

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

CRA-D-576-2021

Date of decision: 27.10.2022

Jagwinder Singh alias Jagga

.....Appellant

Versus

National Investigation Agency

.....Respondent

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: Mr. Bhanu Pratap Singh, Advocate,
for the appellant.

Mr. S.S. Sandhu, Special Prosecutor,
for the respondent-NIA.

Ritu Bahri, J.

Appellant-Jagwinder Singh alias Jagga has come up in appeal against the order dated 13.09.2021 passed by the Special Judge, NIA, Punjab, SAS Nagar (Mohali), whereby his application under Section 437 Cr.P.C. seeking bail in FIR No.136 dated 14.08.2020, under Sections 120-B read with Sections 109, 124-A, 153-B, 201, 204, 212 IPC and Sections 10, 13 of UAP Act and Section 2 of POITNH Act, Police Station City, Moga, has been dismissed.

Brief facts of the case are that on 14.08.2020, at about 8.00 A.M., two miscreants entered into the Administrative Complex, D.C. Office, Moga and went on the top floor and hoisted one saffron/yellowish colour flag having written as “KHALISTAN” thereon. Thereafter, they returned to the

ground floor and moved towards the Indian National Flag hoisted in the

premises of D.C. Office Complex, Moga. They cut the rope of Indian National Flag, due to which, the Indian National Flag fell down. Thereafter, they moved towards the outer gate of the D.C., Office Complex while dragging the Indian National Flag through the rope. In this backdrop, the aforesaid FIR was got registered under Sections 121, 121-A, 124-A, 153-A, 153-B IPC and Section 2 of Prevention of Insults to National Honours Act, 1971 at Police Station, City Moga. Sections 109, 115, 212 of IPC, Sections 10, 11 and 13 of the Unlawful Activities (Prevention) Act, 1967 and Section 66-F of IT Act were added subsequently by the Punjab Police. The Government of India, Ministry of Home Affairs, CTCR Division, North Block, New Delhi, vide order dated 04.09.2020, directed the National Investigating Agency (NIA) to take up investigation of the case, whereupon the case was re-registered by the NIA under Sections 121, 121-A, 124-A, 153-A, 153-B IPC and Section 2 of the Prevention of Insults to National Honours Act, 1972 against Gurpatwant Singh Pannu, Jaspal Singh, Inderjeet Singh and Akashdeep. During the course of investigation, accused-Jagwinder Singh @ Jagga was arrested.

Learned counsel for applicant-accused, before the Trial Court, had argued that he (applicant-appellant) has been falsely implicated in the present case. Nether he was present at the place of occurrence nor he gave any logistic support to any other co-accused on that date. The accused-appellant has been implicated in the present case on the basis of a disclosure statement. He had further argued that accused-appellant has been challaned only under Section 120-B read with Section 153-B, 204, 212 IPC and Section 13 UAP Act. The applicant-appellant has not been challaned under Section 124-A IPC and Section 2 of the Prevention of Insults to National

Honour Act.

On the other hand, learned Public Prosecutor, appearing on behalf of NIA, had submitted that during investigation, it came out that applicant-accused, Jagwinder Singh @ Jagga, had motivated accused Inderjit Singh (his cousin) for watching live telecast of "SIKHS FOR JUSTICE." In this channel, accused Gurpatwant Singh Pannu and his associates used to talk about making a separate State of Khalistan and called for voting in "Referendum 2020." Inderjit Singh and Jagwinder Singh (present appellant) used to vote for "Referendum 2020." Applicant-appellant, Jagwinder Singh @ Jagga has been watching these videos since 2018. He used to comment on the videos, uploaded by Gurpatwant Singh Pannu and his associates, that 'Khalistan Zindabad', 'Pannu Right Khalistan Zindabad'. Applicant-appellant is member of Sikh's for Justice, which is declared as an unlawful association by the Government of India. Criminal antecedents against accused-appellant Jagwinder Singh @ Jagga were received vide letter dated 14.12.2020 from the SSP, Ludhiana (Rural). Another FIR No.138 dated 02.10.2017, under Sections 307, 324, 451, 327, 148, 149 IPC, has been registered against the accused-appellant at Police Station, Sudhar, District Ludhiana. Finally, it was argued that if, he is released on bail, he might destroy/temper the evidence and influence the witnesses.

After considering the above said arguments, the trial Court dismissed the bail application. It was observed that as per the case of prosecution, on 14.08.2020, after hoisting of Khalistani flag and tearing of the Indian National Flag in the Complex of D.C. Office, Moga, accused Inderjit Singh and Jaspal Singh @ Ampa reached the house of accused Jagwinder Singh @ Jagga, who took them to Anandpur Sahib in Fortuner

car along with four (04) other persons, where they stayed for two days in two AC rooms. Those rooms were also hired by accused-appellant Jagwinder Singh @ Jagga. In this way, accused-applicant, Jagwinder Singh @ Jagga harboured accused Inderjit Singh and Jaspal Singh @ Ampa. Keeping in view the gravity and nature of the offence, his bail application was dismissed.

Before this Court, custody certificate dated 29.11.2021 of present appellant has been filed by the Deputy Superintendent, Maximum Security Jain, Nabha, as per which, the appellant had been in custody for the last 01 year, 02 months and 15 days.

As per reply dated 10.11.2021, filed on behalf of the National Investigation Agency (NIA), the investigation of this case was taken over by the NIA after getting information from the Central Government vide letter dated 04.09.2020. It is further stated that accused-appellant Jagwinder Singh @ Jagga has a Facebook account and email ID registered with his mobile numbers and these email IDs and mobile numbers were used for the purpose of watching the videos related to Sikhs For Justice (SFJ) ideology. He used to post his comments in favour of Khalistan and SFJ. He registered himself and voted online for making a separate state of Khalistan and regarding the alleged atrocities committed on Sikhs in 1984. In the videos, Gurpatwant Singh Pannu and Rana Singh used to incite the Sikhs for registering their votes for Referendum 2020 through making a WhatsApp call and sending messages. After becoming a member of SFJ, the appellant took a step further and started motivating other Sikh youths to join SFJ. Appellant Jagwinder Singh @ Jagga induced his cousin brother namely Inderjit Singh for watching videos/channel related to SFJ, Referendum 2020

and US Media International.

Mr. Sandhu, learned counsel for respondent-NIA, has argued that the appellant has actively participated in promoting the concept of SFJ. He has intentionally committed serious offence and adequate evidence have come on record against him, which substantiate his role and involvement in the crime. On his persuasion, Inderjit Singh and Jaspal Singh and Akashdeep Singh had voted in favour of Referendum 2020. The appellant is a member of Sikh for Justice, which has been declared as 'unlawful association' by the Government of India. He is intentionally and voluntarily toeing the agenda of SFJ in furtherance of a deep rooted conspiracy. Learned counsel for NIA has further argued that after sending the recorded video of commission of crime to accused Gurpatwant Singh, Inderjit Singh and Jaspal Singh spoke to accused-appellant Jagwinder Singh @ Jagga about the plan for participating in a meeting of Referendum 2020 at Anandpur Sahib Gurudwara, which was to be held on 14.08.2020. Jagwinder Singh @ Jagga facilitated and gave shelter to Inderjit Singh and Jaspal Singh by paying Rs.1000/- and hiring two AC rooms in Mata Jito Ji Niwas (Name of Yatri Niwas of Anandpur Sahib Gurudwara) from 14.08.2020 to 16.08.2020 (till evening). He also used his Fortuner car bearing registration No. PB-11-CS-9393 for carrying/travelling purposes. On 16.08.2020, appellant-Jagwinder Singh gave shelter to both the accused namely Inderjit Singh and Jaspal Singh at his home and concealed their mobile phones in his Fortuner car, which was later recovered. Finally, he argued that the Central Government, vide notification dated 01.07.2020, declared Gurpatwant Singh Pannu as an "Individual Terrorist" under Chapter VI, clause (a) of sub section 1 of Section 35 of UA (P) Act and vide

Gazette Notification dated 10.07.2019, declared 'Sikh for Justice' and all its manifestations as “Unlawful Association.”

On 12.11.2021, when this case was taken up for hearing, learned counsel for respondent-NIA had informed that out of 154 prosecution witnesses, only 02 had been examined. On 27.05.2022, additional reply was filed by placing on record evidence against the present appellant Jagwinder Singh @ Jagga. Along with this reply, the respondent has placed on record disclosure memo dated 06.09.2020 (Annexure R-1), recovery memo (Annexure R-3), comments made by the appellant (Annexure R-4), copy of charge-sheet (Annexure R-5), copy of order dated 23.07.2021 passed by the NIA Special Court (Annexure R-6), statements of the witnesses and explanation memorandum (Annexures R-7 to R-11). In the additional reply, it is stated that after making disclosure statements (Annexures R-1 to R-3), mobile phones were got recovered by the appellant from the Fortuner car. Thereafter, the said car of the appellant and mobile phones were seized.

Learned counsel for the appellant has referred to the judgment passed by Hon'ble the Supreme Court in **Union of India vs. K.A. Najeesh**, LL 2021 SC 56, whereby appeal filed by the Union of India against the order dated 23.07.2019 passed by the High Court of Kerala at Ernakulam, has been dismissed. A perusal of the said judgment shows that in that case, maximum sentence of respondent-K.A. Najeesh would be of eight years, whereas he had already undergone five years in custody during trial. Keeping in view the said fact, appeal filed by the Union of India had been dismissed.

Learned counsel for the appellant has referred to another judgment passed by this Court in **Jagtar Singh Johal alias Jaggi vs.**

National Investigating Agency, CRA-D-405-2020 (decided on 15.03.2022).

Learned counsel for respondent-NIA has informed that SLP against the said judgment has been filed and the judgment passed by this Court in **Jagtar Singh Johal's** case (supra) has been stayed by Hon'ble the Supreme Court.

In the present case, against the appellant, sufficient evidence stated to have been collected by the respondent agency during investigation and his name has been implicated pursuant to a disclosure statement made by a co-accused. Veracity of evidence is to be determined at the time of final stage of the trial. However, keeping in view the gravity of offence, alleged to have been committed by the appellant, this Court is not inclined to grant him the concession of bail at this stage.

Resultantly, the present appeal is dismissed.

(RITU BAHRI)
JUDGE

(NIDHI GUPTA)
JUDGE

27.10.2022
ajp

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