh @ Raju, Baljit Singh @ Mana, Manpreet Singh @ Mani, Bhupinder Singh @ Goldy, Vicky Chauhan, Swaran Singh @ Sunny, Bhola Singh, Pawandeep Singh @ Pavna, Ramjan Khan @ Raj Hooda, Jatinder Singh @ Jeetu, Parwinder Singh @ Kala, Manpreet Singh @ Lata and Harpreet Singh Bhau were charge sheeted for the commission of offences punishable under Sections 16,18,20 of UAPA Act and under sections 148 IPC, 302 IPC read with section 120-B IPC, 307 read with section 120-B IPC, 201 read with section 120-B IPC,

under section 212 read with section 120-B IPC, under section 473 read with section 120-B IPC, 411 IPC, 25 of the Arms Act, to which they all did not plead guilty and claimed trial.

7. Learned trial Court dismissed the regular bail application of accused Bhola Singh on the ground that while Bhola Singh was in custody, accused Manpreet Singh @ Money used to visit to meet him in jail frequently and followed him on the dates fixed for hearing. In jail Bhola Singh got interacted with one Goldy Brar to commit murder of Pardeep Singh Kataria @ Raju Dodhi, a Dera Premi of Dera Sachha Sauda and then accused Goldy Brar, who resides abroad, deputed Bhola Singh for the purpose of recce and for supply of arms and ammunitions to local persons of Faridkot. Bhola Singh in connivance with his brother-in-law Manpreet Singh @ Mani and Bhupinder Singh @ Goldy planned to proceed further for committing the said murder. The murder of Pardeep Singh Kataria @ Raju Dodhi was committed on 10.11.2022 and whole plan for commission of offence was made after consultation with various persons/miscreants, residing in India and abroad. Considering the nature of the allegations and gravity of the offences and the fact that accused was involved in the commission of offence under UAPA, the bail application of accused Bhola Singh was dismissed on 29.08.2023 by learned Additional Sessions Judge, Special Court, Faridkot.

8. On similar grounds, the bail application of accused Baljit Singh @ Mahna was dismissed on 21.09.2023 and bail application of accused Harjinder Singh @ Raju was also dismissed on 29.08.2023 by the learned trial Court.

9. Shri B.S.Sidhu, learned Senior counsel appearing for accused Bhola Singh contended that the learned trial Court committed error in

dismissing the bail application of accused Bhola Singh. There is not even an iota of evidence against accused Bhola Singh and FIR is registered against unknown persons and accused Bhola Singh has been nominated on the alleged disclosure statement of co-accused Baljit Singh @ Mahna and Bhupinder Singh @ Goldy where both these co-accused in their alleged disclosure statements did not name accused Bhola Singh. Accused Bhola Singh is in jail since the date of his arrest on 22.11.2022 and had cooperated with the police during investigation and is no more required for the purpose of investigation. Till date, the prosecution has examined only one witness out of total 105 witnesses. The police has also added Sections 16,18 and 20 of the Unlawful Activities (Prevention) Act, 1967 against accused Bhola Singh. Section 16 of UAPA, 1967 prescribes punishment for terrorist act. Section 18 of UAPA prescribes punishment for conspiracy etc. whereas Section 20 prescribes punishment for being member of terrorist gang or organization. Neither the accused is a member of terrorist gang or terrorist organization nor he committed any terrorist act. He further contended that if it is not proved that accused was member of the organization as mentioned in UAPA Act, Section 20 of UAPA could not be invoked against accused Bhola Singh. There is no evidence in the FIR or challan supplied under Section 173 Cr.P.C. to link the accused with accused Goldy Brar (absconder). The mobile allegedly used by the accused Bhola Singh has not come on record. Accused Bhola is involved in eight other cases and out of these eight cases, he has been acquitted in two cases and convicted in one case whereas trial is going on in the remaining cases. The pendency of criminal cases cannot be a ground to deny the benefit of regular bail and in support of his contention learned defence counsel has

relied upon a judgment of the Apex Court in ***Maulana Rashadi vs. State of U.P. (2012) 3 SCC 382***, wherein it has been held as under:-

“It is not in dispute and highlighted that the second respondent is a sitting Member of Parliament facing several criminal cases. It is also not in dispute that most of the cases ended in acquittal for want of proper witnesses or pending trial. As observed by the High Court, merely on the basis of 4 criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

Learned counsel for accused Bhola Singh also contended that if given benefit of regular bail, the accused will not leave India without permission of the Court and completion of trial is likely to take time and therefore, he vehemently prayed for release of accused Bhola Singh on regular bail.

10. Learned defence counsel Mr. Kamal Narula, appearing for accused Baljit Singh @ Mahna also contended that accused Baljit Singh is not named in the FIR. Accused Baljit Singh was arrested on 17.11.2022 and is in custody since then and trial Court rejected his bail application without assigning any reasons. The police has wrongly invoked sections 16,18 and 20 of UAPA, 1967 against the accused and there was no conversation of accused Baljit Singh @ Mahna with accused Goldy Brar (since absconder) or Baljinder Singh to link him with the commission of offence of murder of Pardeep Singh Kataria @ Raju Dodhi. The accused is involved in four other cases but his involvement in these cases cannot have any effect upon his regular bail in this case. He has also relied upon the judgment of Hon’ble Apex Court in ***Maulana Mohd. (supra)***. He further submits that accused will not leave India

without permission of the trial Court and he vehemently prayed for setting aside the impugned order passed by the learned trial Court and also prayed for release of accused on regular bail.

11. Shri Sandeep Singh Bakolia, learned defence counsel appearing for accused Harjinder Singh @ Raju also contended that accused is not named in the FIR; he has not committed the alleged offences; he is in custody since 14.11.2022; he has been falsely implicated and no offences punishable under Sections, 16,18 and 20 of UAPA Act is made out against the accused and he has been named in this case only because he contacted with accused Goldy Brar (absconder) and prosecution presumes that he was part of the conspiracy for committing the alleged offences. The order of the learned trial Court is liable to be set aside because there are no specific allegations against accused Harjinder Singh @ Raju which could connect him with the alleged offences. No recovery of incriminating substance has been effected from him. Challan has already been presented before the trial Court and Section 43(5) of UAPA Act will not be applicable. Accused is involved in five other cases. He has also contended that accused if enlarged on bail shall not leave India and abide by all the terms and conditions imposed by this Court. In support of his contention, learned defence counsel has also relied upon order dated 01.02.2021 passed by Hon'ble Apex Court in Criminal Appeal No. 98 of 2021 (*Union of India vs. Najeeb*) wherein Supreme Court has held that:

“long custody would be an essential factor while granting bail under the UAPA. Article 21 of the Constitution of India provides right to speedy trial and long period of incarceration would be a good ground to grant bail to an under trial for an offence punishable under the UAPA. It has also been held that the embargo under Section 43-D of the UAPA would not negate the powers of the Court to give effect to Article 21 of the Constitution of India.”

12. Controverting the allegations against the appellants, Shri Sidharth Attri, learned Deputy Advocate General, Punjab relied upon the statements of the prosecution witnesses recorded during the course of investigation, confessional statements, ziminies in the police diary and the fact that all the accused have already been charge-sheeted by the trial Court vide order dated 28.11.2023 and in view of the chequered criminal history of all the accused persons, he vehemently prayed for dismissal of all the three bail applications.

13. The contention of learned defence counsel that the accused are not members of any terrorist organization and therefore, no terrorist act is committed by cannot be accepted. The term ‘Terrorist Act’ is defined in Section 15 of the UAPA, 1967 which reads as under:-

“15. Terrorist act.—4[(1)] Whoever does any act with intent to threaten or likely to threaten the unity, integrity, security 5[, economic security,] or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country,—

(a) by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisonous or noxious gases or other chemicals or by any other substances (whether biological radioactive, nuclear or otherwise) of a hazardous nature or by any other means of whatever nature to cause or likely to cause—

(i) death of, or injuries to, any person or persons; or

(ii) loss of, or damage to, or destruction of, property; or

(iii) disruption of any supplies or services essential to the life of the community in India or in any foreign country; or

(iiia) damage to, the monetary stability of India by way of production or smuggling or circulation of high-quality counterfeit Indian paper currency, coin or of any other material; or

- (iv) damage or destruction of any property in India or in a foreign country used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies; or*
- (b) overawes by means of criminal force or the show of criminal force or attempts to do so or causes death of any public functionary or attempts to cause death of any public functionary; or*
- (c) detains, kidnaps or abducts any person and threatens to kill or injure such person or does any other act in order to compel the Government of India, any State Government or the Government of a foreign country or 6[an international or inter-governmental organisation or any other person to do or abstain from doing any act; or] commits a terrorist act.*

7[Explanation.—For the purpose of this sub-section,—

- (a) “public functionary” means the constitutional authorities or any other functionary notified in the Official Gazette by the Central Government as public functionary;*

This section clearly stipulates that the following acts are termed as terrorist act:-

- “i) act done with intent to threaten or likely to threaten the unity, integrity, security, economic security, or sovereignty of India;*
- ii) act done with intent to threaten or likely to threaten the or sovereignty of India;*
- iii) act done with intent to strike terror in the people or any section of the people in India or in any foreign country;”*

14. The abovesaid act should be done by using “bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal to cause or likely to cause— (i) death of, or injuries to, any person or persons; or.....”

15. In the case in hand, death of Pardeep Singh Kataria @ Raju Dodhi is caused by use of fire arms for the simple reason that he was Sacha Sauda premi i.e. follower to a religious sect based in District Sirsa (Haryana) and he was accused in case FIR No. 128 dated 12.10.2015 under Section 295-A IPC, P.S. Bajakhana and it is conceded that in the said FIR Shakti Singh was also one of the accused and the allegations against them were sacrilege of the sect *Aang* (page) of Shri Guru Granth Sahib. Accused Bhola Singh was already in custody for causing bodily harm to Dera Premi Shakti Singh son of Basant Singh and committing recce and said Dera Premi Shakti Singh is accused in three cases i.e. FIR No. 117 dated 25.09.2015 under Section 295-A IPC, P.S. Bajakhana, FIR No. 128 dated 12.10.2015 under Section 295-A IPC, P.S. Bajakhana and another case FIR No. 63 dated 02.06.2015 under sections 380, 295-A IPC, P.S. Bajakhana, all three registered at Police Station Bajakhana. The common thread is that deceased Pardeep Singh Kataria @ Raju Dodhi is one of the accused in FIR No. 128 dated 12.10.2015 under section 295-A IPC. FIR Nos. 128 and 117 pertain to sacrilege of Shri Guru Granth Sahib.

16. Undoubtedly, accused Bhola Singh is not named by co-accused Manpreet Singh @ Money in his confessional statements dated 19.11.2022 and 21.11.2022 and Bhupinder Singh @ Goldy in his confessional statement dated 21.11.2022. Accused Bhola Singh was named during investigation by them regarding which a zimini was entered in the police record by the Investigating Officer and for this reason accused Bhola Singh does not find his name in two confessional statements made by accused Manpreet Singh @ Money and one confessional statement of co-accused Bhupinder Singh @ Goldy. As per prosecution allegations, accused Manpreet @ Money got

recovered one pistol .9 mm and four live cartridges of 9mm whereas accused Bhupinder Singh @ Goldy got recovered one pistol of 32 bore and three live cartridges of said bore and one white cap in which human hairs were stuck.

17. As observed earlier, accused Bhola Singh was already in custody when he was named in this case. During investigation of this case, he also suffered a confessional statement before the investigating agency of Police Station City Kotakpura. His confessional statement is in Punjabi script and when translated in English, it makes the following reading:-

“I have formed a gang with Goldy Brar and other gangsters settled abroad. Gangsters are namely, Manpreet Singh @ Money, Bhupinder Singh @ Goldy, Baljit Singh @ Mahna, Vicky Chauhan, Swaran Singh @ Sunny, Pawandeep Singh @ Parna, Harpreet Singh @ Bhau, Jitender Singh @ Jeetu and Ramzan Khan @ Raj Hooda. This gang is formed with the motive to create fear in the minds of Premi’s (followers) of Dera Sacha Sauda who are settled in Punjab and to carry out this task, I often talk with Goldy Brar who is settled in Canada through Whats App and signal App. Harvinder Singh @ Rinda who is settled in Pakistan is also in touch with us. To carry out of this task, we conspired to commit murder of the followers of Dera Sacha Sauda. We have already done recce of the house of Shakti Singh, who is a follower of Dera Sacha Sauda for committing his murder but the police came to know about it and for this reason I and my companions were arrested by the police. Now with the assistance of the remaining members of the group and after making arrangement of arms and ammunitions, we have committed the murder of Pardeep Singh Kataria @ Raju Dodhi a follower of Dera Sacha Saud. His companions settled abroad shall make efforts to complete the task”.

18. Accused Bhola Singh during investigation on 24.11.2022 also confessed about destroying of mobile phone after burning and flushing the ash in toilet and the said mobile phone was used by him to converse with Goldy

Brar for the purpose of committing the crime of murder. Thus there are two confessional statements of accused Bhola Singh on record and also the fact that he was already in custody in another criminal case for house trespass, recce of the house of Shakti Singh and conspiring to cause bodily harm to him and said Shakti Singh was facing criminal trial in three cases and in one criminal case FIR No. 128 regarding sacrilege of Shri Guru Granth Sahib, deceased Pardeep Singh Kataria @ Raju Dodhi, victim of this case, was also accused alongwith said Shakti Singh. His confessional statement coupled with the fact that accused attempted to cause bodily harm to Shakti Singh and committed recce of his house and committed house trespass, it prima-facie proved that his intention was to cause harm to the followers of Dera Sacha Sauda and he succeeded in causing murder of Pardeep Singh Kataria @ Raju Dodhi. Pardeep Singh Kataria @ Raju Dodhi was not only a Sacha Sauda follower but also accused of causing sacrilege of revered text.

19. As observed earlier, co-accused Baljit Singh @ Mahna was arrested on 17.11.2022 and he was nominated on the basis of facts which came on record during interrogation of juveniles MC and MN that accused Baljit Singh @ Mahna assisted the assailants to abscond from the spot of crime after committing the murder of Pardeep Singh Kataria @ Raju Dodhi. Thus, there is a statement of juveniles against accused Baljit Singh @ Mahna in helping them in the commission of offence by assisting to abscond them from the spot to save them from police.

20. So far as the allegations against accused Harjinder Singh @ Raju are concerned, he was allegedly interacting with accused Goldy Brar (since absconder) for committing the murder of Pardeep Singh Kataria @ Raju Dodhi, when he was in custody in some other case. Police during investigation

also found that accused Harjinder Singh @ Raju was instrumental in disclosing the name of other assailants of this case to accused Goldy Brar and Goldy Brar came in touch with those through accused Harjinder Singh @ Raju.

21. Accused Harjinder Singh @ Raju also suffered a disclosure statement that he asked co-accused Goldy Brar that they have to do religious work and familiarized accused Goldy Brar of many persons of Faridkot and Kotakpura. He also came in touch with visitors of Bhola Singh and he got numbers of those persons (visitors of Bhola Singh). He also facilitated talk of accused Manpreet Singh @ Money and Bhupinder Singh with accused Goldy Brar and after murder of Pardeep Singh Kataria @ Raju Dodhi informed that he has also contributed in religious task.

22. 13 accused of this case including the present three accused-appellants are charged by the learned trial Court vide order dated 28.11.2023 for the commission of offence under Sections 20,18,16 of UAP Act, Sections 120-B, 148, 302 read with Section 149 IPC, 307 read with Section 120-B IPC. Accused Bhola Singh is also charged under section 201 read with Section 120-B IPC for causing disappearance of his mobile phone through which he was in touch with co-accused Satinder Pal Singh @ Goldy Brar (absconder and yet not arrested) with intention of screening himself and other offenders from legal punishment and accused are also charged under Section 212 read with Section 120-B IPC, Section 273 read with Section 120-B IPC, Section 411 IPC as motor cycle No. HR14-A-4083 during investigation was found to be belonging to Udey Singh and accused Manpreet Singh @ Money, Bhupinder Singh @ Goldy, Ramzan Khan @ Raj Hooda, Jitender Singh @ Jeetu and Juveniles (MC) and (MN) kept the same in their possession for going or

having the reason to believe the same to have stolen. Accused Bhupinder Singh @ Goldy, Manpreet Singh @ Money and Pawandeep @ Pavna are also charged under Section 25 of the Arms Act. This means that prima-facie case under the provisions of these sections against all the accused including present three accused were found to be made out. The learned trial Court rightly held that allegations against the accused are serious in nature. Accused while being in custody accessed the mobile phones, interacted with other co-accused who were in custody, helped accused Satinder Pal Singh @ Goldy Brar to contact with local people of Faridkot and conspired to carry out the murder of Pardeep Singh Kataria @ Raju Dodhi who himself was accused in case FIR No. 128 under Section 249 IPC of sacrilege of holy book of Sikh religion. Moreover, all the three accused had a chequered history. 10 criminal cases were registered against accused Bhola Singh and he was acquitted in two cases, discharged in one case and is facing trial in remaining cases. 10 Criminal cases were registered against accused Baljit Singh @ Mahna and out of these 10 cases, he has been discharged in three criminal cases, acquitted in one case and is facing trial in remaining cases. FIR No. 341 of 25.09.2023 is registered against him under Section 341, 323 read with Section 34 IPC, 42/52-A of Prisons Act and FIR No. 37 of 2025 is registered against him under Section 52-A of Prisons Act. Accused Harjinder Singh @ Raju has already been convicted in three cases and acquitted in six cases, discharged in two cases. Besides the present FIR No. 228 dated 10.11.2022, he is facing trial in case FIR No. 95 of 2021 under Section 52-A of the Prisons Act, P.S. City Faridkot, FIR No. 28 of 26.01.2023 under Section 25 of Arms Act, P.S. City Moga, FIR No. 7 dated 28.10.2022 under Section 153, 153-A, 212, 216, 120-B IPC, 25 of the Arms Act at P.S.

SSOC Mohali, FIR No. 44 of 2025 under Section 308(5), 351 of BNS, P.S. Kot Ise Khan. His production warrants are issued in seven other FIRs.

23. Embargo for release of regular bail is created under Section 43(d)(5) of the Unlawful Activities (Prevention) Act, 1967. This Section reads as under:-

“43D(5) *Notwithstanding anything contained in the Code, no person accused of an offence punishable under Chapters IV and VI of this Act shall, if in custody, be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release:*

Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under section 173 of the Code is of the opinion that there are reasonable grounds for believing that the accusation against such person is prima facie true.”

24. The proviso to Section 43(5)(d) of UAP Act clearly states that if Courts are satisfied that the prima-facie allegations against the accuse are true after “*perusal of case diary or report made under section 173 Cr.P.C.*” bail cannot be granted. In other words, after examining documents annexed to report under Section 173 Cr.P.C. if the Courts are satisfied that allegations against the accused are not true, bail under Section 43D(5) of UAP Act can be granted.

25. Hon’ble Apex Court in case **Gurwinder Singh v. State of Punjab, (2024) 5 SCC 403**, elaborately dealt with what amounts to a prima-facie case. Paragraphs 24 to 35 of the aforesaid judgment are relevant which are reproduced herein for ready reference:-

“24. *The source of the power to grant bail in respect of non-bailable offences punishable with death or life imprisonment emanates from Section 439 CrPC. It can be noticed that Section 43-D(5) of the UAP Act modifies the*

application of the general bail provisions in respect of offences punishable under Chapter IV and Chapter VI of the UAP Act.

25. A bare reading of sub-section (5) of Section 43-D shows that apart from the fact that sub-section (5) bars a Special Court from releasing an accused on bail without affording the Public Prosecutor an opportunity of being heard on the application seeking release of an accused on bail, the proviso to sub-section (5) of Section 43-D puts a complete embargo on the powers of the Special Court to release an accused on bail. **It lays down that if the Court, “on perusal of the case diary or the report made under Section 173 of the Code of Criminal Procedure”, is of the opinion that there are reasonable grounds for believing that the accusation, against such person, as regards commission of offence or offences under Chapter IV and/or Chapter VI of the UAP Act is prima facie true, such accused person shall not be released on bail or on his own bond. It is interesting to note that there is no analogous provision traceable in any other statute to the one found in Section 43-D(5) of the UAP Act. In that sense, the language of bail limitation adopted therein remains unique to the UAP Act.**

26. The conventional idea in bail jurisprudence vis-à-vis ordinary penal offences that the discretion of courts must tilt in favour of the oft-quoted phrase — “bail is the rule, jail is the exception” — unless circumstances justify otherwise — does not find any place while dealing with bail applications under the UAP Act. The “exercise” of the general power to grant bail under the UAP Act is severely restrictive in scope. The form of the words used in the proviso to Section 43-D(5)— “shall not be released” in contrast with the form of the words as found in Section 437(1) CrPC — “may be released” — suggests the intention of the legislature to make bail, the exception and jail, the rule.

27. The courts are, therefore, burdened with a sensitive task on hand. In dealing with bail applications under the UAP Act, the courts are merely examining if there is justification to reject bail. The “justifications” must be searched from the case diary and the final report submitted before the Special Court. **The legislature has prescribed a low, “prima facie” standard, as a measure of the degree of satisfaction, to be recorded by the Court when scrutinising the justifications [materials on record]. This standard can be contrasted with the standard of “strong suspicion”, which is used by courts while hearing applications for “discharge”. In fact, the Supreme Court in Zahoor Ahmad Watali [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] has noticed this difference, where it said: (SCC p. 24, para 23)**

“23. ... In any case, the degree of satisfaction to be recorded by the court for opining that there are reasonable grounds for believing that the accusation against the accused is prima facie true, is lighter than the degree of satisfaction to be recorded for considering a discharge application or framing of charges in relation to offences under the 1967 Act.”

(emphasis supplied)

28. *In this background, the test for rejection of bail is quite plain. Bail must be rejected as a “rule”, if after hearing the Public Prosecutor and after perusing the final report or case diary, the court arrives at a conclusion that there are reasonable grounds for believing that the accusations are prima facie true. It is only if the test for rejection of bail is not satisfied — that the courts would proceed to decide the bail application in accordance with the “tripod test” (flight risk, influencing witnesses, tampering with evidence). This position is made clear by sub-section (6) of Section 43-D, which lays down that the restrictions, on granting of bail specified in sub-section (5), are in addition to the restrictions under the Code of Criminal Procedure or any other law for the time being in force on grant of bail.*

29. *On a textual reading of Section 43-D(5) of the UAP Act, the inquiry that a bail court must undertake while deciding bail applications under the UAP Act can be summarised in the form of a twin-prong test:*

(1) Whether the test for rejection of the bail is satisfied?

1.1. Examine if, prima facie, the alleged “accusations” make out an offence under Chapter IV or VI of the UAP Act;

1.2. Such examination should be limited to case diary and final report submitted under Section 173 CrPC;

(2) Whether the accused deserves to be enlarged on bail in light of the general principles relating to grant of bail under Section 439 CrPC (“tripod test”)?

On a consideration of various factors such as nature of offence, length of punishment (if convicted), age, character, status of accused, etc. the court must ask itself:

2.1. Whether the accused is a flight risk?

2.2. Whether there is apprehension of the accused tampering with the evidence?

2.3. Whether there is apprehension of accused influencing witnesses?

30. *The question of entering the “second test” of the inquiry will not arise if the “first test” is satisfied. And merely because the first test is satisfied, that does not mean however that the accused is automatically entitled to bail. The accused will have to show that he successfully passes the “tripod test”.*

Test for rejection of bail: Guidelines as laid down by Supreme Court in Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383]

31. *In the previous section, based on a textual reading, we have discussed the broad inquiry which courts seized of bail applications under Section 43-D(5) of the UAP Act read with Section 439 CrPC must indulge in. Setting out the framework*

of the law seems rather easy, yet the application of it, presents its own complexities. For greater clarity in the application of the test set out above, it would be helpful to seek guidance from binding precedents.

32. In this regard, we need to look no further than Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] which has laid down elaborate guidelines on the approach that courts must partake in, in their application of the bail limitations under the UAP Act. On a perusal of paras 23 to 24 and 26 to 27, the following 8-point propositions emerge and they are summarised as follows:

32.1. Meaning of “prima facie true”: (Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383], SCC p. 24, para 23) **On the face of it, the materials must show the complicity of the accused in commission of the offence. The materials/evidence must be good and sufficient to establish a given fact or chain of facts constituting the stated offence, unless rebutted or contradicted by other evidence.**

32.2. Degree of satisfaction at pre charge-sheet, post charge-sheet and post-charges — compared: (Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383], SCC p. 28, para 26)

“26. ... once charges are framed, it would be safe to assume that a very strong suspicion was founded upon the materials before the Court, which prompted the Court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged against the accused, to justify the framing of charge. **In that situation, the accused may have to undertake an arduous task to satisfy the Court that despite the framing of charge, the materials presented along with the charge-sheet (report under Section 173 CrPC), do not make out reasonable grounds for believing that the accusation against him is prima facie true. Similar opinion is required to be formed by the Court whilst considering the prayer for bail, made after filing of the first report made under Section 173 of the Code, as in the present case.**”

32.3. Reasoning, necessary but no detailed evaluation of evidence: (Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383], SCC p. 27, para 24)

“24. ... the exercise to be undertaken by the Court at this stage—of giving reasons for grant or non-grant of bail—is markedly different from discussing merits or demerits of the evidence. The elaborate examination or dissection of the evidence is not required to be done at this stage.”

32.4. Record a finding on broad probabilities, not based on proof beyond doubt: (Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383], SCC p. 27, para 24)

“The Court is merely expected to record a finding on the basis of broad probabilities regarding the involvement of the accused in the commission of the stated offence or otherwise.”

32.5. *Duration of the limitation under Section 43-D(5):* (Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383], SCC p. 27, para 26)

“26. ... the special provision, Section 43-D of the 1967 Act, applies right from the stage of registration of FIR for the offences under Chapters IV and VI of the 1967 Act until the conclusion of the trial thereof.”

32.6. Material on record must be analysed as a “whole”; no piecemeal analysis: (Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383], SCC p. 28, para 27)

“27. ... the totality of the material gathered by the investigating agency and presented along with the report and including the case diary, is required to be reckoned and not by analysing individual pieces of evidence or circumstance.”

32.7. *Contents of documents to be presumed as true:* (Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383], SCC p. 28, para 27)

“27. ... The Court must look at the contents of the document and take such document into account as it is.”

32.8. *Admissibility of documents relied upon by prosecution cannot be questioned:* (Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383], SCC pp. 24 & 28, paras 23 & 27)

The materials/evidence collected by the investigation agency in support of the accusation against the accused in the first information report must prevail until contradicted and overcome or disproved by other evidence.... In any case, the question of discarding the document at this stage, on the ground of being inadmissible in evidence, is not permissible.

33. *It will also be apposite at this juncture to refer to the directions issued in Devendar Gupta v. NIA [Devendar Gupta v. NIA, 2014 SCC OnLine AP 192 : (2014) 2 ALD (Cri) 251] wherein a Division Bench of the High Court of Andhra Pradesh strove to strike a balance between the mandate under Section 43-D on one hand and the rights of the accused on the other. It was held as follows: (SCC OnLine AP)*

“The following instances or circumstances, in our view, would provide adequate guidance for the Court to form an opinion, as to whether the accusation in such cases is “prima facie true”:

(1) Whether the accused is/are associated with any organisation, which is prohibited through an order passed under the provisions of the Act;

(2) Whether the accused was convicted of the offences involving such crimes, or terrorist activities, or though acquitted on technical grounds; was held to be associated with terrorist activities;

(3) Whether any explosive material, of the category used in the commission of the crime, which gave rise to the prosecution; was recovered from, or at the instance of the accused;

(4) Whether any eyewitness or a mechanical device, such as CC camera, had indicated the involvement, or presence of the accused, at or around the scene of occurrence; and

(5) Whether the accused was/were arrested, soon after the occurrence, on the basis of the information, or clues available with the enforcement or investigating agencies.”

(emphasis supplied)

34. In *Kekhriesatuo Tep v. NIA* [*Kekhriesatuo Tep v. NIA*, (2023) 6 SCC 58 : (2023) 2 SCC (Cri) 676] the two-Judge Bench (B.R. Gavai and Sanjay Karol, JJ.) while dealing with the bail application for the offence of supporting and raising funds for terrorist organisation under Sections 39 and 40 of the UAP Act relied upon *NIA v. Zahoor Ahmad Shah Watali* [*NIA v. Zahoor Ahmad Shah Watali*, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] and observed that: (*Kekhriesatuo Tep case* [*Kekhriesatuo Tep v. NIA*, (2023) 6 SCC 58 : (2023) 2 SCC (Cri) 676], SCC p. 63, para 13)

While dealing with the bail petition filed by the accused against whom offences under Chapters IV and VI of UAPA have been made, the court has to consider as to whether there are reasonable grounds for believing that the accusation against the accused is *prima facie* true. The Bench also observed that distinction between the words “not guilty” as used in TADA, MCOCA and the NDPS Act as against the words “*prima facie*” in the UAPA as held in *Watali case* [*NIA v. Zahoor Ahmad Shah Watali*, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] **to state that a degree of satisfaction required in the case of “not guilty” is much stronger than the satisfaction required in a case where the words used are “prima facie”....**

35. In *Sudesh Kedia v. Union of India* [*Sudesh Kedia v. Union of India*, (2021) 4 SCC 704 : (2021) 2 SCC (Cri) 496] the Bench of Nageswara Rao and S. Ravindra Bhat, JJ. while dealing with a bail application for the offence under Sections 17, 18 and 21 of the UAP Act relied upon the principle propounded in *Watali case* [*NIA v. Zahoor Ahmad Shah Watali*, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] (at SCC p. 24, para 23) and observed that: (*Sudesh Kedia case* [*Sudesh Kedia v. Union of India*, (2021) 4 SCC 704 : (2021) 2 SCC (Cri) 496], SCC p. 708, para 12)

the expression “prima facie” would mean that the materials/evidence collated by the investigating agency in reference to the accusation against the accused concerned must prevail until contradicted and overcome or disproved by other evidence, and on the face of it,

shows that complicity of such accused in the commission of the stated offence. It must be good and sufficient on its face to establish a given fact or the chain of facts constituting the stated offence, unless rebutted or contradicted. (emphasis supplied)

26. Hon'ble Apex Court in Union of India v. K.A. Najeeb, (2021) 3 SCC 713 held that Section 43D(5) *per se* does not oust the jurisdiction of the constitutional courts to grant bail on violation of Part III of the Constitution of India, but it further states that they have to be construed harmoniously. It has been observed as under:—

“17. It is thus clear to us that the presence of statutory restrictions like Section 43-D(5) of the UAPA per se does not oust the ability of the constitutional courts to grant bail on grounds of violation of Part III of the Constitution. Indeed, both the restrictions under a statute as well as the powers exercisable under constitutional jurisdiction can be well harmonised. Whereas at commencement of proceedings, the courts are expected to appreciate the legislative policy against grant of bail but the rigours of such provisions will melt down where there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. Such an approach would safeguard against the possibility of provisions like Section 43-D(5) of the UAPA being used as the sole metric for denial of bail or for wholesale breach of constitutional right to speedy trial.”(emphasis supplied).

27. In Vernon v. State of Maharashtra, (2023) 15 SCC 56, Hon'ble Apex Court has held as under:—

“51. We shall now turn to the other offence under the 1967 Act, which is under Section 13 thereof, and the 1860 Code offences. The yardstick for justifying the appellants' plea for bail is lighter in this context. The appellants are almost five years in detention. In K.A. Najeeb [Union of India v. K.A. Najeeb, (2021) 3 SCC 713]

and Angela Harish Sontakke [Angela Harish Sontakke v. State of Maharashtra, (2021) 3 SCC 723], delay of trial was considered to be a relevant factor while examining the plea for bail of the accused. In K.A. Najeeb [Union of India v. K.A. Najeeb, (2021) 3 SCC 713], in particular, this same provision, that is, Section 43-D(5) was involved.

52. In these two proceedings, the appellants have not crossed, as undertrials, a substantial term of the sentence that may have been ultimately imposed against them if the prosecution could establish the charges against them. **But the fundamental proposition of law laid down in K.A. Najeeb [Union of India v. K.A. Najeeb, (2021) 3 SCC 713], that a bail-restricting clause cannot denude the jurisdiction of a constitutional court in testing if continued detention in a given case would breach the concept of liberty enshrined in Article 21 of the Constitution of India, would apply in a case where such a bail-restricting clause is being invoked on the basis of materials with prima facie low-probative value or quality.**

53. In Zahoor Ahmad Shah Watali [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] reference was made to the judgment of Jayendra Saraswathi Swamigal v. State of T.N. [Jayendra Saraswathi Swamigal v. State of T.N., (2005) 2 SCC 13 : 2005 SCC (Cri) 481] in which, citing two earlier decisions of this Court in State v. Jagjit Singh [State v. Jagjit Singh, 1960 SCC OnLine SC 2 : AIR 1962 SC 253] and Gurcharan Singh v. State (Delhi Admn.) [Gurcharan Singh v. State (Delhi Admn.), (1978) 1 SCC 118 : 1978 SCC (Cri) 41], the factors for granting bail under normal circumstances were discussed. It was held that the nature and seriousness of the offences, the character of the evidence, circumstances which are peculiar to the accused, a reasonable possibility of the presence of the accused not being secured at the trial; reasonable apprehension of witnesses being tampered with; the larger interest of the public or the State would be relevant factors for granting or rejecting bail. Juxtaposing the appellants' case founded on Articles 14 and 21 of the Constitution of India with the aforesaid allegations and considering the fact that almost five years have lapsed since they were taken into custody, we are satisfied that the appellants have made out a case for granting bail. Allegations against them no doubt are serious, but for that reason alone bail cannot be denied to them. While dealing with the offences under Chapters IV and VI of the 1967 Act, we have referred to the materials available against them at this stage. These materials cannot justify continued detention of the appellants, pending final outcome of the case under the other provisions of the 1860 Code and the 1967 Act." (emphasis supplied).

28. The observations given by Hon'ble Apex Court in *Harpreet Singh Talwar @ Kabir Talwar vs. State of Gujarat through National*

Investigating Agency, 2025 SCC On Line SC 1103, are also relevant on the point regarding release of accused on bail in UAP Act. In paragraph-24, it has been observed as under:-

“24. The rigour of Section 43D(5) of the UAPA would, however, in an appropriate case yield to the overarching mandate of Article 21 of the Constitution, especially where the trial is inordinately delayed or where the incarceration becomes punitive. However, such relaxation cannot possibly be automatic and must be evaluated in light of the specific facts and risks associated with each case, as has been previously clarified.”

29. Delhi High Court in Jagtar Singh Johal vs. NIA, 2024 SCC Online Del 89, observed that the bail under Section 43D (5) of the UAPA cannot be granted solely on the basis of long incarceration of the accused person and the same has to be viewed along with the gravity of offences which are supported by the relevant *material* provided by the NIA. The relevant portion of the same is as follows:-

“76. Cases involving serious crimes could be of various categories, such as offences relating to laundering of money, offences related to counterfeit currency, terrorist acts, etc. Acts of Terrorism and association with banned organizations which have international networks as also acts against the nation have to be considered as a distinct and more serious category of offences. All offences covered under the UAPA cannot be treated with the same brush. Even for the purpose of grant of bail, such offences are not to be examined on the basis of mere facts of one particular FIR but on a larger canvas in the overall scheme of the multiple FIRs, if existing, against a particular accused. The damage in terms of loss of life as also the intent behind such attacks i.e., to destabilise the law and order situation as well as to strike terror in the minds of people in or outside India, has to be considered for the purposes of granting bail. Terrorist activities, which have trans-national links, would also fall in a more serious and grave category of cases. Accused, who are involved in such activities, could be working overtly and

*covertly. The fact that they could be linked through dark networks which are easily not traceable needs to be borne in mind. Investigating agencies face enormous challenges in unearthing evidence in such cases. **While speedy trial is necessary as a Constitutional prescription, in cases involving anti-national activities and that too terrorism at an international scale, long incarceration in itself ought not to lead to enlargement on bail when facts show involvement in such activities.** In the case of persons associated with terrorist or unlawful organizations having their activities spanning across countries, the consideration for grant of bail in such serious offences ought to be strictly dealt with, as prescribed in the statute (UAPA), on the benchmarks contained in Section 43D(5) of the Act.” (emphasis supplied).*

30. The fact that accused conspired to commit the murder of one of the accused i.e. Shakti Singh involved in sacrilege case and were successful to perpetuate the crime of murder of another accused i.e. victim of this case with the connivance of other co-accused who were not in custody, the accused/appellants, if enlarged on bail, can indulge in many more offences of the similar nature especially when all the three accused-appellants have chequered criminal history. By committing the murder of a person who was accused in a criminal case, the present accused-appellants also interfered in the judicial process of determination of the guilt of the deceased. Deceased Pardeep Kumar @ Raju Dodhi being accused in a sacrilege case had a right to fair trial and due process of law. By committing his murder, the State was deprived of its duty to prosecute against him. The Courts have the legitimate authority to determine the guilt and administer punishment. Accused by taking law in their own hands under the pretext that they were performing the religious task undermined the fundamental principle of rule of law. By committing his murder, deceased Pardeep Kumar alias Raju Dodhi was permanently removed from the judicial process. The murder of accused of

criminal offence prevents the legal system to function which is direct challenge to the authority and power of the Court. Although in this case, only one witness out of total 105 witnesses is examined by the prosecution as of now but the trial can be expedited. The ground that examination of all the witnesses is likely to take time is no ground for release of accused on regular bail.

31. In view of above discussion, we are inclined that accused-appellants are not entitled for release on regular bail at this stage. Accordingly, all the three bail applications moved by above named three accused-appellants are dismissed.

32. Pending applications, if any, are also dismissed.

33. Any observations made herein above while deciding these bail applications shall have no bearing on the merits of the case.

34. Since only one witness out of total 105 witnesses has been examined by the trial Court, the trial Court is directed to take the following steps for expeditious conclusion of the trial:-

(i) The trial Court shall frame a schedule of dates in advance for summoning the witnesses and shall also endeavour to record the statements of the PWs whose presence is duly secured. Special Messengers be deputed for securing the presence of the prosecution witnesses. If deemed necessary, a letter may be written to the Senior Superintendent of Police, concerned, for getting the needful done for ensuring timely presence of prosecution witnesses; and

(ii) The prosecution is directed to ensure the presence of all the prosecution witnesses before the trial Court on the dates as may be fixed by the trial Court for recording prosecution evidence. The

District Attorney concerned to take necessary steps for the purpose
of securing the presence of the remaining prosecution witnesses;

A copy of this order be placed in the connected files.

(GURVINDER SINGH GILL)
JUDGE

(RAMESH KUMARI)
JUDGE

17.11.2025

ravinder

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