

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

204

CRM-M-15399-2021

Reserved on: 04.09.2023

Date of Decision: 15.09.2023

Rampal

.....Petitioner(s)

Versus

State of Haryana

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Vinod Ghai, Sr. Advocate,
with Ms. Neha Sonawane, Advocate,
Ms. Amrita Garg, Advocate,
Mr. Arnav Ghai, Advocate,
Mr. Chand Rathi, Advocate,
and Ms. Mahima Dogra, Advocate,
for the petitioner.

Mr. Deepak Bhardwaj, DAG, Haryana.

G.S.SANDHAWALIA, J.

1. The present petition is second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.428 dated 18.11.2014 registered under Sections 107, 120-B, 121, 121-A, 122, 123, 124, 125, 147, 148, 149, 186, 307, 332, 353, 383, 435, 188, 326-A, 436 IPC and 25, 54 and 59 of the Arms Act, 1959 and Section 3 of Prevention of Damage to Public Property Act, 1984 (in short 'the PDPP Act'), the first having been dismissed as withdrawn on 13.11.2018 (Annexure P-11).

2. The primary reason which weighed with the Additional Sessions Judge, Hisar while denying the bail on 05.09.2016 (Annexure P-10) was that the allegations against the accused were serious in nature regarding the

charges which had been framed. Merely because others persons had been granted the benefit of bail, the principle of parity was not accepted keeping in view the number of persons involved and by noting that it was not possible to scrutinize the role of each individual and it would also prejudice the prosecution case since the State had projected the petitioner as having the main role in the occurrence.

3. Senior counsel for the petitioner has stressed on the fact that the petitioner has undergone actual period of 8 years, 8 months and 25 days since he was arrested on 20.11.2014 and has submitted that there are 463 witnesses and only 89 witnesses have been examined. It has been further submitted that out of the said witnesses, 142 accused are similarly situated as the petitioner and out of those, except the petitioner and his son-in-law namely Sanjay, all others are on bail. It is highlighted that the provisions of Section 15 and 22C of the Unlawful Activities (Prevention) Act, 1967 (in short 'UAPA Act') are not made out. Similarly, provisions of Section 121A IPC are not made out. It is submitted that there are two other FIRs bearing FIR Nos.429 and 430 in which he has been convicted. This also pertains to the same incident and the prosecution, in overzealousness, had alleged that there are several FIRs and he has been acquitted in FIR Nos.426 and 427. Thus, Article 21 of the Constitution of India is pressed into service and it is held out that the bar under Section 43-D(5) would not be attracted and reliance has been placed upon the observations of the Apex Court in the recent judgment in ***Crl. Appeal No.639 of 2023 Vernon vs. The State of Maharashtra and another*** decided on 28.07.2023.

4. State, on the other hand, has opposed the present bail petition

which, 4 were females and one minor child and damage was caused to the property. 11 persons had received fire arm injuries out of the 111 persons injured. 16 persons had received grievous injuries and the petitioner was the kingpin around whom the whole incident had rotated and he had failed to surrender in spite of the orders passed by a co-ordinate Bench of this Court whereby his presence in a contempt matter was sought to be enforced. Reliance was accordingly placed upon the provisions of Section 15 of UAPA to submit that there was usage of bombs and there was an attempt to overawe the State by means of criminal force and, therefore, it would amount to terrorist act. It was accordingly argued that once a *prima facie* case is made out, the provisions of Section 43 would be attracted and the person was not entitled to be released on bail if there were reasonable grounds for believing that the accusation against such a person is *prima facie* true. It was accordingly contended that fire arms had been recovered along with a bullet proof car and petrol bombs. The trial was taking place in a jail and if the petitioner is released, his supporters would ensure that the trial would not take place by crowding the Court Complex on the dates fixed and there are serious apprehensions that the earlier situation would be repeated. It was accordingly contended that the petitioner is a person of criminal background as conviction has already been recorded in two cases under Section 302 IPC and he has been sentenced for life imprisonment till death without any remissions. It was not only he but his other family members were also involved and keeping in view the background as such, though he had undergone detention for over 8 years, his conduct did not warrant him to be given the benefit of regular bail as even the conditions imposed would not suffice in the facts and circumstances.

5. It is a matter of record that vide order dated 05.11.2014 in CRCOP No.12 of 2014, non-bailable warrants were issued against the petitioner and one Ram Kanwar Dhaka. The order reads thus:-

“As the contemnor Baba Ram Pal and Ram Kanwar Dhaka had intentionally disobeyed the directions of this court to face the contempt proceedings initiated by us, we issue non bailable warrants of arrest as against Baba Ram Pal and Ram Kanwar Dhaka. The Director General of Police and the Home Secretary for the State of Haryana are directed to ensure that the non bailable warrants we have issued today are executed and both of them are arrested and brought before this court for the hearing on 10.11.2014.”

6. The petitioner, who was enclosed in his ashram namely Satlok Ashram at Barwala could not be produced by the State as a large congregation was organized which led to the Home Department of Haryana asking for 25 companies of CAPF including 5 *mahila* companies. The Government of India apparently provided 5 companies of CAPF including one *mahila* company and repeated requests were made and eventually 35 companies including Central Armed Police Forces and State Police Forces having 27 tear gas squads, 4 water canon vehicles, 4 fire brigade vehicles, 4 anti riots control vehicles, 4 cranes and 7 photographers with 8 gazetted police officers with 8 Duty Magistrates were deployed to execute the non-bailable warrants. This aspect would be clear from the status report which was submitted before this Court in CRCOP No. 12 of 2014 by Shriniwas Vashisht, Director General of Police, Haryana. As per the FIR, the petitioner made about 600-700 ladies, children sit outside the main gate and 1500-2000 young persons were stationed on the roof of the Ashram carrying *lathis*,

bombs and having guns. When the police party had announced on the loud speaker that there were arrest warrants, the associates of the petitioner had made persons sit outside the Ashram with jerrycans of diesel and petrol, who were threatening the police party that they would not allow the petitioner to be arrested and the police party had to walk on their dead bodies. Section 144 Cr.P.C. had already been imposed in the said area and pelting of stones on police party had been started which eventually, as noticed, has led to 111 persons being injured. Firing was started from the first floor and pelting of petrol bombs was done and a JCB was set ablaze and the driver was injured which led police to fire tear gas shells to disburse the crowd by using water canons. Large number of vehicles were damaged on account of the conduct of the other accused which was done at the behest of the petitioner who was to be produced before this Court. The detention of ladies and children within the Ashram to form a human barrier and they not being allowed to come out of the Ashram was a conspiracy which was done which resultantly, as noticed, has led to the death of 4 ladies and one minor child, for which the petitioner has already been sentenced to life imprisonment.

7. The investigating agencies had to call for different investigating officers from different police stations to control the situation which apparently went out of hand and it was noticed that the Ashram had uniforms of commandos which were worn by the followers and who had opened fire at the police party. Resultantly, 5 riffles of .315 bore, 24 cartridges, 2 rifles of .12 bore and 25 cartridges were recovered from the sheds inside the Ashram and country made petrol bombs were found along with packets of inflammable material apart from sticks and helmets and pieces of glass and

27 cartridges of .32 bore pistol were also recovered.

8. In the investigation report, it transpired that the petitioner was a Junior Engineer in the Irrigation Department and had worked till 1995. Thereafter, he started promoting the teachings of St. Kabir and constituted a trust namely Chhor Parmeshwar Bhagti Trust and Bandi Chhor Mukti Trust registered under the Indian Trust Act, 1882. A fight had taken place between him, his followers and Arya Samajis and a case under Section 302 IPC was also registered at Rohtak bearing FIR No. 198, in which, eventually he has been acquitted on 21.12.2022 as per the custody certificate. He resultantly set up a *dera* at Barwala since the year 2009 on the 12 acres of land which had been purchased on the Tohana road from where he was arrested. It is his case that he formed a Rashtriya Samaj Sewa Samiti (RSSS) and the members were young persons who were named as commandos and were made to wear black uniforms and the President was Ram Kanwar Dhaka. On account of publishing many books and offending material, apparently arrest warrants had been issued by this Court, which had been resisted in the manner as noticed above by instigating the youngsters who had been given the designation of Commandos. The charge was framed against him initially on 15.07.2016 alongwith other co-accused by passing a detailed speaking order by the Special Court at Central Jail-I, Hisar, which reads thus:-

“That on or about 18.11.14 in the of P.S.Barwala you alongwith other 38 accused (who are yet to be arrested and already declared proclaimed offenders) were members of an unlawful assembly and in prosecution of the common object namely to dismantle the law and order and public peace by waging war against the State by overawe of criminal force creating

an illegal associations (distrust against the system of law) by not obeying the arrest warrants of accused Rampal issued for dt. 05.11.2014, 10.11.2014 and 17.11.2014 by competent authority and were armed with deadly weapons i.e. petrol bombs, double barrel gun, rifles, revolvers etc. committed an offence of rioting and thereby committed an offence punishable under section 148 IPC and within my cognizance.

Secondly, that on the same date, time and place, you all were members of unlawful assembly and in prosecution of common object of such unlawful assembly enumerated above voluntarily obstructed officers/officials of police (public servants), whose names have been cited in the list of witness, in discharge of their public functions and thereby committed an offence punishable under section 186 read with section 149 IPC and within my cognizance.

Thirdly, that on the same date, time and place, you all were members of unlawful assembly and in prosecution of common object of such unlawful assembly enumerated above attacked police officials by throwing explosive substance; petrol bombs, throwing firing and pelting stones etc. due to which C. Sandeep No.5/728, C.Virender 3/178. C. Lalu 2/228, C. Chhotu Ram No.1548, LC Ravita 523 BWN, HC Rakesh 5/835, HC Sukrampal 581/PPT. HC Subhash 663/KNL, HC Dharambir 5/676, PSI Ravinder, HC Suraj Bhan 102/Amb and C. Sandeep 5/629 suffered injuries, under such circumstances by that act you had caused the death of those police officials, you would have been guilty of murder and thereby an offence punishable under section 307 read with Section 149 IPC and within my cognizance.

Fourthly, on the same date, time and place, you

all were members of unlawful assembly and in prosecution of common object of such unlawful assembly enumerated above voluntarily caused hurt to approximate 86 police officials, while they were discharging their duties as such public servants and thereby committed an offence punishable under section 332 IPC read with Section 149 IPC and within my cognizance.

Fifthly, on the same date, time and place, you all were members of unlawful assembly and in prosecution of common object of such unlawful assembly enumerated above voluntarily caused grievous hurt to 13 police officials (ASI Randeep Singh 100/YNR, C. Kuldeep Singh 31/Jind, Recruit Dhiru Singh 3/166, ASI Om Parkash 214/KNL, HC Sukhbir 5/754, HC Pardeep 15/BWN, EHC Satyawar 229/BWN, Recruit Surjeet 1/683, C. Mahinder Singh 3/558, C. Sandeep 4/487, Recruit Moni Ram 1/697, Insp. Ravi Khumbia, C. Ajay 1155/HSR) by using explosive substance, bricks, firearms etc. while they were discharging their duties in order to deter them from performing their duty and thereby committed an offence punishable under section 333 IPC read with section 149 IPC and within my cognizance.

Sixthly, on the same date, time and place, you all were members of unlawful assembly and in prosecution of common object of such unlawful assembly enumerated above voluntarily caused hurt to PW Ansar son of Nasrudeen and thereby committed an offence punishable under section 323 IPC read with section 149 IPC and within my cognizance.

7thly, on the same date, time and place, you all were members of unlawful assembly and in prosecution of common object of such unlawful assembly

enumerated above confined Barwala 20000 people at Satlok Ashram, Barwala and thereby committed an offence punishable under section 342 IPC read with section 149 IPC and within my cognizance.

8thly, on the same date, time and place, you all were members of unlawful assembly and in prosecution of common object of such unlawful assembly enumerated above assaulted police officials/public servants, who were discharging their duties as public servant to execute the warrant issued by lawful authority and thereby committed offence punishable under section 353 read with section 149 IPC and within my cognizance.

9thly, on the same date, time and place, you all were members of unlawful assembly and in prosecution of common object of such unlawful assembly enumerated above committed mischief by fire and caused damage to JCB Crane No. HR-56A-9871 which was hired by the police department for its own use, government vehicle i.e. policy gypsy thereby causing damage for an amount more than Rs.100/- and thereby committed an offence punishable under section 435 read with section 149 IPC and within my cognizance.

10thly, on the same date, time and place you all were members of unlawful assembly and in prosecution of common object of such unlawful assembly enumerated above did acts with intent to threaten or likely to threaten the unity, integrity, security intent to threaten or likely to threaten the unity, integrity, security or sovereignty of India and with intent to strike terror among the minds of the people by using explosive substance, fire arms etc. to cause or likely to cause death or injuries to persons or loss of or damage to the property and overawe by means of criminal force or

show of criminal force and attempted to cause the death of the public servants and detained the thousands of so called followers to compel the State Government from abstaining from doing the acts and thereby committed an offence punishable under section 16 of Unlawful Activities (Prevention) Act, 1967 and within my cognizance.

11thly, that you all named above Rampal and others constituted trust namely Chhor Parmeshwar Bhagti Trust and Bandi Chhor Mukti Trust registered under the Indian Trust Act, 1882 and you all being Incharge/responsible for the conduct of its business of the said trust committed offences u/s 16 of Unlawful Activity Act (1967) as amended upto date and thereby an offence u/s 22-C of Unlawful Activity act, 1967 and within my cognizance.

12thly, that on the same date, time and place, and you all named above unlawfully and maliciously caused by bombs explosive substances etc. petrol bombs etc., an explosion of a nature was likely to endanger life or to cause serious injury to property and thereby committed an offence punishable under section 3 of Explosive Substance Act, 1908 and within my cognizance.

13thly, that on the same date, time and place, you all named above named above unlawfully and maliciously threw petrol bombs, likely to endanger life or to cause serious injury to the property and thereby committed an offence punishable under section 4 (a) of Explosive Substance act, 1908 and within my cognizance.

14thly, that on the same date, time and place, you all named above had in your possession or your control explosive substance i.e. petrol bombs, kerosene etc. with intent to endanger life or cause serious injury to the

property and thereby committed an offence punishable under section 4 (b) of Explosive Substance Act, 1908 and within my cognizance.

15thly, that on the same date, time and place, you all named above named above committed mischief by doing an act in respect of public property and thereby committed an offence punishable under section 3 of Prevention of Damage to Public Property Act, 1984 and within my cognizance.

16thly, that on the same date, time and place, you all named above committed mischief to public property by fire and explosive substance and thereby committed an offence punishable under section 4 of Prevention of Damage to Public property Act, 1984 and within my cognizance.

17thly, that on the same date, time and place, you all named above named above waged war against the State and thereby committed an offence punishable under section 121 of IPC and within my cognizance.

18thly, on the same date, time and place (Satlok Ashram Barwala), you all named above named above conspired to overawe the State Government by use of criminal force through overawe distrust against the system of law established by the State through various publications and collected men, arms and ammunition to wage War against State Govt. and thereby committed an offence punishable under section 121-A of IPC and of within my cognizance.

19thly, that you on or about the aforesaid date knowing that certain persons had designed to wage war against the State Government concealed the existence of design by collecting explosive substance, firearms, petrol bomb, weapons at the Ashram intending by such concealment waging of war against the State Govt. and

thereby committed an offence punishable under section 123 of IPC and within my cognizance.

20thly, that all you on or about 18.11.14 agreed to do aforesaid illegal acts enumerated above by illegal means and besides agreement you did commit some of the acts in pursuance of the said agreement to commit offences under sections, 148, 186, 188, 121, 121A, 122, 123, 307, 332, 333, 342, 353, 435 IPC, section 16, 22C of unlawful activities (Prevention) Act, 1967 sections 25, 27, 30 of Arms Act Sections 3, 4 of Explosive Substance Act $\frac{3}{4}$ of PDPP Act which were punishable with imprisonment of death or imprisonment for life or Rigorous imprisonment for a term more than two years or upward and thereby committed an offence under section 148, 186, 188, 121, 121A, 122, 123, 307, 332, 333, 342, 353, 435, IPC, Section 16, 22C of unlawful activities (Prevention) Act, 1967, Sections 25, 27, 30 of Arms Act, sections 3,4 of Explosive Substance Act, $\frac{3}{4}$ of PDPP Act read with section 120-B IPC and within my cognizance.

21stly you on or about the above said dates abetted to commit offences enumerated above and at the time when aforesaid offences were being committed, you were also present at the spot and thereby committed an offence under section 148, 186, 188, 121, 121A, 122, 123, 307, 332, 333, 342, 353, 435, IPC, Section 16, 22C of unlawful activities (Prevention) Act, 1967, Sections 25, 27, 30 of Arms Act, sections 3,4 of Explosive Substance Act, $\frac{3}{4}$ of PDPP Act read with section 114 IPC and within my cognizance.

22ndly that on the same date, time and place, you all named above in prosecution of common object knowing that an order has been promulgated by DM, Hisar on 11.11.14 exercising the power u/s 144 Cr.P.C.

whereby he directed to abstain from gathering/making collection/ group of five or more persons at Satlok Ashram, Barwala and 500 meter of its periphery and also to abstain any person from carrying any weapon including jelli, gandasi, bhalla, barcha, talwar, lathi etc., disobeyed such directions and thereby committed an offence punishable under section 188 IPC and within my cognizance.

And I hereby direct that you be tried by this court on above said charges.”

9. The said charge was thereafter challenged in CrI. Rev. No. 3813 of 2016 and vide order dated 22.10.2016, Single Judge of this Court gave liberty to file an application under Section 216 Cr.P.C. The Trial Court reiterated the charges on 16.01.2017 by noting that the Trust/Society was set up for pious purpose but could not be permitted for undertaking unlawful activities committed by a group of persons. By placing reliance upon the provisions of Section 15 of UAPA Act and the punishment provided under Section 16 of the said Act, it was held that the persons who were incharge and responsible for conducting the business would be liable and use of force as such and violence would *prima facie* show that the charge was justified specially keeping in view the fact that there was a recovery of large number of weapons and petrol bombs. Section 15 of the UAPA Act reads thus:-

“[15. Terrorist act.—[(1)] Whoever does any act with intent to threaten or likely to threaten the unity, integrity, security [, 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.*

[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;

(b) “high quality counterfeit Indian currency” means the counterfeit currency as may be declared after examination by an authorised or notified forensic authority that such currency imitates or compromises with the key security features as specified in the Third Schedule.]

[(2) The terrorist act includes an act which constitutes an offence within the scope of, and as defined in any of the treaties specified in the Second Schedule.]”

10. A perusal of the above would go on to show that where any act is done to threaten the integrity and security of India or to strike terror in the people by usage of bombs or other explosive substances which can cause death or damage and cause destruction to property would be a terrorist act as provided under Section 2(k). Similarly, Section 2(o) provides for the unlawful activity in relation to any individual or association which can be either spoken or written or by signs of visible representation whereas Section 2(p) provides for unlawful association with an object and unlawful activity which encourages or aids persons to commit such unlawful activity and such members undertake such activities. Similarly, Section 15(1)(b) provides the overawing by means of criminal force or show of criminal force whereas Section 15(1)(c) talks about kidnapping, detention and threatening to kill and injure such persons in order to compel any State Government to abstain from committing any such act and it would fall under the definition of terrorist act.

11. The allegations as such in the charge would go on to show that

the Ashram for a period of almost three days before he was eventually arrested. The same was being supervised by him out of the Ashram by way of close circuit TVs, which was also part of the challan. He accordingly took the benefit of his followers being pushed forward and used them as human shields to avoid the execution of non-bailable warrants within the premises of the Trust which he had constituted. Section 22(c) of the Act provides punishments for offences by societies or trust wherein maximum imprisonment is for life and the fine will not be less than Rs.5 crores whereas under Section 16, the punishment provided is upto death or imprisonment of life in cases of death of any person whereas in any other case otherwise it is not less than 5 years but which may extend to imprisonment of life under Section 16(b).

12. The judgment relied upon in *Vernon's case (supra)* was a case that whether the appellants in question had been arrested from their resident who were alleged to be authors of the offending material. Whether they were handling the finances or not had not been substantiated and accordingly a finding was recorded that there was no evidence to show that the persons were involved in terrorist acts. Resultantly, benefit of bail was granted by the Apex Court keeping in view the principles laid down earlier in ***NIA vs. Zahoor Ahmad Shah Watali, Union of India vs. K.A. Najeeb, 2021 (2) RCR (Crl.) 145; Thwaha Fasal vs. UOI, 2021 SCC Online SC 1000.*** The provisions of Section 43-D(5) of UAPA restrict the benefit of regular bail in case the Court *prima facie* finds material on record regarding offences under UAPA.

13. The sequence of events as such are of such nature as noticed

above which cannot be easily brushed aside. The petitioner has already been

convicted under two different charges under Section 302 IPC which would be clear from the custody certificate and as also contended by the senior counsel. His background as such is also one wherein he was also involved in a murder case earlier, though acquitted. The gravity and the manner in which there was a display of strength to oppose the arrest warrants at his instance would go on to show that it cannot be recorded that he was not involved in any manner and the charges which had been framed against him under Section 15 and 22-C of UAPA are without any substance. The use of criminal force and attempt to cause death of public servants by use of fire arms through his henchmen who were only complying with the orders of this Court would *prima facie* also go on to show that it was an attempt to wage war against the State under Section 121-A for which the 18th charge has been framed. Material in the form of “Molotov Cocktails” (petrol bombs loaded with nails and glass) have been recovered to show the criminal intent to attack the police party behind the shield of women and children.

14. In such circumstances, keeping in view the fact that the petitioner, if enlarged on bail, his ability to garner large number of persons to avoid the trial are potentially damaging against him for which reason he is being tried by a Court which assembles in Jail at Hisar. It was with great difficulty that the arrest warrants as such were executed at the precious cost of innocent lives of women and a child who were gathered in the Ashram who were being used as a human shields. In such circumstances, we are of the considered opinion that merely on account of the long detention, the petitioner is not entitled for the benefit of grant of regular bail. In ***CRA-D-483-2021, Suhail Ahmed Bhat vs. National Investigating Agency, New***

the fact that there was indulgence in various activities of similar nature and the role of the accused and the evidence collected alongwith the severity of punishment.

15. In ***CRA-D-323-2022, Amir Nazir vs. National Investigation Agency*** decided on 15.02.2023 also, this Court was not inclined to grant the benefit of bail on similar grounds as the petitioner in the said case was not able to make out a case for interference to record a finding that there was no involvement of the petitioner.

16. Resultantly, we do not find any ground to grant regular bail to the petitioner and the present petition accordingly stands dismissed. However, keeping in view the undergone period, the trial Court is directed to expedite the proceedings.

(G.S. SANDHAWALIA)
JUDGE

15.09.2023
shivani

(ALOK JAIN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
Yes