

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

CRA-D-448-2022

Date of Decision:-19.04.2023

Mann Singh

....Appellant

vs.

National Investigation Agency

....Respondent

**CORAM:- HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present:- Mr. Baljinder Singh, Advocate
for the appellant

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

Ritu Bahri, J.

Mann Singh has filed the present appeal seeking setting aside of order dated 24.03.2022 passed by the learned Special Judge, NIA, Mohali, Punjab (herein after to be referred as 'the Court below'), whereby the regular bail application of the appellant filed under Section 439 Cr.P.C, arising out of F.I.R No. 13 dated 22.09.2019, NIA case No. RC/21/2019/NIA/DLI dated 10.10.2021 under Sections 120-B/121/121-A/122/489-B/489-C/379 read with Section 411 IPC, Sections 13/16/17/18/18-B/23 & 38 of UA (P) Act, 1967 and Section 25 (1AA), 25 (1) (b) (a) (f) (g) and 27 (2) of Arms Act, 1959 and Section 4 and 5 of Explosive Substantive Act, 1908, was dismissed.

Brief facts of the case are that a secret information was received at Police Station Special State Operations Cell (SSOC), Punjab that Gurmeet Singh @ Bagga, presently residing in Germany is in touch with Khalistani leaders in an endeavour to revive terrorism in Punjab and heavy funding is being done for this purpose from foreign countries. One Maan Singh, presently lodged in Central Jail, Amritsar got in touch with aforesaid Gurmeet Singh @ Bagga through mobile and

social media, while in jail. ***Said Maan Singh motivated another inmate Akashdeep Singh, presently on bail to join terrorism and got him in contact with Gurmeet Singh @ Bagga, who in connivance with Ranjeet Singh @ Neeta, Pakistan based chief of Khalistan Zindabad Force, smuggled a huge consignment of arms, ammunitions, explosives and fake currency from Pakistan into India with the help of Maan Singh*** and the same was received by Akashdeep Singh and his associates namely Balwant Singh, Balvir Singh, Harbhajan Singh, Shubdeep Singh and their unknown associates. These persons were in preparation to execute a huge terrorist incident in Punjab so as to create an atmosphere of disharmony, communal tension and instability in Punjab and other State of India. Accordingly, the above mentioned FIR No.0013 dated 22.09.2019 was registered. Subsequently, four accused persons namely Akashdeep Singh, Balwant Singh, Balvir Singh and Harbhajan Singh were arrested along with consignment of arms, ammunition and explosives at the outskirts of town Chohla Sahib, Tarn Taran. Thereafter, the Central Government, Ministry of Home Affairs, New Delhi vide order dated 30.09.2019 entrusted the investigation of this case to the NIA, the NIA re-registered the case No.RC-21/2019/NIA/DLI dated 01.10.2019.

The present applicant filed bail application before the Court below on the ground that the applicant has been falsely implicated in the present case, as no recovery of any incriminating substance or material was effected from the appellant since at the relevant time, the appellant was already in custody in connection with FIR No. 46 dated 21.05.2017 registered at P.S. Ramdass Amritsar for offences under Sections 3,4,5 of Explosive Substances Act, 17,18,19,20 of the UAPA and Sections 25/54/59 of Arms Act.

On notice of the appeal, a reply has been filed on behalf of NIA on 25.07.2022 and a preliminary submission has been taken that as per Section 43 (D)

(5) of UAPA, 1967 the 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. Section 43 (D) (5) of UAPA, 1967 reads as under:-

(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.

Reference has then been made to judgment dated 05.08.2020 (R-1) whereby appeal i.e CRA-D-325-2020 filed by co-accused Balvir Singh had been dismissed by this Court.

It has further been stated that Government of India, CTCR Divn. MHA, New Delhi vide order dated 30.09.2019 directed NIA to take over investigation of the case. Pursuant to this order, NIA took over the investigation of the above F.I.R. The above said case No. 13/2019 was re-registered in NIA, New Delhi as NIA case No. RC-21/2019/NIA/DLI dated 01.10.2019 mentioned above. The present appellant was arrested on 23.09.2019. The charge sheet has also been filed on 18.03.2020 (R-2) against nine arrested accused persons. The name of appellant is at A-5, which has been charge sheeted under Sections 120-B/121/121-A/122 of IPC and Sections 16/18/18-B/23 and 38 of UAPA Act. After taking into

consideration the charge sheet and other related documents filed along with charge sheet, NIA Spl. Court Mohali on 27.08.2021 has framed charges against the accused-appellant (R-3). The further investigation of this case is going on for collection of more evidence against the charge sheeted accused as well as other known and unknown accused.

Learned counsel for the appellant contends that the appellant has been falsely implicated in the present case and he is in custody since 23.09.2019. The trial is not likely to conclude and will take some time and thus the present appeal be allowed.

On the other hand, learned counsel for the respondent-NIA states that the appellant be not released on bail, keeping in view Section 43 (D) (5) of UAPA. Further the present appeal is also not maintainable, as there are prima facie evidence against the appellant.

Heard.

As per charge sheet mentioned at page No. 66 of the reply dated 25.07.2022, the appellant has been charged under Sections 120-B/121/121-A/122 of IPC and Sections 16/18/18-B/23 and 38 of UAPA Act. Further the appellant has also been accused in F.I.R No. 46 dated 21.05.2017 under Section 17/18/19/20 of UAPA and Section 25 of Arms Act and Section 14 of Foreigner Act and F.I.R No. 14/2018 dated 10.06.2018 under Section 420/364-A/382/386/387/212/216/216-A/120-B of IPC and Section 42/52-A of Prisons Act and Section 10/11/13 of UAPA Acvt. The appellant has been convicted for 10 years in F.I.R No. 46 dated 21.05.2017. The appeal bearing No. CRA-D-551-2021 filed by co-accused Sajjanpreet Singh @ Sajan has also been dismissed as withdrawn on 23.11.2022,

Keeping in view the fact that investigation is still going on for collecting more evidence and the fact that serious charges have been framed

against the appellant, we do not deem it fit to grant the concession of regular bail to the appellant.

The appeal is thus dismissed.

(RITU BAHRI)
JUDGE

(KULDEEP TIWARI)
JUDGE

19.04.2023
G Arora

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