



**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH.**

244

**CRM-3567-2024 in/and  
CRA-D-137-2024.  
Date of Decision: 24.09.2024.**

Lovepreet Singh @ Labhi @ Lovi

....Applicant/appellant.

VERSUS

State of Punjab

....Respondent.

\*\*\*

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL  
HON'BLE MS. JUSTICE LAPITA BANERJI**

---

**Present:** Mr. S.P. Singh, Advocate for applicant/appellant.

Mr. H.S. Sullar, Senior Deputy Advocate General, Punjab.

\*\*\*\*\*

**ANUPINDER SINGH GREWAL, J. (Oral)**

**CRM-3567-2024**

This is an application seeking condonation of delay of 186 days in preferring the appeal.

Learned counsel for the applicant/appellant submits that the applicant belongs to a poor family and could not engage counsel due to paucity of funds.

Issue notice in the application to the non-applicant/respondent.

At the asking of the Court, Mr. H.S. Sullar, Sr. DAG, Punjab, accepts notice on behalf of the respondent and filed reply, which is taken on record.

Heard.

The appeal against an order rejecting the application for bail is provided under Section 21 of the National Investigation Agency Act, 2008.

The period of limitation which is prescribed therein is 30 days which can be condoned up to 90 days with sufficient cause. The appeal in the instant case has been preferred after 186 days. It has been held by the Division Bench of the Bombay High Court in the case of **Faizal Hasamali Mirza versus State of Maharashtra and another, 2023 SCC (online) Bom 1936**, that the period of 30 days prescribed under Section 21 of the National Investigation Agency Act, 2008 would be directory as the right to appeal is one of the essential component of Article 21 of the Constitution of India which guarantees protection of life and personal liberty. It has been held that in case the delay is not condoned then it would deprive the under trial the right of appeal which is provided by the Statute which impinges on the life and liberty of the under trial as enshrined in the Constitution of India. It was held as under: -

“(i) that the Appellate Courts have the power to condone delay beyond the 90 days period, despite the language of the 2nd proviso to Section 21(5) of the NIA Act and that this can be done by virtue of Section 5 of the Limitation Act, 1963, the applicability of which is not excluded under the provisions of the NIA Act. Thus, an application seeking to condone delay beyond 90 days in filing an appeal against the judgment, sentence, order, not being an interlocutory order, passed by a Special Court is maintainable, on sufficient cause being shown;

(ii) that the word 'shall' in the 2nd proviso to sub-section (5) of Section 21, be read down, to read as 'may', and hence, directory in nature.”

In the instant case, the applicant/appellant is in custody as an under trial. The delay appears to be unintentional and not deliberate. It would, therefore, be in the interest of justice, if the appeal is heard and decided on merits. Consequently, the application is allowed and delay of 186 days in preferring the appeal is condoned.

**CRA-D-137-2024**

The appellant has challenged the order dated 20.06.2023 passed by the Additional Sessions Judge, Moga, dismissing his bail application under Section 439 Cr.P.C. in FIR No.222 dated 04.10.2022 under Sections 25(6), 25(7) of the Arms Act, under Sections 10, 13, 18 and 20 of Unlawful Activities (Prevention) Act, 1967 (for short 'the UAPA Act') and Sections 3, 4, 5 and 6 of the Explosive Substances Act, 1908, registered at Police Station, Baghapurana.

2. Learned counsel for the appellant submits that there is no prima facie material which would connect the appellant with the commission of offence except the statement made by the co-accused Harpreet @ Hira. There is no discovery of any fact or any article in pursuance to the disclosure statement. He further submits that he did not have any criminal antecedents before his involvement in the instant case and after his arrest in this case, he has been involved in another FIR which was registered 03 days prior to the registration of the instant case i.e. FIR No. 81 dated 28.09.2022 under Section 25 of the Arms Act and Sections 13, 15, 16 and 18 of the UAPA Act registered at P.S. Arif Ke. Learned counsel for the appellant submits that co-accused namely Sukhpreet Kaur and Nirmal Singh @ Nimma have already been granted the benefit of regular bail by this Court in CRM-19001-2023 in CRA-D-542-2023 and CRA-D-1111-2023.

3. Learned State Counsel while referring to the reply filed by the Deputy Superintendent of Police, Baghapurana, District Moga submits that it was disclosed by co-accused-Harpreet Singh @ Hira that the appellant was

also with them on his Acura vehicle bearing Registration No. PB-03-BH-4313. He was plying the Acura with co-accused Nirmal Singh @ Nimma so that in case there is barricading, the appellant will inform them. He further submits that after completion of the investigation, challan qua the appellant and other accused had been filed on 1.4.2023, charges had been framed on 10.01.2024 and now the case is fixed for prosecution evidence. He also submits that in view of the serious allegations, the appellant is not entitled to the benefit of regular bail.

4. Heard.

5. The allegations against the appellant and other co-accused are that they had been receiving arms, ammunition and explosive substances from across the border and had been using the same to indulge in anti-national activities including spreading terror etc. The appellant has been arraigned as an accused on the statement of co-accused Harpreet @ Hira that he was traveling on a scooter ahead of the other co-accused to alert them about any barricading by the police.

6. In response to the query of this Court as to whether any recovery had been effected from the appellant, learned counsel for the appellant submits that as per the affidavit filed by the DSP, there does not seem to be any recovery effected from the appellant.

7. It is thus manifest that besides the statement of the co-accused wherein he has stated that the appellant was also traveling ahead of them, there does not seem to be any material to connect the appellant with the commission of the offence. There is no recovery from the appellant and nothing to indicate that as per call locations or call details, the appellant was

in touch with the co-accused in close proximity to the commission of the offence or their arrest as they are stated to have been apprehended along with arms and ammunition.

8. We are conscious of the fact that under the provisions of the UAPA Act, bail can be granted if the Court is of the opinion that there are no reasonable grounds to believe that the accusations against the accused are prima facie true. The provisions of the UAPA Act are stringent and therefore, at the same time, it is necessary for the Court to carefully scrutinize the material in reference to the accusation against the accused. In the instant case, besides the statement of the co-accused that the appellant was also traveling ahead of them on his vehicle, there does not seem to be any other material at this stage which would connect the appellant with the commission of the offence. The appellant prior to his involvement in the instant case was not involved in any other criminal case. He has been in custody for a period of more than 1 year and 11 months.

9. We, therefore, have no hesitation to hold that there are no reasonable grounds for believing that the accusation against the appellant is prima facie true. We, therefore, deem it appropriate to allow the appeal and grant the concession of regular bail. The impugned order dated 20.06.2023 passed by the Additional Sessions Judge, Moga is set aside. The appellant is ordered to be released on regular bail on furnishing requisite bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

10. However, it is clarified that the observations made hereinabove would not have any bearing on the merits of the case.

11. Pending application (s), if any, stands disposed of

(ANUPINDER SINGH GREWAL)  
JUDGE

(LAPITA BANERJI)  
JUDGE

24.09.2024  
jitender

Whether speaking/ reasoned : Yes/ No  
Whether Reportable : Yes/ No