IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-D-229-2020 (O&M)
Date of decision 08.12.2025

National Investigation Agency .....Appellant

Versus

Ajay Gupta ......Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MRS. JUSTICE RAMESH KUMARI

Present: Mr. Sukhdeep Singh Sandhu, Special Public Prosecutor for the appellant-NIA.

Mr. Aman Bansal, Advocate for the respondent.

RAMESH KUMARI J.

1. The present appeal has been filed by the appellant-NIA against impugned order dated 25.11.2019 rendered by the learned Special Judge, NIA, Punjab, SAS Nagar Mohali vide which the respondent-Ajay Gupta has been enlarged on regular bail in NIA Case No.RC No.18/2019/NIA/DLI dated 24.07.2019 under Sections 120-B, 121-A, 122 IPC, Sections 17, 18, 18-B, 20 of The Unlawful Activities (Prevention) Act and Sections 8, 16, 17, 18, 23, 24, 29, 32(b) (e) of NDPS Act.

FACTUAL MATRIX OF NIA CASE

2. a) On 29.06.2019 Custom Commissionerate, Amritsar at its Integrated Check Post (ICP), intercepted two persons namely Gurpinder Singh an Amritsar based trader and Tariq Ahmed Lone from Handwara, J&K which resulted in seizure of 532 Kg. of Heroin and 52 Kg. of mixed narcotics [Total 584 Kg the international market value of which is approximately 2700

Crores] which was being illegally smuggled into India from Pakistan in the truck in which the accused were allegedly importing black salt. The Customs department registered a case under Customs Act and NDPS and during the course of investigation the customs department in total arrested 6 persons i.e. Gurpinder Singh Babbar, the importer of that consignment, Tariq Ahmad Lone who is said to be the actual buyer of the consignment. During the course of investigation, the Customs Department also arrested respondent-Ajay Gupta who was earlier importer for the consignment of Rock Salt for the same buyer Tariq Ahmad Lone. It was found that all these consignments were transported by the trucks belonging to Jasbir Singh. Hence, Jasbir Singh and his truck driver Nirbhail Singh were also arrested. Two other accused Ranjeet Singh @ Rana and Iqbal Singh are absconding.

b) During investigation, the involvement of an international drug racket based in Pakistan as well as in Afghanistan has come to light. This being a case of narco-terrorism, having national and international implications that required in-depth investigation as to the funding of different terror groups through the proceeds of the narcotics consignment being smuggled from across the international border, the Government of India, Ministry of Home Affairs, CTCR Division North Block vide its order F. No. 11011/38/2019/NIA, dated 23.07.2019 issued as per provision of sub-section (4) of section 6 read with section 8 of National Investigation Agency Act, 2008, directed the NIA to take up the investigation of this case.

In compliance with the Ministry of Home Affairs order F. No. 11011/38/2019/NIA, dated 23.07.2019, National Investigation Agency, New Delhi re-registered the case RC-18/2019/NIA/DLI dated 24.07.2019

Annexure A-1 Under Sections 120B, 121A, 122 of IPC 17, 18, 18-B & 20 of UA (P) Act and 8, 16, 17, 18, 23, 24, 29 and 32 (B)(e) NDPS Act and took up investigation of the case.

c) After investigation of the case, charge-sheet was filed on 27.12.2019 against the arrested and wanted accused persons namely (i) Gurpinder Singh (A-1); (ii) Tariq Ahmad Lone (A-2); (iii) Jasbir Singh (A-3); (iv) Nirbhail Singh (A-4); (v) Sandeep Kaur (A-5); (vi) Ajay Gupta (A-6); (vii) Ranjeet Singh @ Rana (A-7) (viii) Iqbal Singh (A-8); (ix) Farookh Lone (A-9); (x) Sahil (A-10); (xi) Sohaib Noor (A-11); (xii) Amir Noor (A-12) under Section 120B of the IPC; Sections 8 r/w section 21, 23, 12 r/w 24, 29 of the NDPS Act and Sections 17, 18 & 20 of the Unlawful Activities (Prevention) Act, 1967 and against the firms namely (xiii) M/s Kanishk Enterprises Pvt. Ltd (A-13): (xiv) M/s Gupta Fast Forwarders (A-14), (xv) M/s Global Vision Impex (A-15); (xvi) M/s Aimex General Trading Company-Pakistan firm under under Sections 120B of the IPC; Sections 8 r/w Sections 21, 23, 12 r/w 24, 29 of the NDPS Act and Sections 17, 18, 20 & 22C of the Unlawful Activities (Prevention) Act, 1967. However, further Investigation of the case is still going on.

d) Investigation by the NIA has revealed that the consignment of narcotics concealed in rock salt is one among a series of six such consignments, wherein narcotics from Pakistan are being sent to India by A-9 Farookh Lone - Pakistan and A-10 Sahil of Afghanistan Pakistan to be received by A-7 Ranjit Singh and A-8 Iqbal Singh. A-10 Sahil of Afghanistan, based in Pakistan had orchestrated the whole transaction including the payments. When the consignment is sent, A-2 Tariq Ahmad Lone - from J &

K receives a message or a call from A-10 Sahil of Afghanistan, based in Pakistan who then sends the money through hawala channels to A-2 Tariq Ahmad Lone from J & K, who then deposits the money in his bank account and from there, he has made IMPS/NEFT/RTGS payment to respondent-A-6 Ajay Gupta and A-1 Gurpinder Singh. They in turn make payments for the customs duties and other charges. They also make the payment into the account of the exporter i.e. A-11 Shoaib Noor Sahil Pakistan and A-12 Amir Noor - Pakistan to their firm M/s Aimex General Trading (Pakistan) firm, through formal banking channels thereby completing the cycle disguising it as legitimate trade.

e) During investigation, respondent-A6 Ajay Gupta was examined by the Customs Department wherein he has stated that he has one firm M/s Gupta Fast Forwarders Pvt. Ltd. (Estd. 2011) set up to provide services as CHA (Clearing House Agent). A-6 Ajay Gupta had passed CHA exam and was F-card holder. His license was suspended in 2013. The company got IEC (Import Export Certificate) instead and started export and import. A new company was set up as Caishen L&C Pvt. Ltd., 876 Hukum Singh Road, Amritsar, with two directors namely V K Dhawan and Sri Keval Krishna Gupta who is the father of A-6 Ajay Gupta. VK Dhawan has passed CHA exam and is F-card holder. This company is in CHA work since 2016 onwards. They operate through ICP Attari and Rail Cargo, Amritsar.

f) Respondent-A-6 Ajay Gupta, in his statement to the Customs authorities has also stated that in 2018.,Advait Kumar Katiyal came to A-6 Ajay Gupta and asked for import of gypsum and made him talk to A-9 Farookh Lone of Pakistan. He was also told about A-9 Farookh Lone Pakistan national's nephew A-2 Tariq Ahmad Lone from J & K. A-9 Farookh Lone - Pakistan talked about gypsum, rock salt and limestone. Around June-July 2018, A-6 Ajay Gupta imported one rock salt consignment from A-9 Farookh Lone Pakistan. The consignment was transferred to the godown of one Ajit Singh at Tarntaran road and remained there for around two months because it was of poor quality. A-6 Ajay Gupta complained to Kaityal about this loss. Later A-6 Ajay Gupta was informed of a deposit of Rs 300000 has been made in A-6 Ajay Gupta's account for the salt.

g) Respondent-A-6 Ajay Gupta paid A-9 Farookh Lone - Pakistan in Pakistan for rock salt by Telegraphic transfer (TT)/swift through the Pakistani import export company used which is Aimex General Trading Company. A-2 Tariq Ahmad Lone from J & K was introduced to respondent-A-6 Ajay Gupta by A-9 Farookh Lone Pakistan over the phone. He introduced himself as a garment and rock salt trader from Batala bus stand. He lifted the rock salt on 21.10.2018. After deduction of expenses, A-6 Ajay Gupta returned Rs 75000-80000 to Katyal in cash. Around Dec 2018, respondent A-6 Ajay Gupta received a call from A-12 Amir Noor Pakistan from Pakistan regarding supply of rock salt. Soon, A-2 Tariq Ahmad Lone - from J & K contacted A-6 Ajay Gupta and asked to buy rock salt for him. Respondent A-6 Ajay Gupta placed the order with A-12 Amir Noor Pakistan. His firm is A-16 M/s Aimex General Trading - Pakistan firm and all payments were done through TT/Swift. The consignment was again brought to Ajit Singh's godown at Kochar rice Mills. Payment for customs duties and other charges for the same were received via RTGS from A-2 Tariq Ahmad Lone - from J & K by A-6 Ajay Gupta and A-2 Tariq Ahmad Lone from J & K sent a truck to the godown and took the consignment. The bill was made in the name of Tariq Ahmad Lone of Batala.

As per respondent-A-6 Ajay Gupta, he paid nothing to Ajit Singh for the Godown at Kochar Overseas Limited. A register is maintained at the godown which has corroborated the consignments. After imposition of 200% duties on Pakistan imports, A-2 Tariq Ahmad Lone from J & K asked for another consignment of rock salt and respondent-A-6 Ajay Gupta ordered it from A-12 Amir Noor - Pakistan. A-2 Tariq Ahmad Lone - from J & K took the goods after paying around Rs 6 lakh which included duty and taxes. Next consignment came in the second week of April, and payment made via Swift/TT. Payment by A-2 Tariq Ahmad Lone - from J & K was received through RTGS but it was delayed.

Respondent A-6 Ajay Gupta and A-2 Tariq Ahmad Lone - from J & K had disagreements which is why when the next consignment came, respondent A-6 Ajay Gupta refused to accept it.

h). The tabular form of the details of the import and export carried out by respondent A-6 Ajay Gupta for A-2 Tariq Lone of J&K is as follows.

S. No.	Suppliers Invoice No.& /date	Name of the supplier	Item imported	Bill of Entry No.& Date	Name of customs Broker	Date of out from ICP	Date of arrival in godown	Truck No. custom to godown	Date of sale	Truck No. whom sold
1	AGT/GFF/ 01/2018 05.07.2018	AIMEX GENERAL TRADING CO PAKISTAN (+923134217617)	ROCK SALT GRANULES	7101129 06.07.2018	CAISHEN L & C PVT. LTD.	19.07.2018	20.07.2018	PB07S5 561	02.10.2018	PB46M 9397
2	GVI/GF/ 001/2019 19.01.2019	GLOBAL VISION IMPEX PAKISTAN (+323218514112	LIGHT PINK ROCK SALT GRANULES	9735959 21.01.2019	CAISHEN L & C PVT. LTD.	28.01.2019	29.01.2019	PB02BZ 6606	06.02.2019	PB46M 8096
3	GVI/GF/ 002/2019 26.03.2019	GLOBAL VISION IMPEX PAKISTAN +323216514112	LIGHT PINK ROCK SALT GRANULES	2614128 28.03.2019	CAISHEN L & C PVT. LTD.	30.03.2019	31.03.2019	PB02B M9599	31.03.2019	PB46 M 8096
4	GVI/GF/ 002/2019 05.04.2019	GLOBAL VISION IMPEX PAKISTAN (+3232185141	LIGHT PINK ROCK SALT GRANULE	2604302 11.04.2019	CAISHEN L & C PVT. LTD.	13.04.2019	15.04.2019	PB02BP 9917 PB02BQ	16.04.2020	PB46M

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i) The investigation has revealed that A-16 M/s Aimes Trading - Pakistan is the exporter for one consignment received by A-2 Tariq Ahmad Lone - from J & K through the importer A-6 Ajay Gupta via A-14 M/s Gupta Fast Forwarders as evident in the bill of entry and other documents available at ICP Attari.

j). The investigation has also revealed that A-2 Tariq Ahmad Lone - from J & K was in touch with his uncle A-9 Farookh Lone -Pakistan and that A-9 Farookh Lone - Pakistan was known to respondent A-6 Ajay Gupta. A-9 Farookh Lone -Pakistan crossed border to join militancy in Pakistan from Kashmir in 1990 and has not returned to India.

The investigation revealed that A-16 M/s Aimex General Trading Pakistan firm is a firm belonging to A-11 Shoaib Noor Sahil - Pakistan and his brother A-12 Amir Noor Pakistan. They have sent four consignments of rock salt including the last one in which 532 kgs of high quality heroin was detected. As such they have been involved in the smuggling of narcotics into India. They were in touch with A-2 Tariq Ahmad Lone - from J & K, A-1 Gurpinder Singh and respondent A-6 Ajay Gupta on the Indian side.

Earlier consignments had also contained narcotics was established through a video received from a source.

k) NIA arrested respondent A-6 Ajay Gupta s/o Sh. Kewal Krishan Gupta on 12.09.2019 formally as he was in judicial custody since his arrest by the Customs authorities on 20.07.2019 in the same case that was handed over to the NIA.

3. **SUBMISSION OF LEARNED COUNSEL FOR THE APPELLANT-NIA**

Learned counsel for the appellant vehemently contended that learned trial Court granted the benefit of regular bail to the respondent by ignoring the provisions of Section 37(2) of NDPS Act and Section 43 (D) of UAPA. There is *prime facie* case against the respondent-Ajay Gupta, as his complicity in the commission of offence has been proved and it is a case of narco-terrorism, where the narcotics are smuggled in India alongwith rock salt and proceeds of narcotics are diverted to fund the terrorist activities in the country.

4. **SUBMISSION OF LEARNED COUNSEL FOR THE RESPONDENT-MR. AMAN BANSAL**

Learned counsel for the respondent contended the learned Judge, Special Court rightly granted the benefit of regular bail to the respondent-accused because he has no concern with the consignment in which 584.42 kg. of intoxicant material was found. The respondent A-6 Ajay Gupta has valid import and export licence. There is no evidence that the consignment of rock salt imported from Pakistan had any intoxicant material. The consignment of Proprietor of M/s Kanishk Enterprises, Amritsar owned by Gurpinder Singh was found to have 584.42 kgs. of intoxicating substance and said Gurpinder Singh in his statement dated 30.06.2019 stated that said consignment was to be delivered to Tariq Ahmad Lone S/o Abdul Majeed Lone, who further in his statement dated 01.07.2019 stated that the truck bearing registration No. PB-46-M-8096 was to be used for transportation of Rock Salt Consignment, whereas the respondent has no concern with the consignment of light pink rock salt granules imported from Pakistan by Gurpinder Singh. Gurpinder Singh had died in police custody. The respondent has been paying all the import duty and he was rightly granted benefit of regular bail.

5.) **DISCUSSIONS**

a) Learned Judge, Special Court while granting the benefit regular bail to the respondent-A-6 Ajay Gupta vide impugned order noted that;

> "*heroin weighing 532 kg along with 52 kg of mixed narcotic is alleged to have been recovered on 29.06.2019 at the integrated check-post, Attari, Amritsar during the examination of consignment of light pink rock salt granuals imported vide Bill of entry No.3829353 dated 27.06.2019 by Gurpinder Singh, Proprietor of M/s Kanishk Enterprises, Amritsar. Thereafter, on the statement of Gurpinder Singh, another accused namely Tariq Ahmad Lone was nominated as an accused in this case and thereafter, Jasbir Singh owner of the truck was also nominated as an accused in this case and arrested. It is the case of prosecution that the statement of Jasbir Singh was recorded on 04.07.2019 and he stated that rock salt imported by Gurpinder Singh was transported by him in his truck at the instance of Ranjit Singh @ Rana S/o Harbhajan Singh. The said Ranjeet Singh @ Rana is absconding. Admittedly, the petitioner, who is stated to be proprietor of M/s Gupta Fast Forwarders Private Ltd., had not ordered the consignment from which the above-mentioned recovery was effected.*"

b) It was also observed by the learned Judge, Special Court that;

> "*during pendency of bail application, the petitioner placed on record the Certificate issued by Indian Overseas Bank, duly signed by Chief Manager, showing the transaction which were made from the account of M/s Gupta Fast Forwarders Pvt. Ltd., holding current A/c No.154502000000263.*"

c) It was further observed by learned Judge, Special Court that in the statement of account, the beneficiary customer name is mentioned along with complete details, Even, the name of ordering customer i.e. Ajay Gupta is mentioned and the amount has been sent from the account of respondent's firm. The transaction is through bank and the certificate issued by the bank cannot be doubted at this stage. It was also observed by learned Judge, Special Court that;

> *"Besides this, the statement of co-accused as well as of present petitioner were recorded during the investigation by the Custom Authorities which are admissible in evidence as per Customs Act. The perusal of the said statement nowhere indicates that while importing Rock Salt earlier, the petitioner had also smuggled intoxicant,"*

d) It is also noted by the learned Special Judge that NIA failed to show any confessional statement of the co-accused that earlier narcotics was also smuggled while importing rock salt or to whom the narcotic was supplied or which narcotic was brought by respondent. The rock salt was brought to India after clearance from custom authorities.

e) Learned Judge, Special Court also observed that no recovery has been effected from respondent A-6 Ajay Gupta in this case or in cases in which he was involved after registration of the present case. The amount received by the respondent-Ajay Gupta as referred by NIA in written statement are not exorbitant amounts which might lead to the conclusion that the same are for some illegal activity.

f) It was further observed by learned Judge, Special Court that;

> *"Even if there is some discrepancy or violation of any law regarding importing of rock salt, then also the petitioner cannot be kept behind the bar as in the present case, so far as smuggling of narcotic is concerned, there are no reasonable ground for*

believing that the accusations against the petitioner are prima facie true"

g) It was also found that respondent-Ajay Gupta is not even related with any of the co-accused and neither it is shown that any of the relative of the respondent is involved in any case under the NDPS Act and thus, learned Judge, Special Court, rightly held that there are reasonable grounds for believing that respondent-Ajay Gupta is not guilty under the NDPS Act and also observed that he is not likely to commit any offence while on bail and was given benefit of regular bail.

6. In view of the above scrutiny of the impugned order and the perusal of facts gathered by the NIA during investigation, we are of the opinion that there is no illegality or irregularity in the impugned bail order. Moreover, the considerations for cancellation of bail are entirely different from considerations made at the time of grant of bail to an accused. Hon'ble Apex Court in its recent judgment in ***Abhimanue etc. vs. State of Kerala, 2025(4) RCR (Criminal) 382,*** observed as under:-

> *"17. Law is well settled that cancellation of bail is distinct from revocation of an order granting bail. Bail may be cancelled when the accused violates any of the conditions imposed. On the other hand, an order granting bail can be revoked if such an order is found to be perverse or illegal. (emphasis supplied)".*

7. While making above noted observations, reliance was placed on three Judges Bench judgment of the Hon'ble Apex Court in ***P vs. State of Madhya Pradesh, 2022(15) SCC 211***, wherein after analyzing various previous decisions, the distinction between grant of bail and cancellation of bail order has been discussed as follows:-

*“**21.** Echoing the above principle, in Ranjit Singh v. State of M.P. [Ranjit Singh v. State of M.P., (2013) 16 SCC 797: (2014) 6 SCC (Cri) 405], it has been held thus:*

> *“19. … There is also a distinction between the concept of setting aside an unjustified, illegal or perverse order and cancellation of an order of bail on the ground that the accused has misconducted himself or certain supervening circumstances warrant such cancellation. If the order granting bail is a perverse one or passed on irrelevant materials, it can be annulled by the superior Court.”*

***22.** In Abdul Basit v. Mohd. Abdul Kadir Chaudhary [Abdul Basit v. Mohd. Abdul Kadir Chaudhary, (2014) 10 SCC 754 : (2015) 1 SCC (Cri) 257], this Court has opined that: (SCC p. 763, para 19) “19. Therefore, the concept of setting aside an unjustified, illegal or perverse order is di6erent from the concept of cancellation of a bail on the ground of accused's misconduct or new adverse facts having surfaced after the grant of bail which require such*

cancellation and a perusal of the aforesaid decisions would present before us that an order granting bail can only be set aside on grounds of being illegal or contrary to law by the court superior to the court which granted the bail and not by the same court.”

***24.** As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial [Dolat Ram v. State of Haryana, (1995) 1 SCC 349 : 1995 SCC (Cri) 237] . To put it differently, in ordinary circumstances, this Court would be* *loathe to interfere with an order passed by the court below granting bail but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court.*

25. *Some of the circumstances where bail granted to the accused under Section 439(1) CrPC can be cancelled are enumerated below:-*

(a) If he misuses his liberty by indulging in similar/other criminal activity;
(b) If he interferes with the course of investigation;
(c) If he attempts to tamper with the evidence;
(d) If he attempts to influence/threaten the witnesses;
(e) If he evades or attempts to evade court proceedings;
(f) If he indulges in activities which would hamper smooth investigation;
(g) If he is likely to flee from the country;
(h) If he attempts to make himself scarce by going underground and/or becoming unavailable to the investigating agency;
(i) If he attempts to place himself beyond the reach of his surety.
(j) If any facts may emerge after the grant of bail which are considered unconducive to a fair trial.

We may clarify that the aforesaid list is only illustrative in nature and not exhaustive. (emphasis ours)."

8. Learned State counsel failed to point out how the bail order granted in favour of the respondent-Ajay Gupta is perverse or whether the accused-respondent has misused his liberty by indulging in similar/other criminal activities, interfered with the course of trial; attempted to tamper with the evidence; attempt to influence/threaten the witnesses or indulged himself in activities which would hamper smooth trial or there is likelihood of his fleeing from the Court of justice or he is unavailable during trial or placed himself beyond the reach of his sureties or did anything which is non-condusive to a fair trial. In the absence of any such circumstances, there is no ground for cancellation of bail order in favour of the respondent/accused Ajay Gupta. Hence, the appeal filed by the appellant-NIA for cancellation of bail granted to the respondent, stands dismissed being devoid of merits.

9. However, the respondent is directed to be regular while attending the proceedings of the trial and in case, he is unable to attend the Court for the reasons beyond his control, he should move an application seeking exemption from his personal appearance before the learned trial Court and in his absence, in case, there is any witness(es) present in the Court, his/her statement shall be recorded and his counsel shall also conduct cross-examination on the said witness(es). The trial Court may seek such undertaking from respondent/accused, in case not already furnished. His counsel shall not seek adjournment solely on the ground of non-availability or absence of the respondent from the Court proceedings.

10. Pending application(s), if any, also stand disposed of.

(GURVINDER SINGH GILL)
JUDGE

(RAMESH KUMARI)
JUDGE

December 08, 2025
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Whether speaking/reasoned:	√ Yes / No
Whether reportable:	√ Yes / No