

(Through Video Conferencing/WhatsApp)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1. CRM M-29733 OF 2020 (O&M)

Pankaj Bansal ...Petitioner
(Now confined in District Jail, Muktsar Sahib)

Versus

State of Punjab ...Respondents

2. CRM M-33750 OF 2020 (O&M)

Satish Kumar ...Petitioner
(Now confined in Central Jail, Faridkot)

Versus

State of Punjab ...Respondents

Date of Decision: 15.12.2020

CORAM:HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr.APS Deol, Sr.Advocate with
Mr.Himmat Singh Deol, Advocate
For petitioner in CRM-M-29733-2020

Mr.Rajiv Malhotra, Advocate
For petitioner in CRM-M-33750-2020

Ms.Bhavna Gupta, DAG, Punjab

ASHOK KUMAR VERMA, J.

1. This order will dispose of CRM-M-29733-2020 and CRM-M-33750-2020 as both the petitions arise out of the common FIR. However, for the sake of brevity and convenience, the facts are being taken from CRM-M-29733-2020.

2. The petitioners have approached this Court through these two petitions filed under Section 439 Cr.P.C. for grant of regular bail to them in case FIR No.246 dated 18.10.2014. Originally bail applications have been filed for offences under Sections 420, 468, 471, 472, 392, 120-B of the IPC and Section 25 of the Arms Act, 1959 and Section 16 of the Unlawful Activities (Prevention) Act, 1967 (for short “UAPA”) registered at Police Station Kotwali, District Faridkot. Vide order dated 14.12.2020, this Court allowed the request/application of the petitioners for addition of offences under Section 18 of the UAPA, Section 467 IPC and Section 25 (6), (7), (8) of the Arms Act in the heading/prayer clause of the main petitions for grant of bail under Section 439 of the Cr.P.C in case FIR No.246 dated 18.10.2014 registered at P.S. Kotwali, District Faridkot.

3. Mr.APS Deol, learned Sr. Counsel appearing on behalf of the petitioner in CRM M 29733-2020, inter alia, submits that the petitioner-Pankaj Bansal is not named in the FIR and has not committed any offence as he had purchased the weapons from the duly licensed Arms and Ammunition Dealer and presented the same before the authorities, who after due verification, entered the same in his license. As such the petitioner is a bona fide purchaser of the said weapons. Learned Sr. Counsel submits that this fact was verified by the investigating agency and the petitioner was earlier cited as a prosecution witness. Learned Sr. Counsel further submits that the offence under Section 16 of the UAPA earlier added by the

Investigating Officer, was later on deleted and no charge under the said offence was framed by the trial Court and therefore, the order of framing charge has become final and now the same offence has been added again without collecting any fresh evidence and thereafter Section 18 of the UAPA has also been added. The provisions of the UAPA are not attracted in the present case as no offence is made out against the petitioner. Learned Sr. Counsel submits that the story of prosecution is highly improbable and is prima facie false on face of it. The petitioner through his wife has got the attested copy regarding entry of Pistol in question and renewal of his arms license, from the office of District Magistrate, Moga. Learned Sr. Counsel further submits that the circumstances leading to arrest of the petitioner in another case bearing FIR No.130 dated 21.10.2015 by newly added offence under Section 109, 194, 195 of the IPC vide DDR No.19 dated 30.6.2020 which is nearly five years after the registration of the FIR No.130. Investigation in FIR No.130 has been re-opened by the Special Investigating Team in relation to Behbal Kalan and Kotkapura firing incidents after 5 years by effecting the arrest of the petitioner for offences under Section 194, 195 of the IPC. The allegation pertains to abetting the police officer, namely, Bikramjit Singh, SP for fabricating evidence in their design in Behbal Kalan firing case by introducing false plea that the police Gypsy of Charanjit Sharma was also fired by the mob during the said incident by using .12 bore gun belonging to Charanjit Singh Security Guard employed by Pankaj Motors owned by the petitioner.

In this manner, the petitioner's release from jail was frustrated by the SIT by reopening the investigation of this case after 6 years by adding more offences in order to check the release of the petitioner from jail by seeking his production warrants on 20.8.2020. Learned Sr. Counsel submits that the arrest of his client is unauthorized and arbitrary and in violation of fundamental rights of the petitioner under Article 19 of the Constitution of India as re-investigation of the case is not permissible in law. The liberty of the petitioner has been curtailed by reopening investigation in FIR No.130 without permission of the trial court and transposing the petitioner from the list of witnesses to the list of accused. Last but not the least, learned Sr. Counsel submits that the petitioner is in custody since 21.8.2020. Trial will take a long time to conclude. No useful purpose would be served by keeping the petitioner behind the bars for indefinite period. If the petitioner is released on bail, he will abide by all the terms and conditions to be imposed by this Court.

4. Mr.Rajiv Malhotra, learned counsel appearing on behalf of petitioner-Satish Kumar in CRM-M-33750-2020, *inter alia*, submits that petitioner- Satish Kumar has not been named in the FIR nor in the challan dated 17.1.2015 and supplementary challan dated 29/30.4.2015 (Annexures P-8 and P-9). The petitioner-Satish Kumar is owner of M/s Vishal Gun House, Chandigarh and is a registered dealer in Arms and Ammunition. Learned counsel submits that in the years 2012-14, the petitioner had purchased certain non-prohibited weapons in a legitimate manner from M/s Kalyan Gun

House, Mansa, with a bona fide intention of selling the same further to bona fide purchasers with legitimate process, as per rules and regulations of the concerned Government. The petitioner came to know that the said FIR was registered and he was cited as a witness and the aforesaid five weapons were required for investigation in the said FIR. On 20.10.2014, the petitioner deposited the said weapons with the concerned Police. The said weapons were lying with the police for more than 2 ½ years, but police could not complete the investigation qua the said weapons. The petitioner applied for release of the said weapons on *sapurdari* which were released on *sapurdari* vide orders dated 9.8.2017 and 22.12.2017 passed by the Judicial Magistrate Ist Class, Faridkot. Then a member of Special Investigating Team filed an application for cancellation of *sapurdari* orders and the same were cancelled vide order dated 27.8.2019 passed by the court of Judicial Magistrate 1st Class, Faridkot by giving wrong and vague reasons and concerned SHO was directed to collect the said weapons within ten days. Against the said order of cancellation of *sapurdari*, a revision petition bearing CRR-94 of 2019 was filed, but due to pandemic of COVID-19, the matter could not be heard and is pending. On 18.8.2020, a notice was sent by the SP, Intelligence (OCCU), Patiala that presence of the petitioner is required in this FIR for investigation and the petitioner duly participated in the investigation, but despite cooperation on the part of the petitioner, he was arrested on 20.8.2020. The allegations against the petitioner are that he has forged the bills/invoices for

selling the weapons, but there is no such evidence on record. The petitioner has been arrayed as an accused on the basis of DDR No.32 dated 18.8.2020 and Investigating Agency started re-investigation/de novo investigation of the case, without obtaining any permission from the concerned learned courts. Learned counsel submits that under the guise of recovery, the prosecution confiscated the whole stock of 21 weapons alongwith the stock register from the shop of the petitioner on 8.9.2020 at Chandigarh. The prosecution has confiscated the said weapons without giving any details or any receipt to the petitioner in respect of the said confiscation. Learned counsel for the petitioner-Satish Kumar has produced an order dated 7.12.2020 passed by Addl. Sessions Judge, Faridkot whereby application for grant of default bail under Section 167(2) of the Cr.P.C. has been dismissed. Learned counsel submits that the learned Addl. Sessions Judge, Faridkot wrongly dismissed the bail application of the petitioner under Section 167 (2) Cr.P.C. Learned counsel has further submitted that no offence under the provisions of the UAPA is made out against the petitioner. Learned counsel reiterated the argument that the liberty of the petitioner has been curtailed by reopening of investigation in the FIR without permission of the trial court and re-investigation in the case is not permissible in the eyes of law. In support of his submission, learned counsel relies on Manoj Narain Agrawal and Ors. vs. Shashi Agrawal and others, 2009 (2) RCR (Criminal) 803, Samaj Parivartan Samudaya and others vs. State of Karnataka and Others, 2012 AIR

(SCW) 3323, Major Gurjinder Singh Benipal v. State of Punjab and others (P&H) 2012(4) RCR (Criminal) 743, Amrutbhai Shambhubhai Patel vs. Sumanbhai Kantibhai Patel and others (SC) 2017 (1) RCR (Criminal) 1030, Vinubhai Haribhai Malaviya and others v. State of Gujarat and another (SC), 2019 AIR (SC) 5233, Dnyaneshwar vs. The State of Maharashtra, 2020 ALL MR (Crl.) 2718 and Arnab Manoranjan Goswami vs. State of Maharashtra and others (SC), Law Finder Doc Id # 1772977. Learned counsel submits that the petitioner is in custody since 20.8.2020 and trial would take a long time to conclude and no useful purpose would be served by keeping the petitioner behind the bars.

5. While controverting the submissions of the learned counsel for the petitioners in both the petitions, learned counsel for the State has seriously opposed the grant of regular bail to the petitioners. Learned counsel for the State refers to the short affidavit filed by SP Intelligence (OCCU) wherein supplementary/Final report under Section 173 (8) of the Cr.P.C. with regard to FIR No.246 dated 18.10.2014 has been attached as Annexure R-1. Learned counsel for the State submits that the case relates to unlawful and illegal trafficking of a large number of foreign make weapons in an organized manner into this country and then to Punjab through Bihar and Uttar Pradesh by Gangster Ranjit Singh @ Dupla, who is now a Proclaimed Offender in this case alongwith his gang members. The accused were using these weapons for his nefarious activities of extortion, contract killing, assault and

intimidation with an intention to create a sense of terror among general public. Accused gangster Ranjit Singh @ Dupla trafficked these sophisticated illegal foreign weapons registered in the Arms Licence of his co-accused who posed as “buyers” of these weapons. These weapons were kept in the custody of these “buyers” by accused gangster Ranjit Singh @ Dupla for safe-keeping and whenever the accused gangster needed to carry out his nefarious activities, these foreign weapons were taken out from these safe houses used by the gangsters and then deposited back with these buyers. These accused gangsters were using these sophisticated illegal foreign weapons to strike terror among the general public and even fired upon the police with these weapons with an intention to kill the police officials on duty. Learned counsel submits that a perusal of the supplementary report (Annexure R-1) would show that the petitioners are prima facie guilty of offence under Sections 18 of the UAPA, 467, 468, 471, 472, 420, 120-B IPC and 25, 25(6)(7)(8) of the Arms Act.

6. Learned counsel for the State submits that during investigation ingredients of Section 18 of the UAPA have been attracted and as such the same has been added. The said offence under Section 18 of the UAPA comes within the ambit of Chapter IV of the UAPA. Learned counsel for the State submits that in the present case, investigation has been carried out by an officer of the rank of Superintendent of Police, Organised Crime Control Unit, Punjab Intelligence Wing, SAS Nagar, Punjab which is much more

than the requirement under Section 43(c) of the UAPA which provides that no police officer below the rank of a Deputy Superintendent of Police or a police officer of an equivalent rank shall investigate any offence punishable under Chapter IV or Chapter VI.

7. Learned counsel for the State vehemently argues that there is “no re-investigation” or “fresh investigation” in the present case. “Further investigation” has been carried out in the present case which is in accordance with the provisions of Section 173 (8) of the Cr.P.C. The offences committed by the petitioners are very serious in nature and if they are enlarged on bail, there is every likelihood that they will influence the witnesses and hamper the investigation. Learned counsel for the State submits that keeping in view the chain of events in commission of offences as depicted in the supplementary challan, the petitioners are not entitled for concession of bail and their petitions for grant of regular bail under Section 439 of the Cr.P.C. deserve to be dismissed.

8. Learned counsel for the State further submits that petitioner-Satish Kumar is also not entitled to default bail under Section 167(2) of the Cr.P.C. Supplementary challan has been presented before the concerned court within 90 days. Therefore, his default bail application has rightly been dismissed by the Addl. Sessions Judge, Faridkot on 7.12.2020.

9. I have given my thoughtful consideration to the submissions of the learned counsel for the parties. Before

proceeding further, it would be proper to reproduce the relevant provisions of Section 173 of the Cr.P.C. which reads as under:-

“173. Report of police officer on completion of investigation.

(1) Every investigation under this Chapter shall be completed without unnecessary delay.

(2) (i) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating-

(a) the names of the parties;

(b) the nature of the information;

(c) the names of the persons who appear to be acquainted with the circumstances of the case;

(d) whether any offence appears to have been committed and, if so, by whom;

(e) whether the accused has been arrested;

(f) whether he has been released on his bond and, if so, whether with or without sureties;

(g) whether he has been forwarded in custody under section 170.

(ii) The officer shall also communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any, by whom the

information relating to the commission of the offence was first given.

(3) Where a superior officer of police has been appointed under section 158, the report shall, in any case in which the State Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation,

(4) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order- for the discharge of such bond or otherwise as he thinks fit.

(5) When such report is in respect of a case to which section 170 applies, the police officer shall forward to the Magistrate alongwith the report-

(a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;

(b) the statements- recorded under section 161 of all the persons whom the prosecution proposes to examine as its witnesses.

(6) If the police officer is of opinion that any part of any such statement is not relevant to the subject- matter of the proceedings or that its disclosure to the accused is

not essential in the interests of justice and is inexpedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.

(7) Where the police officer investigating the case finds it convenient so to do, he may furnish to the accused copies of all or any of the documents referred to in sub-section (5).

(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2)."

It would be proper to reproduce the relevant provisions of Sections 18 and 43D(5) of the UAPA as under:-

"18. Punishment for conspiracy, etc.—Whoever conspires or attempts to commit, or advocates, abets, advises or incites or knowingly facilitates the

commission of, a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

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.

10. A perusal of the supplementary/final police report under Section 173 (8) of the Cr.P.C. (Annexure R-1) reveals the chain of events in the commission of alleged offences. Initially FIR No. 246 dated 18.10.2014, under Sections 392, 420, 468, 471, 472 IPC and Section 25 of Arms Act, 1959, was registered against accused Ranjit Singh @ Dupla and others, at Police Station Kotwali, Faridkot. During investigation, accused Parampal Singh alias Pala, Anantdeep Singh alias Roma, Ranjeet Singh alias Guru, owner of

Kalyan Gun House, Mansa were arrested and several illegal foreign made weapons were recovered from them and vide DDR No. 22 dated 15.1.2015, offence under Section 467 IPC was added and pending investigation qua the remaining accused, challan was presented against Pankaj Bansal accused. During investigation, Rajesh Kumar Gupta, Manjit Singh Mahal and Amar Lal Setia, owner of Amar Gun House, Abohar, were also nominated as accused. Rajesh Kumar Gupta and Amar Lal Setia were arrested and then vide DDR No. 36 dt. 24.2.2015, offence under Section 16 of the UAPA was added, but vide DDR No. 8 dated 30.4.2015, said offence was deleted and supplementary challan was presented in the trial court. The petitioner Pankaj Bansal was cited as a prosecution witness. During trial, accused Ranjit Singh @ Dupla absconded and was declared Proclaimed Offender. It further reveals that during investigation of this case by the Organised Crime Control Unit, Punjab (OCCU) vide DDR No. 32 dated 18.8.2020, the petitioners- Pankaj Bansal and Satish Kumar, owner of Vishal Gun House, Chandigarh, Raj Chopra, owner of National Arms Company, Karnal, Bhupinder Singh, Amit Kumar and Rohit Chhabra were also nominated as accused in the said case and vide DDR No. 8 dated 25.8.2020, offence under Section 16 of the UAPA and Section 25 (6), (7), (8) of the Arms Act, 1959 were added. Accused-applicant Pankaj Bansal and Satish Kumar were arrested in this case on 21.8.2020. It is pertinent to mention here that vide order dated 14.12.2020, this Court allowed the request/application of the

petitioners for addition of offence under Section 18 of the UAPA, Section 467 IPC, Section 25 (6)(7)(8) of the Arms Act in the heading/prayer clause of the main petitions for grant of bail under Section 439 of the Cr.P.C in case FIR No.246 dated 18.10.2014 registered at P.S.Kotwali, District Faridkot.

11. A perusal of the record shows that during investigation, it was found that petitioner-Pankaj Bansal is one of the purchasers of illegal weapon from accused Ranjit Singh alias Dupla, through Ranjit Singh alias Guru of Kalyan Gun House, Mansa. He had purchased one .380 Bore Pistol No.H37005X, vide bill No. 133 dated 17.6.2014 for ₹25,000/-, fraudulently prepared by Ranjit Singh alias Guru, owner of Kalyan Gun House, Mansa, intentionally and knowingly that the purchased weapon was illegal and unlawfully smuggled into India from abroad. The said weapon was not got registered by the accused- petitioner in his Arms License and was being carried by him when the FIR of this case was registered. Even he did not provide the original arms license to the police. It was also found that petitioner-Pankaj Bansal in connivance with other accused persons has indulged into unlawful trade of foreign made weapons, in connivance with Rajesh Kumar Gupta of Bareilly (UP) and Uma Kant Yadav of Munger (Bihar), who have been actively associated with Naxalites in Bihar and is part of conspiracy and crores of rupees have been laundered by the accused persons, by manipulating and fraudulently preparing sale/purchase documents. Earlier accused-petitioner managed to put undue influence on the

investigation agency and got him cited as a prosecution witness. Thus, there is specific accusation and involvement of the accused-petitioner in the present case. The allegations against accused-petitioner are serious in nature and if accused-petitioner is enlarged on bail, there is every likelihood that he will influence the witnesses and hamper the investigation.

12. It is further revealed from the record that .25 Bore Pistol no.104499 has been transferred by petitioner- Pankaj Bansal to SP Bikramjit Singh, the then SP/Detective who was supervising the investigation of this case in 2014-15. However, the chain of transfer shows that this pistol has been sold/purchased by at least three persons before it was finally transferred to SP Bikramjit Singh within a short span of five days. As per investigation, petitioner-Pankaj Bansal sold this weapon to his wife Ruchi Bansal on 13.8.2015 and Ruchi Bansal sold this weapon to Baba Farid Gun House Moga on the same day vide Bill No.167 dated 13.8.2015. Baba Farid Gun House sold this weapon to Punjab Gun House, Kotkapura on 18.8.2015 vide Bill No.283. Finally, Punjab Gun House sold this weapon to SP Bikramjit Singh on the very same day i.e. 18.8.2015 which has been recovered from SP Bikramjit Singh during the course of investigation. As per investigation, SP Bikramjit Singh has extorted this weapon from petitioner-Pankaj Bansal in adopting the above said laundered process and he helped Pankaj Bansal during the investigation at the initial stage and cited

him (Pankaj Bansal) as a witness in the case who was at that time also an accused in the case.

13. So far as petitioner-Satish Kumar is concerned, suffice it to say that during investigation, it depicted that Satish Kumar came into contact with gangster Ranjit Singh @ Dupla in 2011-12 and hatched conspiracy to illegally traffic foreign made weapons into State of Punjab from States of UP and Bihar. Accused Ranjit Singh @ Dupla had contacted a number of buyers interested in buying foreign made weapons. Once the deal was finalized, accused Ranjit Singh @ Dupla brought the said weapons from accused Rajesh Kumar Gupta of Bareilly (U.P.). After illegally trafficked into Punjab, accused Ranjit Singh @ Dupla in connivance with accused Ranjit Singh @ Guru made entry of these weapons in the stock register of Kalyan Gun House, Mansa without following the procedure laid down in the Arms Act, 1959. It has been further revealed during investigation that petitioner-Satish Kumar is one of the purchaser of illegal weapon from accused Ranjit Singh alias Dupla through Ranjit Singh alias Guru of Kalyan Gun House, Mansa. It was found that petitioner Satish Kumar has purchased around 50 foreign made weapons during the period between the years of 2011-2020 when he was in contact with gangster Ranjit Singh @ Dupla and his gang members and 21 foreign made weapons were taken in possession from him. He could not show document regarding permission for import of foreign made weapons to this country. The weapons recovered from petitioner Satish

Kumar are sophisticated weapons which have been illegally trafficked to Punjab by Ranjit Singh @ Dupla, Gurcharan Rinka, Anantdeep Bira and others. Petitioner-Satish Kumar and others are alleged to have prepared forged bills for illegal weapons, so that the weapons could be passed on as legal weapons in Punjab. In the supplementary challan, details of weapons which were illegally trafficked into this country and were not entered into the stock register of the Gun House are as under:-

- (i) .22 Bore Pistol No. G 045549, Make Walther, Made Germany
- (ii) .32 bore Pistol No. DAA- 492889 Make USA
- (iii) .380 bore Pistol no.377-17806, Make Luger, Made USA
- (iv) .22 bore Pistol No.A-071505 Make Germany
- (v) .380 bore Pistol no.2627 BAS, Make Smith & Wesson, USA
- (vi) .380 bore Pistol no.BAM 4296, Make Walther, Made USA
- (vii) .380 bore Pistol No.H37058Y, Make Pietro Berretta

14. Accused Ranjit Singh @ Guru used the photocopied Arms Licence to make entry regarding the purchase of Pistol .22 Bore No.G045549 in the Stock Register of Kalyan Gun House, Mansa dated 17.8.2012. Thus, accused Ranjit Singh @ Guru intentionally used forged documents to make entry of purchasing an

illegally trafficked foreign made weapon into the Stock Register of his Gun House. Once the entry had been made in the Stock Register of Kalyan Gun House, Mansa, accused Ranjit Singh @ Dupla informed petitioner- Satish Kumar of this. Petitioner-Satish Kumar brought .22 Bore Pistol No.G045549 from accused Ranjit Singh @ Guru for ₹ 9,00,000/-. However, accused Ranjit Singh @ Guru issued a Sales Bill No.21 dated 22.8.2012 regarding the sale of weapon no.G045549 to petitioner- Satish Kumar for ₹18,360. Petitioner-Satish Kumar submitted forged bill in Licencing Unit, Chandigarh to get the said weapon registered in his Arms Licence No.DC/3277/Arms/dated 31.7.2012 granted by DM Chandigarh. Thereafter, petitioner-Satish Kumar sold this weapon to some other person whose identity is being established. Investigation reveals that petitioner- Satish Kumar is a weapon smuggler who is alleged to be involved in dealing in illegal activities of foreign made weapons in the garb of Vishal Gun House, Chandigarh.

15. In addition to this, petitioner-Satish Kumar applied for sapurdari of these weapons from the trial court in the year 2017 and the weapons were released in his favour on Sapurdari with the directions that the weapons shall not be sold pending disposal of the case. However, petitioner-Satish Kumar sold Weapon No. P Brett H37058Y to Simrandeep Singh son of Gian Singh resident of Sangrur on 5.12.2017, thereby intentionally disobeying the orders of the JMIC, Faridkot in sheer violation of the conditions of Sapurdari Bonds. Thereafter, the police moved an application for cancellation

of the Sapurdari in the court of JMIC, Faridkot. The said Court cancelled the sapurdari and the sapurdars were directed to deposit the concerned weapons in the Police Station City Faridkot within 10 days vide order dated 27.8.2019. Instead of complying with the directions of the court, petitioner-Satish Kumar sold the weapon No. Pistol .22 German No.045549 on 30.10.2019, after the sapurdari was cancelled by the JMIC. In this way, petitioner- Satish Kumar indulged in nefarious activities of trafficking of illegal foreign made weapons and further selling of these illegal weapons on the basis of forged documents. Similarly, petitioner-Pankaj Bansal indulged in purchasing of illegally trafficked foreign made weapon and getting it registered on his Arms Licence on the basis of forged documents. As such both petitioner-Satish Kumar and petitioner-Pankaj Bansal are integral part of the larger conspiracy alongwith gangster Ranjit Singh @ Dupla and Ranjit Singh @ Guru of Kalyan Gun House, Mansa. During the course of investigation, the offence under Section 18 of the UAPA was also added in the case/FIR against all the accused.

16. The Additional Sessions Judge, Faridkot has rightly dismissed the applications of the petitioners for grant of bail under Section 439 Cr.P.C. as also for grant of default bail to petitioner-Satish Kumar under Section 167(2) of the Cr.P.C. In the present case, supplementary challan has been presented before the concerned court within 90 days, and therefore, the petitioner-Satish

Kumar has been rightly found not entitled to be released on bail under Section 167 (2) Cr.P.C.

17. Keeping in view the narration of above chain of events in the commission of offence, I do not agree with the submission of the learned counsel for the petitioners that the arrest of the petitioners is unlawful because the case has been re-investigated which is impermissible in the eyes of law. A perusal of the aforesaid reproduced provisions contained under Section 173 (8) of the Cr.P.C. makes it clear that the police can always carry out “further investigation” and file a supplementary report if it finds material, oral or documentary. The basis of “further investigation” is discovery of fresh evidence in continuation of the same offence and chain of events relating to the same occurrence. A chain of events as depicted in the supplementary report filed under Section 173 (8) Cr.P.C. would show that further investigation has been conducted in the matter relating to the same occurrence and the petitioners have been arrested accordingly.

18. The argument of learned counsel for the petitioners that offence under Section 18 of the UAPA is not attracted in the present case has no force. This Court is only dealing with the issue of grant of regular bail to the petitioners pending trial. It is well settled proposition of law that for grant of bail, the only ingredients which the Court is required to see are the materials collected during the course of investigation by the prosecution, conspiracy hatched by the accused persons in collusion with each other, nature and gravity

of offence, severity of the punishment, broad probabilities regarding prima facie involvement of the accused in the commission of the offence and past conduct of the accused persons. Furthermore the proviso to Section 43D (5) the UAPA reproduced above mandates that the person accused of an offence punishable under Chapter IV and VI of UAPA shall not be released on bail or on his own bond if the Court is of the opinion that there are reasonable grounds for believing that the accusation against such person is prima facie true. The chain of events gathered during the course of investigation as depicted in the supplementary challan by the prosecution is enough to presume that the accusation against the petitioners is prima facie true at this stage. However, these are issues which are to be considered at the time of framing of charges against the petitioners before the trial court. It is made clear that the petitioners are at liberty to raise all the issues raised in their petitions before the trial court at the time of framing of charges. Needless to say, the trial court will consider all the issues raised by the petitioners as also the prosecution at the time of framing of charges against the petitioners without being influenced by this order.

19. The judgments relied upon by the learned counsel for the petitioners are on different footings and are clearly distinguishable which are not applicable to the facts and circumstances of the present case.

20. Suffice it to say, the problem of firearms trafficking is multi-dimensional. Firearms are manufactured and traded both

licitly and illicitly thereby making the identification and tracking of illegally manufactured and trafficked firearms very complex. Some firearms are produced legally but thereafter diverted into the illicit market. Notably, illicit firearms are used in committing terrorist and heinous criminal activities by terrorist organizations, insurgents, gangsters and organized criminal groups having nexus with sleeping partners, private groups, free agents, weapon dealers, straw purchasers who add more fuel to the problem. The threat posed by firearms trafficking is unhealthy for the existence of a civilized society and is very much terrible to the stability and development of our country.

21. Both the petitions are accordingly dismissed. However, I make it clear that nothing I have stated above in this order would be taken as an expression of opinion on the merits of the case which would only be ascertained at the time of framing of charges/trial.

(ASHOK KUMAR VERMA)
JUDGE

15.12.2020
MFK

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>