

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2025:PHHC:163662-DB



Reserved on : 13.11.2025

Pronounced on: 26.11.2025

CRA-D-1208 of 2023

Sahib Singh

.....Appellant

versus

State of Punjab

.....Respondent

CRA-D-1252 of 2023

Sahib Singh

.....Appellant

versus

State of Punjab

.....Respondent

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

Present: Mr. Arnav Sood, Advocate and
Mr. Manpreet Singh, Advocate, for the appellant.

Mr. Siddharth Attri, Assistant Advocate General, Punjab.

RAMESH KUMARI, J.

This common order shall dispose of two criminal Appeals No. 1208 of 2023 and 1252 of 2023 filed by appellant-accused Sahib Singh against the impugned orders dated 21.09.2023 and 20.09.2023 respectively passed by the then learned Additional Sessions Judge, Amritsar.

2. CRA-D No. 1208 of 2023 is filed by the appellant against the order dated 21.09.2023 passed in Bail Application No. 5479/12.09.2023 arising out of FIR No. 47 dated 11.05.2023 under Sections 9-B of the

Explosive Act, 1884, Sections 3, 4 and 5 of Explosive Substance Act, 1908, Sections 13, 16 and 18 of Unlawful Activities (Prevention) Act, 1967 (as amended up to date) and Section 120-B of the Indian Penal Code, registered at Police Station E-Division, Amritsar, whereas CRA-D No.1252 of 2023 is filed by the appellant against the order dated 20.09.2023 passed in Bail Application No. 5381 arising out of FIR No. 49 dated 11.05.2023 under Sections 9-B of the Explosive Act, 1884, Sections 3,4 and 5 of Explosive Substance Act, 1908, Sections 13, 16 and 18 of Unlawful Activities (Prevention) Act, 1967 (as amended up to date) and Section 120-B of the Indian Penal Code, registered at Police Station E-Division, Amritsar.

3. Briefly stated, the facts germane to the present appeals are as under:-

a) Initially FIR No. 47 dated 11.05.2023 was registered against unknown persons on the basis of *ruqqa* sent to Police Station by ASI Hans Raj. ASI Hans Raj in his *ruqqa* stated that on 08.05.2023 at about 6.15 AM he along with other police officials was present in the jurisdiction of Police Station with regard to checking and searching for bad elements. The police party received a secret information that on that date i.e. 08.05.2023 at around 6.00 A.M. explosion had taken place opposite to Gurudwara Saragarhi Sahib near fountain chowk at Heritage street. ASI Hans Raj along with other police officials went to the spot and found that window panes of the building of parking of Gurudwara Saragarhi Sahib were broken due to explosion and the residue of explosive was lying all around. However, no human loss occurred. The explosion seems to have been caused by some unknown mischievous persons. Legal action be taken as offence punishable under Section 9-B of the Explosive Act, 1884 was made out.

b) Splinters and other material were collected from the spot and sealed in a sealed parcel and sent to Forensic Science Laboratory (FSL), SAS Nagar, Punjab. The sealed parcels were of (i) metallic pieces (ii) broken pieces of tape (iii) thread with polyethene and (iv) cotton swab stated to be collected from blast site. On examination by FSL, Nitrite and Chloride ions were found present in the contents of parcels Marked A and B. In FSL report dated 19.05.2023 pertaining to case property of FIR No. 47, it is specifically reported that, *“Nitrite and Chloride ions are generally formed on explosion of low explosives i.e. Potassium Nitrate and Potassium chlorate and these mixtures are generally used in fire crackers and on explosion they can cause damage to human life and property.”*

(c) During the course of investigation of FIR No. 47, it was revealed that on 08.05.2023 another explosion took place near the building of kitchen of Bansal Sweets near parking of Gurudwara Saragarhi Sahib. SI Sukhbaj Singh Incharge Mobile Forensic Science Team lifted the explosive material with cotton swabs from the place of explosion. Stones and thread were also lifted from the place of explosion which were taken into possession by ASI Vikram Singh of Police Station E Division, Amritsar. GDR No. 16 dated 07.05.2023 was recorded in this regard in the abovesaid police station. These parcels and copy of GD No. 16 were taken into police possession vide memo by SI Hans Raj.

(d) On 11.05.2023, when ACP Surinder Singh, alongwith other police officials was present in the area of Police Station E-Division, Amritsar, at about 12.30 PM he received an information with regard to explosion that occurred at the backside of Guru Ram Das Sarai, Golden Temple, Amritsar. ACP Surinder Singh reached at the spot. During investigation qua that

incident, ACP Surinder Singh received secret information that one Azadbir Singh alias Azad son of Jasbir Singh, resident of village Wadala Kalan, Tehsil Baba Bakala Sahib, P.S. Khilchian, Amritsar and Amrik Singh @ Mika, resident of village Addian, District Gurdaspur, had been found roaming under suspicious circumstances near Guru Ramdas Sarai. Secret informer also informed the police party that a case has already been registered against Azadbir Singh alias Azad at Police Station Chhehrata, Amritsar for hurting religious sentiments. Apart from this, both these persons were involved in anti-national and anti-social activities since long on the instructions of their handlers sitting abroad and in the country, they had collected explosive material from the Anngara area of Amritsar and nearby areas from an infamous explosive dealer, namely, Sahib Singh son of Surinder Singh, resident of Aman Avenue, Gate Hakiman, Amritsar with intention to cause damage to the unity and integrity of the country, to hurt religious harmony and to damage the property. They had collected huge amount for this purpose from different channels. It is highly probable that the serial bomb, explosion which had occurred recently in the surrounding areas of Golden Temple, Amritsar (relating to FIR No. 47/2023 have been caused by this group with their close associates, namely, Dharminder Singh @ Mitha, and Harjit Singh son of Davinder Singh, both residents of 88 feet road, Majitha Road, Amritsar who were also involved with them in conspiracy for execution of bomb blasts and they have provided explosive material to Azadvir Singh and his associates by procuring it from accused-appellant Sahib Singh and if a proper search is conducted then Azadbir Singh alias Azad alongwith his associates can be apprehended. This information being reliable, a *ruqqa* was sent for registration of case and accordingly FIR No. 49 dated 11.05.2023 punishable under

Section 9-B of the Explosive Act, 1884, Sections 3,4 and 5 of Explosive Substances Act, 1908, Sections 13, 16 and 18 of Unlawful Activities (Prevention) Act, 1967 (as amended upto date) and Section 120-B of the Indian Penal Code, was registered at Police Station E-Division, Amritsar.

e) Sketches of five suspects were prepared. Two persons having description of those persons shown in the sketches were apprehended by SGPC officials. These two persons, namely, Accused Azadbir Singh alias Azad and Amrik Singh alias Mikka were handed over to the police team headed by SI Gurbaj Singh by the officials of SGPC. Both were arrested in case FIR No. 49 dated 11.05.2023 and during investigation accused Azadbir Singh alias Azad suffered disclosure statement before Surinder Singh, ACP Central, Amritsar on 11.05.2023 which reads as under: -

“Few days ago, I had a received telephonic call from Abdul Khalid who told me that if you will blast bomb at some religious place in Amritsar and create terror in the public, then a big amount shall be given to you. Upon which I discussed this matter with my friend namely Amrik Singh @ Lakhbir Singh, resident of village Addya, Police Station Daragla, District Gurdaspur and Amrik Singh was allured for money and ready to do this work and we were searching for those persons who used to make the desi bomb/local made bomb and for those persons who were providing material for preparation of bomb.

Few months/days ago I had gone at the Nasha Chddao Kender [Drug Prevention Center] of Manga Singh situated at Bhai Manjh Singh Road, where Dharaminder Singh @ Mitha son of Sodhi Singh, resident of 88 Feet road, Majitha road, Amritsar and Harjeet Singh son of Davinder Singh; resident of 88 Feet road, Majitha road, Amritsar, who were getting treatment from said center, met me and they had told me that they are doing work of manufacturing of Explosive Articles /fire crackers.

On 2.05.2023, I and Amrik Signh @ Lakhbir Singh, resident of village Addyan, Police Station Daragla, District Gurdaspur, went to Golden temple, with the motive to explode bombs at Golden Temple. We wanted to create terror in the public and government by exploding the bombs and Amrik Singh @ Lakhbir Singh, resident of village Addyan, Police Station Daragla, District Gurdaspur had taken room No. 225 on rent at Rest House Guru Ram Dass Sarai. After that I and Amrik Singh through Whatsapp Call to Dharaminder Singh @ Mitha son of Sodhi Singh, resident of 88 Foota road, Majitha road, Amritsar and Harjeet Singh son of Davinder Singh, resident of 88 Feet road, Majitha road, Amritsar discussed with them to prepare bomb and these persons further told us that they can bring explosive articles from Mr. Sahib Singh

son of Surinder Singh, resident of Aman Avenue Gate Hakima, Amritsar, upon which on 03.05.2023 at night time, we asked Dharminder Singh and Harjit Singh to come at the back side of Teja Singh Samundari Hall building.

On 03.05.2023 I and Amrik Singh, went at the back side of Teja Singh Samundari Hall building, where Dharminder Singh and Harjeet Singh, residents of above said address met us, where I and Amrik Singh told Dharminder Singh and Harjeet Singh that we want to create terror in the public and government by blasting bombs and they were also ready with us for this work and these persons told us that one Sahib Singh, resident of Anngarh is doing work of manufacturing of explosive articles/fire crackers and we can receive explosive articles and other material from him and he is demanding Rs. 20,000/- for providing material. They told us that they will support but they will charge Rs. 15/15 Thousands.

On 04.05.2023, I and Amrik Singh went at Bus Stand to purchase some articles and we drunk two drinks of Hello Energy and kept empty can with us and also purchased a Tiffin.

On 05.05.2023 at the night time, I, Amrik Singh, Dharminder Singh; Harjeet Singh and Sahib Singh, resident of Anngarh, Amritsar again met at the back side of Teja Singh Samundari Hall building, where Sahib Singh gave us explosive material and other material and we gave him Rs. 20,000/- and Dharminder Singh and Harjeet Singh told us the method of preparation of bomb, upon which we gave Rs. 15/15 thousands to Dharminder Singh, Harjeet Singh and we had kept explosive material etc. with us and at the night time, I and Amrik Singh assembled the local bomb in Hello Energy Drink and in one Tiffin at our room and we had kept balance explosive articles in our bags and had deposited these bags in store. The token number of this bag has already been recovered from me by you.

On 06.05.2023 at about 11:15 PM, I and Amrik Singh by putting the bomb in 2 Hello can and Tiffin went on the roof of Saragarhi Parking and kept it at the side of Heritage Street and we tagged polythene of bomb with rope, hanged it inside the street. After that we came down and tagged the rope with Rehri, so that whenever Rehri Operator will move its Rehri, polythene of bomb will fall down and bomb will blast. After that we went from there and after some time bomb blasted.

On 07.05.2023 I had written a note that all persons present in Golden Temple to do prayer in Sri Darbar Sahib/ Golden Temple and all ladies be come in full clothes and I got photocopies of said hand written note and I gave these photocopies to Amrik Singh to fix/ paste it in front of and around the Golden Temple/ Hari Mandir Sahib and kept it in his bag and further deposited in store i.e. Gathari Ghar and he pasted one copy of this hand written note at the wall of rest house named Shri Guru Ram Dass Sarai. After that I and Amrik Singh by taking two steel buckets went inside the Room No. 225 of Guru Ram Dass Sarai by putting bomb [which we had already prepared] in steel buckets and by filling sand /stones and soil in buckets tapped it and prepared Desi bomb /Local Bomb.

On 08.05.2023, at about 6:00 AM, again I and Amrik Singh by putting the bomb in Plastic polythene, by climbing up on the roof of Saragarhi Parking hanged this Bomb at the distance about 10 ft from earlier bomb by tagging polythene of bomb with rope and tagged rope with Rehri and went away. After some again bomb blasted.

On 10-05.2023 at 10:00 PM, like earlier similar method I and Amrik Singh prepared the bomb in steel bucket and on the midnight of dated 10/11.05.2023 at 12:15 Hours, I and Amrik Singh went in the parking site and threw the bomb, upon which bomb exploded/blasted and there was huge noise among the public. Amrik Singh went inside his room and slept there and I also slept near the gate of Sarai by keeping blankets.

You apprehended us. I had also made such type of planning to explode more bombs at different places, because of which we had kept remaining explosive material, other material and 2 diaries in store i.e. Gathari Ghar by putting inside the bag. The token number 684 is in my pocket. The same has been recovered by you. I had written with my hand that the people should come present in Golden Temple to make prayer in Sri Darbar Sahib/ Golden Temple and all ladies to come in full clothes and I got 20-25 photocopies of said hand written note and I gave these photocopies to Amrik Singh to fix/ paste it before around the Golden Temple/ Har Mandir Sahib and one original hand written was in my pocket which has been recovered by you. The explosive material I can get recovered from the store : Gathri ghar. The memo of confession of accused Azadbir Singh has been taken.”

f) On the basis of this disclosure statement of accused Azadbir Singh @ Azad, appellant Sahib Singh was also nominated in both the above noted FIRs. Appellant Sahib Singh was arrested in FIR No. 49 dated 11.05.2023 on 18.05.2023 and also arrested in FIR No. 47 dated 08.05.2023 on 22.05.2023.

g) During investigation of FIR No. 49 dated 11.05.2023 accused Sahib Singh suffered disclosure statement on 11.05.2023 to the following effect:-

"On 02.05.2023 my known Dharminder Singh @ Mitha S/o Sodi Singh R/o 88 feet road, Majitha Road, Amritsar and Harjit Singh s/o Davinder Singh r/o 88 feet road, Majitha Road, Amrtisar made WhatsApp call and told that their associates Azadbir Singh @ Azad S/o Jasbir Singh R/o Wadala Kalan, Tehsil Baba Bakala, PS Khilchian, Amritsar and Amrik Singh alias Mika S/o Lakhbir Singh R/o Village Aadian, PS Darangla, District Gurdaspur came to Sri Darbar Sahib. They are to create terror in Government and public by causing bomb explosion and they require explosive material. Thereupon, I asked them that how much explosive they require, he told that they are demanding 2 kilo 500 gram and I demand Rs. 20 thousand for this explosive, and they agreed. On 5.5.2023, I and Dharminder Singh @ Mitha S/o Sodi Singh R/o 88 feet road, Majitha road, Amritsar and above said Harjit Singh were standing backside Sri Teja Singh Samundari Hall. Azadbir Singh

alias Azad S/o Jasbir Singh R/o above and Amrik Singh alias Mika S/o Lakhbir Singh R/o above met us. They told us that we are to create terror in public and government by causing bomb explosions. I had given them 2 kilo 500 gram explosives and other material for manufacturing the bomb like tape, pieces of card board and sieve etc. and they had given me Rs. 20 thousands. The above said Azadbir Singh and Amrik Singh by purchasing explosives from me, and by manufacturing bomb with the method described by Dharminder Singh and Harjit Singh had caused explosions, thereof had created terror in government and public. We have committed mistake, may be pardoned"

- h) As per his disclosure statement, on 13.05.2023 appellant-accused Sahib Singh got recovered one black coloured polythene envelope containing two more polythene envelopes of silver colour consisting of 285 gram and 230 gram explosives respectively and one plastic bottle containing 180 ML liquid substance from one iron trunk lying in the premises of his factory situated at Anngarh, Amritsar, which were converted into three parcels and were taken into possession vide separate memos.
- i) On 17.05.2023, accused Sahib Singh was interrogated in connection with FIR No. 47 and during custodial interrogation, accused Sahib Singh suffered disclosure statement before the police regarding his involvement in the commission of crime of FIR No. 47 i.e. supply of explosive material.
- j) It has also come in the statements of co-accused Azadbir Singh alias Azad during investigation that appellant Sahib Singh met with other co-accused Dharminder Singh @ Mitha S/o Sodi Singh R/o 88 feet road, Majitha road, Amritsar, Harjit Singh, Azadbir Singh alias Azad S/o Jasbir Singh and Amrik Singh alias Mika S/o Lakhbir Singh and handed over explosive material to them for Rs. 20,000/-.

4. Learned Additional Sessions Judge, Amritsar dismissed the bail application No. 5479/12.09.2023 of accused-appellant Sahib Singh on 21.09.2023 on the ground that accused-appellant is involved in conspiracy of manufacturing of bomb and causing bomb explosion near Saragarhi Parking and on the backside of Guru Ramdas Sarai, Golden Temple, Amritsar as he had provided explosive material to accused Azadbir Singh alias Azad Singh and his accomplices and therefore, in view of the gravity of the offence, accused was not entitled for the benefit of regular bail.

5. Similarly bail application No. 5381/06.09.2023 in FIR No. 49 dated 11.05.2023 was dismissed by the then learned Additional Sessions Judge, Amritsar on 20.09.2023 by giving similar observations that accused-appellant is involved in conspiracy of manufacturing of bomb and causing bomb explosion near Saragarhi Parking and on the backside of Guru Ramdas Sarai, Golden Temple, Amritsar as he had provided explosive material to accused Azadbir Singh alias Azad Singh and his accomplices.

6. Learned counsel for the appellant-accused argued on similar lines in both the FIRs by contending that appellant Sahib Singh is innocent and nothing has been recovered from him and he has no connection with the co-accused. He is running a fire crackers shop in Amritsar since long and he has been falsely implicated in the present case for the reasons best known to the police. The appellant purchased material for preparing crackers from Saharanpur vide bills which are annexed as Annexure A-3. No explosive material was recovered from the appellant-accused and no offence is made out qua the appellant. As per FSL report, case of the appellant comes within the ambit of Section 9-B of the Explosives Act, 1884 and this offence is bailable in nature. As per FSL report, Nitrite and Chloride ions were found in the contents

of the parcels sent to FSL and the mixture of Potassium nitrate, Potassium Chlorate, Sulphur and Aluminium are generally used in fire crackers. Mandatory requirements as required under Section 45 of the Unlawful Activities (Prevention) Act, 1967 has not been taken for prosecution of the accused and challan has been presented in Court. Mandatory prescribed period for taking sanction as per provision of Section 47 of the UAP Act has to be adhered to by the prosecution and appellant-accused is in custody since long. No sanction is obtained to prosecute the accused-appellant under UAP Act and no useful purpose shall be served keeping the accused-appellant in custody. In support of his contention, learned defence counsel has relied upon the judgments rendered by Supreme Court in ***Union of India vs. K.A.Najeeb*** passed in Criminal Appeal No. 98 of 2021 and ***Mahender Lal Das vs. State of Bihar and others (2002) 1 Supreme Court Cases 149, Hussainara Khatoon and others vs. Home Secretary, State of Bihar (1980) 1 SCC 81***. It is further submitted that appellant-accused will abide by all the terms and conditions imposed upon him in case he is granted regular bail.

7. Opposing the prayer made by accused-appellant for release of accused on regular bail, learned State counsel contended that accused-appellant supplied explosive material to co-accused and co-accused succeeded in preparing crude bombs and planting them near two sites which resulted into explosion. Fortunately, no loss of life took place but the act done by accused-appellant was to cause damage to the unity and integrity, to hurt religious harmony and to damage the property of the country. He vehemently prayed for dismissal of the bail application.

8. Accused-appellant failed to submit any licence to carry out the business of manufacturing of fire crackers and therefore, it cannot be accepted that he is running the business of manufacturing of fire crackers. Challan has already been presented against the accused before the trial Court in both the cases. Provisions of Unlawful Activities (Prevention) Act, 1967 have been invoked against the accused-appellant in both the cases.

9. Embargo for release of regular bail is created under Section 43(d)(5) of the Unlawful Activities (Prevention) Act, 1967. This Section reads as under:-

“43D(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.”

10. The proviso to Section 43(5)(d) of UAP Act clearly states that if Courts are satisfied that the prima-facie allegations against the accuse are true after “*perusal of case diary or report made under section 173 Cr.P.C.*” bail cannot be granted. In other words, after examining documents annexed to report under Section 173 Cr.P.C. if the Courts are satisfied that allegations against the accused are not true, bail under Section 43D(5) of UAP Act can be granted.

11. Hon'ble Apex Court in case **Gurwinder Singh v. State of Punjab**, (2024) 5 SCC 403, elaborately dealt with what amounts to a prima-facie case. Paragraphs 24 to 35 of the aforesaid judgment are relevant which are reproduced herein for ready reference:-

“24. The source of the power to grant bail in respect of non-bailable offences punishable with death or life imprisonment emanates from Section 439 CrPC. It can be noticed that Section 43-D(5) of the UAP Act modifies the application of the general bail provisions in respect of offences punishable under Chapter IV and Chapter VI of the UAP Act.

*25. A bare reading of sub-section (5) of Section 43-D shows that apart from the fact that sub-section (5) bars a Special Court from releasing an accused on bail without affording the Public Prosecutor an opportunity of being heard on the application seeking release of an accused on bail, the proviso to sub-section (5) of Section 43-D puts a complete embargo on the powers of the Special Court to release an accused on bail. **It lays down that if the Court, “on perusal of the case diary or the report made under Section 173 of the Code of Criminal Procedure”, is of the opinion that there are reasonable grounds for believing that the accusation, against such person, as regards commission of offence or offences under Chapter IV and/or Chapter VI of the UAP Act is prima facie true, such accused person shall not be released on bail or on his own bond. It is interesting to note that there is no analogous provision traceable in any other statute to the one found in Section 43-D(5) of the UAP Act. In that sense, the language of bail limitation adopted therein remains unique to the UAP Act.***

12. Hon'ble Apex Court in **Union of India v. K.A. Najeeb**, (2021) 3 SCC 713 held that Section 43D(5) *per se* does not oust the jurisdiction of the constitutional Courts to grant bail on violation of Part III of the Constitution of India, but it further states that they have to be construed harmoniously. It has been observed as under: –

*“17. It is thus clear to us that the presence of statutory restrictions like Section 43-D(5) of the UAPA per se does not oust the ability of the constitutional courts to grant bail on grounds of violation of Part III of the Constitution. **Indeed, both the restrictions under a statute as well as the powers exercisable under constitutional jurisdiction can be well harmonized.** Whereas at commencement of proceedings, the courts are expected to*

appreciate the legislative policy against grant of bail but the rigours of such provisions will melt down where there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. Such an approach would safeguard against the possibility of provisions like Section 43-D(5) of the UAPA being used as the sole metric for denial of bail or for wholesale breach of constitutional right to speedy trial.”(emphasis supplied).

13. In Vernon v. State of Maharashtra, (2023) 15 SCC 56, Hon’ble Apex Court has held as under: –

“51. We shall now turn to the other offence under the 1967 Act, which is under Section 13 thereof, and the 1860 Code offences. The yardstick for justifying the appellants' plea for bail is lighter in this context. The appellants are almost five years in detention. In *K.A. Najeeb [Union of India v. K.A. Najeeb, (2021) 3 SCC 713]* and *Angela Harish Sontakke [Angela Harish Sontakke v. State of Maharashtra, (2021) 3 SCC 723]*, delay of trial was considered to be a relevant factor while examining the plea for bail of the accused. In *K.A. Najeeb [Union of India v. K.A. Najeeb, (2021) 3 SCC 713]*, in particular, this same provision, that is, Section 43-D(5) was involved.

52. In these two proceedings, the appellants have not crossed, as undertrials, a substantial term of the sentence that may have been ultimately imposed against them if the prosecution could establish the charges against them. **But the fundamental proposition of law laid down in *K.A. Najeeb [Union of India v. K.A. Najeeb, (2021) 3 SCC 713]*, that a bail-restricting clause cannot denude the jurisdiction of a constitutional court in testing if continued detention in a given case would breach the concept of liberty enshrined in Article 21 of the Constitution of India, would apply in a case where such a bail-restricting clause is being invoked on the basis of materials with prima facie low-probative value or quality.**

53. In *Zahoor Ahmad Shah Watali [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383]* reference was made to the judgment of *Jayendra Saraswathi Swamigal v. State of T.N. [Jayendra Saraswathi Swamigal v. State of T.N., (2005) 2 SCC 13 : 2005 SCC (Cri) 481]* in which, citing two earlier decisions of this Court in *State v. Jagjit Singh [State v. Jagjit Singh, 1960 SCC OnLine SC 2 : AIR 1962 SC 253]* and *Gurcharan Singh v. State (Delhi Admn.) [Gurcharan Singh v. State (Delhi Admn.), (1978) 1 SCC 118 : 1978 SCC (Cri) 41]*, the factors for granting bail under normal circumstances were discussed. It was held that the nature and seriousness of the offences, the character of the evidence, circumstances which are peculiar to the

accused, a reasonable possibility of the presence of the accused not being secured at the trial; reasonable apprehension of witnesses being tampered with; the larger interest of the public or the State would be relevant factors for granting or rejecting bail. Juxtaposing the appellants' case founded on Articles 14 and 21 of the Constitution of India with the aforesaid allegations and considering the fact that almost five years have lapsed since they were taken into custody, we are satisfied that the appellants have made out a case for granting bail. Allegations against them no doubt are serious, but for that reason alone bail cannot be denied to them. While dealing with the offences under Chapters IV and VI of the 1967 Act, we have referred to the materials available against them at this stage. These materials cannot justify continued detention of the appellants, pending final outcome of the case under the other provisions of the 1860 Code and the 1967 Act.” (emphasis supplied).

14. The observations given by Hon'ble Apex Court in ***Harpreet Singh Talwar @ Kabir Talwar vs. State of Gujarat through National Investigating Agency, 2025 SCC On Line SC 1103***, are also relevant on the point regarding release of accused on bail in UAP Act. In paragraph-24, it has been observed as under:-

“24.The rigour of Section 43D(5) of the UAPA would, however, in an appropriate case yield to the overarching mandate of Article 21 of the Constitution, especially where the trial is inordinately delayed or where the incarceration becomes punitive. However, such relaxation cannot possibly be automatic and must be evaluated in light of the specific facts and risks associated with each case, as has been previously clarified.”

15. At this stage, prima-facie would mean that material/evidence collected by the Investigating Agency in reference to acquisition of explosive material against the appellant-accused must prevail until controverted or overcome or disproved by other agency. FSL report reveals that 10 sealed parcels were sent to FSL which are as under:-

Parcel A contained soil sample alleged to be collected from blast site.

Parcel B contained soil sample alleged to be collected away from blast site.

Parcel C contained (i) Metallic pieces (ii) pieces of tape (iii) pieces of paper.

*Parcel D contained yellow powdery substance.
 Parcel E contained White substance.
 Parcel F contained Silver Powdery substance.
 Parcel G contained Concrete.
 Parcel H contained Silver powdery substance.
 Parcel I contained silver powdery substance.
 Parcel J contained Liquid substance.*

On the basis of tests performed, it was concluded in FSL report that:-

- “1) Nitrite and Chloride ions are present in contents of parcels marked A and C referred above. Nitrite and Chloride ions are generally formed on explosion of low explosives i.e. Potassium nitrate and Potassium chlorate.*
- 2) No explosive substance has been detected in contents of parcels marked B and G referred above.*
- 3) Yellow powdery substance contained in parcel D under reference is Sulphur.*
- 4) White substance contained in parcel D under reference is Potassium Chlorate.*
- 5) Silver powdery substance contained in parcels Marked F, H and I under reference is Aluminium.*
- 6) Liquid substance contained in parcel J under reference is Hydrogen peroxide.”*

FSL report categorically concluded that *“these mixtures of Potassium nitrate, Potassium chlorate, Sulphur and Aluminium are generally used in fire crackers and on explosion they can cause damage to human life and property”*. Thus, although material recovered from the appellant is also used for manufacture of fire crackers but it can also be used for making bombs, which when exploded on public spaces may cause damage to human life and property.

16. As observed earlier, in the absence of any licence to carry out the business of fire crackers, only conclusion that can be drawn is that the said explosive material was collected by the appellant for the sole purpose of supply to co-accused who indulge in anti-national and anti-religious activities to cause explosions near religious places. Moreover, as submitted by learned

State counsel an official communication has been made with the Government of Punjab, Home Affairs & Justice Department, Chandigarh vide letter No. 7842 dated 04.07.2023 by the Director, Bureau of Investigation, Punjab, Chandigarh for grant of sanction under Section 45 of the UAP Act which is under consideration of the competent authority and necessary follow up is being made with the quarter concerned to obtain the sanction at the earliest.

17. Accused-appellant is also involved in seven cases. Although he has been acquitted in FIR Nos. 7/2011, 127/2011 and 148/2019 registered under the Explosive Act in Police Station Gate Hakima, Amritsar, but trials arising out of FIRs No. 218/2022, 47/2023 and 49/2023, registered under the Explosive Act in Police Station Gate Hakima, Amritsar are pending against the accused-appellant and in one case FIR No. 94/2023 the investigation is pending.

18. In view of the stated recovery of explosive material from the exclusive possession of appellant, his chequered history, and the reasons above-stated, he is not entitled for benefit of regular bail. Accordingly, both the appeals stand dismissed being devoid of merits.

A copy of this order be placed in the connected file.

(GURVINDER SINGH GILL)
JUDGE

(RAMESH KUMARI)
JUDGE

26.11.2025

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No