



Sr. No.120

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
CRA-D-1613-2024 (O&M)**

Prabhjeet Singh

...Appellant

Versus

State of Punjab

...Respondent

1.	The date when the judgment is reserved	07.11.2025
2.	The date when the judgment is pronounced	17.11.2025
3.	The date when the judgment is uploaded on the website	18.11.2025
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

**CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present : Mr. Amit Agnihotri, Advocate,
(through video conferencing)
Ms. Mani Makkar, Advocate,
Mr. Abhishek Jindal, Advocate and
Ms. Simran, Advocate,
for the appellant.

Mr. Himanshu Raj, Additional A.G., Punjab.

LAPITA BANERJI, J.

The appellant has challenged the order dated October 23, 2024, passed by the Additional Sessions Judge, Tarn Taran whereby his bail application in FIR No. 142 dated 07.09.2022 registered under Sections 389 IPC, 25(6) and 25(7)(i) of the Arms Act, 1959, Sections 4 and 5 of the Explosive Substances Act, 1908 and Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short-the NDPS Act), subsequently added offence under Sections 120-B IPC, Sections 13, 16, 17, 18, 18-B, 20 of the Unlawful Activities (Prevention) Act, 1967 (for short-the UAPA), further Sections 21, 29, 61, 85 of NDPS Act were deleted and



Section 387 IPC added later on at Police Station Sirhali, District Tarn Taran, (for short-the FIR in question), has been dismissed.

PROSECUTION'S CASE

2. On September 07, 2022, the Investigating Officer (IO) along with other police officials were on patrolling when a secret informer informed them that one Lakhbir Singh @ Landa son of Naranjan Singh and Harminder Singh @ Harinder Singh @ Rinda son of Charan Singh are big gangsters and operating their network from Pakistan. Both the aforesaid persons were gang leaders who operated a gang in India and got heroin, ammunition, weapons, explosive smuggled from Pakistan into India. They demanded ransom money from innocent people through virtual phone numbers from abroad and threatened that failure to pay the ransom would lead to dire consequences.

3. FIR No. 142 dated September 7, 2022 was registered on the basis of secret information under Section 389 of IPC, Sections 25(6), (7) of Arms Act, Sections 4, 5 of Explosive Substances Act and Sections 21 and 29 of NDPS Act at Police Station Sirhali against Shamsher Singh @ Shera, Honey, Jashan @ Gurjashanpreet Singh, Lakhbir Singh @ Landa, Harminder Singh @ Hinder @ Rinda, Satbir Singh @ Satnam Singh @ Satta, Nachattar Singh @ Moti, Charat Singh @ Charat, Arshdeep Singh @ Bathi, Sukhdev Singh @ Shera, Jaisal Singh, Gurjant Singh @ Janta, Mahabir Singh, Sadhbir Singh, Jagroop Singh @ Simma, Lovepreet Singh @ Love @ Bhund, Sukhwinder Singh @ Sikki, Harpreet Singh @ Happy @ Billa, Romi, Robanpreet Singh @ Roban, Gurlal Singh @ Lali Pehalwan, Daljit Singh, Harjeet Singh @ Jeeta, Manjinder Singh @ Manna, Harpreet Singh and Gurkirat Singh @ Ghugi @ Shooter. After registration



of the FIR, a *naka* was installed at Sohana bridge situated in village Sirhali. Three people who rode a black motorcycle without a registration number were apprehended by the police and they identified themselves as Harpreet Singh @ Happy @ Billa, Nachattar Singh @ Moti and Sukhdev Singh @ Shera. On conducting a search, one country-made pistol of .315 bore along with four live cartridges and Rs.50 in Indian currency notes were recovered from Sukhdev Singh @ Shera. One pistol of .30 bore along with four live cartridges of the same bore and Rs.100/- in Indian currency notes were recovered from Nachattar Singh @ Moti. From the driver of the motorcycle, Harpreet Singh @ Happy, Rs. 50/- in Indian currency notes were recovered.

4. During the course of investigation/interrogation, Nachattar Singh @ Moti disclosed that he had hidden one I.E.D. and a detonator in the Crematorium place near the wall of bridge Ratoke and the said detonator was kept at the behest of Lakhbir Singh @ Landa, Satbir Singh @ Satnam Singh @ Satta.

5. During the course of investigation, Harpreet Singh @ Happy disclosed that he had taken ransom amount of Rs.5,00,000/- from a footpath in village Thathian Mahantan at the behest of the gangster Lakhbir Singh @ Landa and one Satbir Singh @ Satnam Singh @ Satta. Out of the said amount, Rs.4,50,000/- was handed over to co-accused Nachhatar Singh @ Moti and Rs.50,000/- was hidden in a room of his residential house. Thereafter he got the amount of Rs.50,000/- recovered from a room in his residential house.

6. During the course of investigation, Nachhatar Singh suffered a disclosure statement on September 14, 2022 to the effect that he had hidden



a sum of Rs.50,000/- ransom money, in an unknown spot. The picture and location of the spot where the amount was hidden were shared with Lakhbir Singh @ Landa and Satbir Singh @ Satnam Singh @ Satta. The said amount was recovered by the present appellant Prabhjeet Singh @ Prabh. Nachhatar Singh disclosed that he was in touch with Lakhbir Singh @ Landa and Satbir Singh @ Satnam Singh @ Satta through virtual modes like Instagram, Snapchat, Whatsapp, etc. and at their insistence local youths were radicalized for the purpose of committing offences like collection of ransom, illegal sale and supply of ammunition and narcotics. On the basis of such disclosure statement suffered by co-accused Nachhatar Singh @ Moti, the appellant along with co-accused Simrajnit Singh @ Simbu, Jograj Singh @ Jogg and Lakhbir Singh Rode were nominated in the present case on September 09, 2022.

7. The appellant was arrested on September 15, 2022 and sum of Rs.50,000/- were recovered from him and the said recovery connected the appellant to Nachhatar Singh and through him with Lakhbir Singh @ Landa. The challan/final report was filed on December 5, 2022.

SUBMISSIONS

8. Learned counsel for the appellant submits that the Special Court erred in law and on facts in denying the bail to the appellant. Although it is alleged by the prosecution that the appellant was involved in anti-national activities but there is no material to connect the appellant with the commission of any offence more so to an offence under UAPA. Apart from recovery the purported sum of Rs.50,000/- from the appellant nothing else has been alleged to be recovered from him. The appellant has been sought to be prosecuted only on the basis of a disclosure statement made by a co-



accused Nachhatar Singh @ Moti in police custody which in the absence of any corroborative evidence has no evidentiary value. Learned counsel further submits that the prosecution case is absolutely vague *qua* the appellant and even after completion of the investigation the appellant's alleged role is not specified. Even if all the contents of the final report filed by the police under Section 173 of Code of Criminal Procedure (Cr.P.C.) are taken to be gospel truth still there is no material brought on record by the prosecution which would attract applicability of the provisions of the UAPA. Despite the challan being filed on September 15, 2022, charges have not been framed as yet. There are approximately 25 witnesses in the present trial but since the sanction for prosecution as required under the UAPA has not been obtained yet from the competent authority, no cognizance could have been taken. Therefore, the trial could not commence even after 3 years of custody. The appellant has been in custody for more than 3 years and such prolonged incarceration without the commencement of trial in itself entitles the appellant to be granted bail by invoking Article 21 of the Constitution of India.

9. In support of his submissions learned counsel for the appellant has relied on the judgments of the Supreme Court in *Union of India v. K.A.Najeeb*, (2021) 3 SCC 713, *Shoma Kanti Sen v. State of Maharashtra and another*, (2024) 6 SCC 591, *Vernon v. The State of Maharashtra and another*, (2023) 15 SCC 56, *Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari v. State of Uttar Pradesh*, (2024) 8 SCC 293 and *Javed Gulam Nabi Shaikh v. State of Maharashtra and another*, (2024) 9 SCC 813.

10. *Per contra*, learned State counsel prays for dismissal of the instant appeal by submitting that the appellant is engaged in anti-national



activities and his role in handling ransom money and acting as a carrier of consignments has been clearly disclosed in the statement of the co-accused Nachhatar Singh @ Moti and therefore, in terms of Section 43-D(5) of the UAPA, the appellant should be denied bail. However, it is fairly submitted by the State counsel that charges are yet to be framed against the appellant and the trial in which approximately 25 prosecution witnesses are to be examined, is yet to begin.

DISCUSSIONS AND FINDINGS

11. Learned counsel for the parties have been heard and with their able assistance the record of the case has also been examined.

12. At the outset it would be apposite to refer to Section 43-D of the UAPA. The same reads as follows:-

43 D. Modified application of certain provisions of the Code.—

(1) Notwithstanding anything contained in the Code or any other law, every offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of clause (c) of section 2 of the Code, and “cognizable case” as defined in that clause shall be construed accordingly.

(2) Section 167 of the Code shall apply in relation to a case involving an offence punishable under this Act subject to the modification that in sub-section (2),—

(a) the references to “fifteen days”, “ninety days” and “sixty days”, wherever they occur, shall be construed as references to “thirty days”, “ninety days” and “ninety days” respectively; and

(b) after the proviso, the following provisos shall be inserted, namely:—

“Provided further that if it is not possible to complete the investigation within the said period of ninety days, the Court may if it is satisfied with the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of ninety days, extend the said period up to one hundred and eighty days:



Provided also that if the police officer making the investigation under this Act, requests, for the purposes of investigation, for police custody from judicial custody of any person in judicial custody, he shall file an affidavit stating the reasons for doing so and shall also explain the delay, if any, for requesting such police custody.

(3) Section 268 of the Code shall apply in relation to a case involving an offence punishable under this Act subject to the modification that—

(a) the reference in sub-section (1) thereof—

(i) to “the State Government” shall be construed as a reference to “the Central Government or the State Government.”;

(ii) to “order of the State Government” shall be construed as a reference to “order of the Central Government or the State Government, as the case may be”; and

(b) the reference in sub-section (2) thereof, to “the State Government” shall be construed as a reference to “the Central Government or the State Government, as the case may be”.

(4) Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person accused of having committed an offence punishable under this Act

(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.

(6) The restrictions on granting of bail specified in sub-section (5) is in addition to the restrictions under the Code or any other law for the time being in force on granting of bail.

(7) Notwithstanding anything contained in sub-sections (5) and (6), no bail shall be granted to a person accused of an offence punishable under this Act, if he is not an Indian citizen and has entered the country unauthorisedly or illegally except in very exceptional circumstances and for reasons to be recorded in writing.”



13. As per Section 43-D (5) of the UAPA, no person accused of an offence punishable under chapter IV and VI of the UAPA shall, if in custody, be released on bail unless the public prosecutor has been given an opportunity of being heard on the application made by him for such release and if the Court, on perusing the case diary or the report filed under Section 173 Cr.P.C. is of the opinion that there are reasonable grounds for believing that the accusations against such person are prima facie proved. Section 43-D (6) further stipulates that restrictions for the grant of bail specified in Section 43-D (5) would be in addition to the restrictions provided under the Cr.P.C. or any other law for the time being in force on granting of bail.

14. The allegation against the appellant based on a disclosure statement of co-accused Nachhatar Singh @ Moti is that he had gotten recovered a sum of Rs.50,000/- from a place where the co-accused Nachhatar Singh @ Moti had hidden it even though the picture and location of the said hidden spot were shared with one Lakhbir Singh @ Landa and one Satbir Singh @ Satnam Singh @ Satta by Nachhatar Singh @ Moti. At this stage no link evidence has been brought on record to show how the present appellant was informed of the said location and how Nachhatar Singh @ Moti became aware of the fact that the present appellant had gotten the money recovered when the appellant was already in custody. No recovery of any incriminating material has been effected from the appellant and even after completion of the investigation the allegations by the prosecution *qua* the appellant remained vague as nothing has been brought on record to show how the location from where the alleged recovery of Rs.50,000/- was made by the appellant was shared to him and the manner and mode by which the co-accused Nachhatar Singh became aware of the



fact that the same was recovered by the appellant. Nothing has been brought on record to show the connection between Lakhbir Singh @ Landa and Satbir Singh @ Satnam Singh @ Satta. The appellant was not originally named in the FIR and was nominated as an accused only on the disclosure statement of co-accused Nachhatar Singh.

15. The investigation qua the appellant is complete and the prosecution does not require him for such purpose.

16. The appellant has undergone a period of 03 years, 01 month and 17 days in actual custody and till date the trial has not begun as the charges are yet to be framed.

17. It remains undisputed that coordinate Benches of this Court have already granted regular bail to eight of the appellant's co-accused, the details of which are tabulated below:-

<i>Sr. No.</i>	<i>Name of co-accused</i>	<i>Case number</i>	<i>Status</i>	<i>Date of order</i>
1	<i>Manjinder Singh</i>	<i>CRA-D-704-2023</i>	<i>Allowed</i>	<i>01.10.2024</i>
2.	<i>Simranjeet Singh</i>	<i>CRA-D-910-2023</i>	<i>Allowed</i>	<i>30.09.2024</i>
3.	<i>Ranjit Singh @ Harjit Singh</i>	<i>CRA-D-1179-2023</i>	<i>Allowed</i>	<i>18.09.2024</i>
4.	<i>Gurjashanpreet Singh</i>	<i>CRA-D-1369-2023</i>	<i>Allowed</i>	<i>06.08.2024</i>
5.	<i>Satnam Singh</i>	<i>CRA-D-629-2024</i>	<i>Allowed</i>	<i>01.10.2024</i>
6.	<i>Gurlal Singh</i>	<i>CRA-D-421-2023</i>	<i>Allowed</i>	<i>18.09.2024</i>
7.	<i>Sukhdev Singh @ Shera</i>	<i>CRA-D-289-2023</i>	<i>Allowed</i>	<i>16.10.2024</i>
8.	<i>Jograj Singh @ Jog</i>	<i>CRA-D-1707-2024</i>	<i>Allowed</i>	<i>28.10.2025</i>

18. Article 21 of the Constitution of India enshrines the fundamental right to protection of life and liberty which also includes the right to speedy trial, which is sacrosanct. It has been held by the Supreme Court in a catena of judgments that long custody by itself would entitle the



accused under UAPA to the grant of bail by invoking Article 21 of the Constitution of India. In the instant case, none of the 25 prosecution witnesses has been examined. It would be difficult to hazard a guess about the conclusion of trial, when all the 25 prosecution witnesses are yet to be examined. The appellant is in custody for 03 years, 01 month and 17 days. The Constitutional Court would like to prevent a situation where the lengthy and arduous process of trial, becomes a punishment in itself.

19. Reference can be made to the judgment of the Supreme Court in the case of *Union of India versus K.A. Najeeb (supra)* wherein it has been held that long custody would be an essential factor while granting bail under 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 UAPA. It has also been held that the embargo under Section 43-D of UAPA would not negate the powers of the Court to give effect to Article 21 of the Constitution of India. The relevant extract of the judgement is reproduced hereunder:-

“It is thus clear to us that the presence of statutory restrictions like Section 43-D(5) of UAPA per se does not oust the ability of Constitutional Courts to grant bail on grounds of violation of Part III of the Constitution. 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 UAPA being used as the sole metric for denial of bail or for wholesale breach of constitutional right to speedy trial.

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Instead, Section 43-D(5) of UAPA merely provides another possible ground for the competent Court to refuse bail, in addition to the well settled considerations like gravity of the offence, possibility of tampering with evidence, influencing the



witnesses or chance of the accused evading the trial by absconsion etc.”

20. In the case of ***Shoma Kanti Sen (supra)***, the Supreme Court has held that generally pre-conviction detention at the investigation stage is necessary to maintain purity in the course of trial and also to prevent an accused from being a fugitive from justice or to prevent further commission of an offence. Once it is apparent that a timely trial is not possible and the accused has suffered incarceration for a significant period of time, the Court would ordinarily be obligated to enlarge them on bail as any form of deprivation of liberty must be proportionate to the facts of the case and also follow a just and fair procedure. A balance must be made between the prosecution’s right to lead evidence of its choice and establish the charges beyond any doubt and simultaneously, the respondent’s rights guaranteed under Part-III of the Constitution. The relevant extract thereof is reproduced hereunder:-

“This Court has already accepted right of an accused under the said offences of the 1967 Act to be enlarged on bail founding such right on Article 21 of the Constitution of India. This was in the case of Najeeb (supra), and in that judgment, long period of incarceration was held to be a valid ground to enlarge an accused on bail in spite of the bail restricting provision of Section 43D (5) of the 1967 Act. Pre conviction detention is necessary to collect evidence (at the investigation stage), to maintain purity in the course of trial and also to prevent an accused from being fugitive from justice. Such detention is also necessary to prevent further commission of offence by the same accused. Depending on gravity and seriousness of the offence alleged to have been committed by an accused, detention before conclusion of trial at the investigation and post-chargesheet stage has the sanction of law broadly on these reasonings. But any form of deprivation of liberty results in breach of Article 21 of the Constitution of India and must be justified on the ground of being reasonable, following a just and fair procedure and such deprivation must be proportionate in the facts of a given case. These would be the overarching principles which the law Courts would have to apply while testing prosecution’s plea of pre-trial detention, both at investigation and post-charge-sheet stage.”



21. The Supreme Court in the case of *Vernon versus The State of Maharashtra and another (supra)* has held that serious allegations against accused by itself cannot be a reason to deny bail to the accused. The relevant extract thereof is reproduced hereunder:-

“In the case of Zahoor Ahmad Shah Watali (supra) reference was made to the judgment of Jayendra Saraswathi Swamigal -vs- State of Tamil Nadu [(2005) 2 SCC 13] in which, citing two earlier decisions of this court in the cases of State -vs- Jagjit Singh (AIR 1962 SC 253) and Gurcharan Singh -vs- State of (UT of Delhi) [(1978) 1 SCC 118], 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 tempered 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 others provisions of the 1860 Code and the 1967 Act.”

22. In the case of *Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari versus State of Uttar Pradesh (supra)*, it has been held that right to life and personal liberty enshrined under Article 21 of the Constitution of India is overarching and sacrosanct. A Constitutional Court cannot be restrained from granting bail to an accused on account of restrictive statutory provisions in a penal statute if it finds that the right of the accused- undertrial under Article 21 of the Constitution of India has been infringed. In that event, such statutory restrictions would not come in the way. Even in the case of interpretation of a penal statute, howsoever stringent it may be, a



constitutional court has to lean in favour of constitutionalism and the rule of law, of which liberty is an intrinsic part. The relevant extract thereof is reproduced hereunder:-

“In Gurwinder Singh (supra) on which reliance has been placed by the respondent, a two Judge Bench of this Court distinguished K.A. Najeeb (supra) holding that the appellant in K.A. Najeeb (supra) was in custody for five years and that the trial 25 of the appellant in that case was severed from the other co-accused whose trial had concluded whereupon they were sentenced to imprisonment of eight years; but in Gurwinder Singh, the trial was already underway and that twenty two witnesses including the protected witnesses have been examined. It was in that context, the two Judge Bench of this Court in Gurwinder Singh observed that mere delay in trial pertaining to grave offences cannot be used as a ground to grant bail.

This Court has, time and again, emphasized that right to life and personal liberty enshrined under Article 21 of the Constitution of India is overarching and sacrosanct. A constitutional court cannot be restrained from granting bail to an accused on account of restrictive statutory provisions in a penal statute if it finds that the right of the accused-undertrial under Article 21 of the Constitution of India has been infringed. In that event, such statutory restrictions would not come in the way. Even in the case of interpretation of a penal statute, howsoever stringent it may be, a constitutional court has to lean in favour of constitutionalism and the rule of law of which liberty is an intrinsic part. In the given facts of a particular case, a constitutional court may decline to grant bail. But it would be very wrong to say that under a particular statute, bail cannot be granted. It would run counter to the very grain of our constitutional jurisprudence. In any view of the matter, K.A. Najeeb (supra) being rendered by a three Judge Bench is binding on a Bench of two Judges like us.

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continued incarceration of the appellant cannot be justified. ”

23. In the case of ***Javed Gulam Nabi Shaikh versus State of Maharashtra, another (supra)***, the Supreme Court has observed that criminals are not born but made. Howsoever serious a crime may be, an accused has a right to speedy trial as enshrined under the Constitution of India. Moreover, the purpose of bail is only to secure the attendance of the accused at the trial and bail is not to be withheld as a form of punishment.



The relevant extract thereof is reproduced hereunder:-

“13. The aforesaid observations have resonated, time and again, in several judgments, such as Kadra Pahadiya & Ors. v. State of Bihar reported in (1981) 3 SCC 671 and Abdul Rehman Antulay v. R.S. Nayak reported in (1992) 1 SCC 225. In the latter the court reemphasized the right to speedy trial, and further held that an accused, facing prolonged trial, has no option:

“The State or complainant prosecutes him. It is, thus, the obligation of the State or the complainant, as the case may be, to proceed with the case with reasonable promptitude. Particularly, in this country, where the large majority of accused come from poorer and weaker sections of the society, not versed in the ways of law, where they do not often get competent legal advice, the application of the said rule is wholly inadvisable. Of course, in a given case, if an accused demands speedy trial and yet he is not given one, may be a relevant factor in his favour. But we cannot disentitle an accused from complaining of infringement of his right to speedy trial on the ground that he did not ask for or insist upon a speedy trial.”

14. *In Mohd Muslim @ Hussain v. State (NCT of Delhi) reported in 2023 INSC 311, this Court observed as under:*

“21. Before parting, it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable. Jails are overcrowded and their living conditions, more often than not, appalling. According to the Union Home Ministry’s response to Parliament, the National Crime Records Bureau had recorded that as on 31st December 2021, over 5,54,034 prisoners were lodged in jails against total capacity of 4,25,069 lakhs in the country. Of these 122,852 were convicts; the rest 4,27,165 were undertrials.

22. The danger of unjust imprisonment, is that inmates are at risk of “prisonisation” a term described by the Kerala High Court in A Convict Prisoner v. State reported in 1993 Cri LJ 3242, as “a radical transformation” whereby the prisoner loses his identity. He is known by a number. He loses personal possessions. He has no personal relationships. Psychological problems result from loss of freedom, status, possessions, dignity any autonomy of personal life. The inmate culture of prison turns out to be dreadful. The prisoner becomes hostile by ordinary standards. Self-perception changes.

23. There is a further danger of the prisoner turning to crime, “as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal” (also see Donald Clemmer’s ‘The Prison



Community' published in 1940). Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.”

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18. Criminals are not born but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.”

24. In a recent case in ***Tapas Kumar Palit v. State of Chhattisgarh***, reported in 2025 SCC OnLine SC 322, by a judgment dated February 14, 2025, the Supreme Court set-aside the impugned order passed by the High Court, rejecting the bail of the appellant. As per the prosecution’s case, the appellant was travelling in a vehicle carrying articles which could be ordinarily related to Naxalite activities. Upon search being conducted, it was alleged that the appellant was in conscious possession of the following articles:

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4. *The search was undertaken and the following articles were recovered from the car alleged to be in conscious possession of the appellant herein:-*

- (i) 95 pair of shoes*
- (ii) Green black printed cloth*
- (iii) Two bundles of electric wire each of 100 metere*
- (iv) LED lens and*
- (v) Walki talki and other articles.*

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25. In the light of the aforesaid discussion, this Court finds no reason to deny regular bail to the appellant even though he is facing trial for commission of offences under UAPA. Considering the fact that the appellant is in custody for 03 years, 01 month and 17 days and end of the trial is not yet in sight as it has not yet even commenced, the appeal is allowed and the impugned order is set aside.

26. Therefore, subject to the satisfaction of the Special Court/Duty Magistrate, the appellant is ordered to be released on regular bail on the following conditions:-

- i. He shall furnish bond of Rs.10 lakh with two sureties of the like amount;
- ii. He shall deposit his passport, if any, in the Trial Court;
- iii. He shall appear before the Trial Court on each and every date, unless specifically exempted;
- iv. He shall appear before the Investigating Officer, as and when summoned;
- v. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or who is cited as a witness;
- vi. He shall not involve in any criminal activity;
- vii. He shall not sell, transfer or in any other manner create third party right over immovable property or properties owned by him;
- viii. At the time of release of the appellant, the SHO of the area where he normally resides, shall be informed and that the appellant shall mark his attendance before the said SHO on every Monday till the conclusion of the trial and that
- ix. He shall furnish an undertaking to the effect that in case of his absence, the Trial Court may proceed with the trial and in such eventuality he shall not claim re-examination of any witness.

27. While granting bail to the appellant, at the time of recording its satisfaction, the Special Court/Duty Magistrate may also impose any further condition as it may deem necessary.

28. Needless to mention, if any of the above conditions or any further condition(s) which may be imposed by the Special Court/Duty



Magistrate are breached by the appellant it would be open to the prosecution to seek cancellation of the bail granted to him through the instant order.

29. It is clarified that the observation made through the instant order have been made only for the limited purpose of deciding the present appeal for the grant of regular bail and that the same would not be construed to be an expression of opinion on the merits of the case.

(DEEPAK SIBAL)
JUDGE

(LAPITA BANERJI)
JUDGE

November 17, 2025
vandana

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