

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-D-323-2026

JUDGEMENT RESERVED ON	JUDGEMENT PRONOUNCED ON	OPERATIVE PART PRONOUNCED OR FULL	UPLOADED ON
21.04.2026	06.05.2026	FULL PRONOUNCED	06.05.2026

Shokeen ...Appellant

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Aman Pal, Sr. Advocate with
Mr. Sankalp Dhanda, Advocate
Mr. Balraj Sharma, Advocate and
Mr. Vidyotman Malik, Advocate
for the appellant(s).

Mr. Yuvraj Shandilya, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Section
257	01.08.2023	City Nuh	148, 149, 147, 186, 332, 333, 342, 353, 302, 379B, 307, 395, 397, 427, 120B IPC and 25 of Arms Act and Sections 13(1)(A), 13(1)(B), 15(1)A, 15(1)B, 16 of the Unlawful Activities (Prevention) Act 1967.

Bail Application number before the Sessions Court	CNR No.HRNU010010262026 CIS No.BA-378-2026
Date of Decision	12.02.2026

1. Aggrieved by the dismissal of regular bail by the Additional Sessions Judge, Nuh, vide order dated 12.02.2026, the appellant had come up before this Court by filing the present appeal under Section 21 of the National Investigation Agency Act, 2008.

2. The appellant's counsel further submits that the appellant would have no objection whatsoever to any stringent conditions that this Court may impose, including that if the appellant repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, the State may file an application to revoke this bail before the concerned Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and to which the appellant shall have no objection. Counsel for the appellant further submits that he shall not use his right of speech expression beyond what is permitted under Article 19 of the Constitution of India.

3. We have heard counsel for the appellant and State and gone through pleadings as well as reply and its analysis would lead to the following outcome.

4. The case of the prosecution is being taken from the reply dated April 03, 2026 filed by Deputy Superintendent of Police, Nuh. It shall be appropriate to refer to the following paragraphs of the reply, which reads as follows:-

"3. That the detailed facts emanating from the present case are that on 01.08.2023, SI Surjeet Singh was present at the police station, City Nuh. In the meantime, MHC police Station, City Nuh informed him that on 31.07.2023, a large number of people had attacked on police officers of Police Station, Cyber Nuh. Anai Mandi Gate, Nuh and injured has been admitted in Medanta Hospital, Gurugram. On receiving the aforesaid information. SI Surjeet along with constable Subhankha No. 322/Nuh reached at Medanta Hospital, Gurugram and after reaching their Station House Officer, Inspector Ajay Kumar, Police Station, Khedki Daula was found present in Hospital and he got recorded his statement, which runs as under.-It is stated that I am Station House Officer of police station, Khedki Daula. On 31.07.2023, I received an order from higher police authorities that you should reach Nuh for law and order duty along with the police party of police station, Khedki Daula. Thereafter, receiving the said information, I left for district Nuh from Police Station, KhediDaula in Government vehicle bearing registration Do. HR-30GV-5511 along with police staff SI Devendra, PSI Arun, HC Shera, driver Ct Pawan Kumar, HGH Niraj No. 112/GGM and HGH Guruseva No. 2128/FTB. It is further submitted that Sh.Manveer Singh IPS, DCP, Manesar along with Station House Officer, IMT Manesar, Insp Devendra, Station Police Station, Bilaspur, Insp Rahul Dev along with their two government vehicles and QRT team of district Manesar were also with us in a government bus. When our vehicles reached near Grain Market Gate near Cyber Police Station, Nuh, suddenly a large number of people were seen on the road. They threw

large stones on the road, blocking our path, and began pelting the stones on us and were also firing bullets with the intent to kill us. The stones thrown by the mob hit all the police officers. My vehicle overturned after colliding with the stones thrown by the mob to block the way. The mob attacked us with stones, sticks, and rods and all of them were carrying illegal weapons, sticks, iron rods, and stones. They have brutally beaten the police personnel and forcibly snatched their mobile phones and wallets. Other personnel in the police party somehow saved the lives of the police personnel by firing in the air for self-defence. I arranged for some means of transport for the injured personnel and sent them to hospital. Constable Pawan Kumar, HC Shair Singh, SI Devendra, PSI Arun, HGH Nirja No. 112/GGM, HGH Gursev 2128/FTB were seriously injured in this incident. HGH Gursev was admitted to General Hospital, Sohna, Gurugram due to sustained serious injuries. I along with other police personnel were admitted to Vedanta Hospital, Gurugram. I have come to know that HGH Niraj No. 112/GGM and HGH Gursev No. 2128/FTB have died due to sustained injuries in said incident. Our vehicle is badly damaged and is standing at the spot. Hence, it is requested that strictest legal action should be taken against the accused, whose names and addresses are unknown. SD-AJAY MALIK DT 01.08.23. From the gist of the application, crime under Section, 147,148,149, 156,342,332,353,307,302,379B, 120B IPC, &25-54-59 ARMS ACT was found to be committed, upon which a case FIR No 257 dated 01.08.2023 under sections 147,148, 149, 186,342,332,353,307,302,379B, 120B IPC, & 25-54-59 ARMS ACT was registered at Police Station, City Nuh and investigation of the present case was conducted by local police.

4. That during the course of investigation, proceedings under Section 174 CrPC were conducted by the investigation officer and PMR of deceased Home Guard Neeraj and Gurusebak were obtained, which are annexed as Annexure R-1 & R-2. The cause of death of deceased Neeraj in this case is multiple injuries and its complications following ante mortem blunt force impact. Blood has been preserved to rule out associated intoxication. And cause of death of Gurusebak is shock and hemorrhage following ante mortem blunt force impact. Blood has been preserved to rule out associated intoxication.

5. That on 6.8.2023, scene of incident was inspected by scene of crime team, who found a khaki cap, on which blood was present and one torn air bag of vehicle no. HR-26GV-7062, on which blood was stained and one seat of vehicle no. HR-30GV-5511 on which blood was stained was obtained from

the spot by the Scene of Crime team and the parcels were prepared, which were handed over to local police which were taken into police possession through memo of recovery and the said memo was got attested from the attesting witnesses.

6. That it is also pertinent to mention here that accused Sakeem son of Sharif, resident of Guwalda Ps Sadar Nuh was arrested in case FIR No. 408 dated 10.8.2023 under sections 148, 149, 427, 395, 397 IPC and Arms Act Police Station, Sadar Nuh was interrogated by the local police, who disclosed that accused Sohil son of Noor Mohammad resident of Dhekli, police station, Sadar Nuh and Appellant Shokeen son of Zaheer resident of Firozpur Namak currently resident of ward no. 1, Nuh were involved in the commission of crime. Thereafter, on 26.08.2023, accused Sohil son of Noor Mohammad resident of Thekli, police station, Sadar Nuh was arrested in the present case after collecting sufficient evidence against him. He was also interrogated by the investigating officer, upon which he has suffered his disclosure statement without any pressure and admitted commission of crime and stated that Appellant Shokeen was also involved in the said incident. A copy of said disclosure statement of accused Sohil is annexed as Annexure R-3. In pursuance of disclosure statement, accused Sohil has got recovered two mobile phones and two SIM card no. 80530xxxxx and 70278xxxxx, which were taken into police possession through memo of recovery. The CAFÉ Id said numbers was obtained from service provider and location of mob no.70278xxxxx was obtained of dated 31.7.2023 at 15.53.

7. That during further course of investigation, accused/Appellant Shokeen son of Zaheer resident of Ferozpur Namak, currently resident of Ward No. 1 Nuh was arrested in the present case on 26.08.2023 after collecting sufficient evidence against him. He was also interrogated by the investigating officer, upon which he has suffered his disclosure statement and admitted commission of crime. A copy of disclosure statement is annexed as Annexure R-4. Thereafter, on 26,08.2023, accused/Appellant Shokeen & accused Sohil were produced before the Ld. Court of Area Magistrate and two days police custody remand was obtained. In pursuance of disclosure statement, accused Sohil has got recovered one country-made pistol, which was used by him in the commission of crime. Thereafter, accused/Appellant Shokeen has got recovered one country-made pistol and four live cartridge and four empty cartridge, which were taken into police possession through memo of recovery and the said memo is annexed as

Annexure R-5. Thereafter, he was produced before the Ld. Court of Area Magistrate, who sent to judicial jail, Nuh.”

5. Learned counsel for the State has drawn attention of this Court to paragraph number 8 of the reply which contains the evidence against the appellant and it reads as follows:-

“8. Evidence against the Appellant under the provisions of UAPA act :-

In this regard it is humbly submitted that the Appellant and co-accused were armed with deadly weapons and have used criminal force and caused attack on the Police Station, Cyber Crime, Nuh, broke the wall of the Police Station, set fire Govt. vehicles and property and fired on police party and Home guard on duty and committed death of two Home guards on duty. They have also looted money and mobile phones from the Police party. It is further relevant to mention here that during the course of investigation of case, It has been revealed that the Appellant and co-accused had attacked on the religious procession of Hindu community who have visited Nuh for offering holy water on the idol of Lord Shiva. The aforesaid act of violence committed by muslims was funded by the foreign extremists, who wants to de-stabilise our country. Therefore, the provisions of UAP ACT have been added in the present case. It is also pertinent to mention here that Sufficient evidence have come-forth against them during the cause of investigation, which is sufficient for their conviction .It was communal riot between Hindu and Muslim community, who have also pronounced "Allaha hu Akbar" before firing on the Hindu pilgrims, damaged the vehicles pelted stones and killed two Homeguard personals who Here on their duties at the relevant time. A copy of the Sanction order regarding UAP Act is annexed as Annexure R-6 CDR & CAF ID has been obtained and the presence of the Appellant and his co-accused were found at the spot of incident, which clearly depicts that the Appellant was actively involved in the commission of crime.

9. That it is to mention here that also worthwhile accused/Appellant Shokeen has played vital role in the commission of crime. He was actively involved in the present case. It is also submitted that he had fired against the Bajrang Dal team. On 31.7.2023, a religious yatra was to be taken out from Nalhar temple, Nuh, in which he along with other people of his religion planned to commit riot. Thereafter, he had taken one illegal country-made pistol and reached near bus stand along with other religious extremist persons. After this, he and co-accused pelted bricks at the pilgrims, who were coming for Yatra at Adwar Chowk. They had also broke the windows of the vehicles.

When the police vehicle arrived on the spot to rescue them, then he and other co-accused pelted stones at the police party. The Appellant fired in the air with illegal weapon. After this, he and other co-accused attacked on two police vehicles in front of the gate of Cyber Police Station, Nuh near Anaj Mandi. They had also beaten the police personnel sitting inside the vehicle with sticks. Hence, it is also crystal clear that the Appellant was involved in the commission of crime in the present case.”

6. Learned counsel for the appellant submits that all the evidence is stage managed and he submits that the evidence against the appellant regarding country made pistol was later on added. To this, counsel for the State has referred to another reply dated 18.04.2026, filed by the concerned Deputy Superintendent of Police, Nuh. It shall be appropriate to mention that as per the State, the ballistic report issued by Forensic Science Laboratory Madhuban connected the country made pistols marked as W/1 and W/2 are in working condition and further that cartridges were fired from both the country made pistols W/1 and W/2. Even the test report of the country made pistol was attached therewith.

7. Mr. Aman Pal, learned Senior Advocate appearing for the appellant, argued that all this is stage managed because in the arrest memo there is an interpolation and the date has been changed from August 24, 2023 to August 26, 2023 by overwriting with a pen. Learned senior counsel has drawn attention of this Court to personal search memo of the present appellant Shokeen (Annexure A-26), as per which his personal search was conducted on August 24, 2023. He further submits that Annexure A-27 refers to arrest memo where the date of arrest is shown as 26th August 2023. Even the recovery of mobile phone and SIM is on August 26, 2023. Per Annexure A-29, the pistol in question was sent for testing on November 08, 2023.

8. In the present case, riots had taken place, in which the vehicles of the police were damaged and people were killed. The issue before this Court is in evidence connecting the present appellant with the above captioned FIR and nothing beyond. As mentioned above the evidence against the appellant is for pistol but there is a contradiction regarding his date of arrest. Annexure A-27 clearly mentions an overwriting, where the date was changed from August 24, 2023 to August 26, 2023 and the mobile phone linking the accused was recovered on August 26, 2023 (Annexure A-28).

9. If the accused had already been detained on August 24, 2023 and later on his arrest memo shows the date with interpolation as August 26, 2023, it would show that he was not produced before the concerned Magistrate within 24 hours as stipulated in the law. Furthermore the State was unable to explain this contradiction.

10. Given above this contradiction itself is sufficient not to continue further custody of the appellant in the present case. This is subject to the condition that the present order is purely on the facts applicable to the appellant-Shokeen and this order shall not be cited as a precedent when it comes to the decide the bail applications of other accused persons. Furthermore, learned Senior Advocate on instructions from the assisting counsel, states that they have further instructions to make an undertaking that appellant would live like a decent human being without admitting or conceding about the crime and in case he indulges in any criminal behavior or commits any offense where the sentence prescribed is more than three years and in case of NDPS where the quantity involved is more than 50% of the intermediate quantity or is an offense under Section 19/24 or 27 A of NDPS Act ,then they shall have no objection if this bail is canceled by the trial Court.

11. In Yedala Subba Rao and Anr. v. UOI, 2023-INSC-382, Apr 17, 2023, the Hon'ble Supreme Court holds,

[21]. We have examined material relied upon against the appellants in paragraph 5 of the additional affidavit of the respondent as well as the chargesheet. Taking the material against the appellants as it is and without considering the defence of the appellants, we are unable to form an opinion that there are reasonable grounds for believing that the accusations against the appellants of commission of offence under the UAPA are prime facie true. Hence, the embargo on the grant of bail under proviso to subsection (5) of Section 43D will not apply in this case. We, however, make it clear that the findings recorded in this Judgment are only prima facie observations recorded for the limited purposes of examining the case in the light of the proviso to subsection (5) of Section 43D of the UAPA. The trial shall be conducted uninfluenced by these observations.

12. In Vernon v. State of Maharashtra [2023] 10 S.C.R. 867; 2023 INSC 655, July 28, 2023, the Hon'ble Supreme Court holds,

[43]. In the case of Zahoor Ahmad Shah Watali (supra) [National Investigation Agency -vs- Zahoor Ahmad Shah Watali (2019) 5 SCC 1]reference was made to the judgment of Jayendra Saraswathi Swamigal -vs- State of Tamil Nadu [(2005) 2 SCC 13) in which, citing two earlier decisions of this court in the cases of State -vs- Jagjit Singh (AIR 1962 SC 253) and Gurcharan Singh -vs- State of (UT of Delhi) [(1978) 1 SCC 118), 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 tempered 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 others provisions of the 1860 Code and the 1967 Act.

13. In *Gurwinder Singh v. State of Punjab & Another*, SLP (Criminal) No.10047 of 2023, 2024-INSC-92, February 07, 2024, the Hon'ble Supreme Court holds,

[18]. The conventional idea in bail jurisprudence vis-à-vis ordinary penal offences that the discretion of Courts must tilt in favour of the oft-quoted phrase - 'bail is the rule, jail is the exception' – unless circumstances justify otherwise - does not find any place while dealing with bail applications under UAP Act. The 'exercise' of the general power to grant bail under the UAP Act is severely restrictive in scope. The form of the words used in proviso to Section 43D (5)– 'shall not be released' in contrast with the form of the words as found in Section 437(1) CrPC - 'may be released' – suggests the intention of the Legislature to make bail, the exception and jail, the rule.

[19]. The courts are, therefore, burdened with a sensitive task on hand. In dealing with bail applications under UAP Act, the courts are merely examining if there is justification to reject bail. The 'justifications' must be searched from the case diary and the final report submitted before the Special Court. The legislature has prescribed a low, 'prima facie' standard, as a measure of the degree of satisfaction, to be recorded by Court when scrutinising the justifications [materials on record]. This standard can be contrasted with the standard of 'strong suspicion', which is used by Courts while hearing applications for 'discharge'. In fact, the Supreme Court in *Zahoor Ali Watali* [(2019) 5 SCC 1] has noticed this difference, where it said:

“In any case, the degree of satisfaction to be recorded by the Court for opining that there are reasonable grounds for believing that the accusation against the accused is prima facie true, is lighter than the degree of satisfaction to be recorded for considering a discharge application or framing of charges in relation to offences under the 1967 Act.”

[20]. In this background, the test for rejection of bail is quite plain. Bail must be rejected as a 'rule', if after hearing the public prosecutor and after perusing the final report or Case Diary, the Court arrives at a conclusion that there are reasonable grounds for believing that the accusations are prima facie true. It is only if the test for rejection of bail is not satisfied – that the Courts would proceed to decide the bail application in accordance with the 'tripod test' (flight risk, influencing witnesses, tampering with evidence). This position is made clear by Sub-section (6) of Section 43D, which lays down that the restrictions, on granting of bail specified in Sub-section (5), are in addition to the restrictions under the Code of Criminal Procedure or any other law for the time being in force on grant of bail.

[21]. On a textual reading of Section 43 D(5) UAP Act, the inquiry that a bail court must undertake while deciding bail applications under the UAP Act can be summarised in the form of a twin-prong test :

1) Whether the test for rejection of the bail is satisfied?

1.1 Examine if, prima facie, the alleged ‘accusations’ make out an offence under Chapter IV or VI of the UAP Act

1.2 Such examination should be limited to case diary and final report submitted under Section 173 CrPC;

2) Whether the accused deserves to be enlarged on bail in light of the general principles relating to grant of bail under Section 439 CrPC (‘tripod test’)? On a consideration of various factors such as nature of offence, length of punishment (if convicted), age, character, status of accused etc., the Courts must ask itself :

2.1 Whether the accused is a flight risk?

2.2. Whether there is apprehension of the accused tampering with the evidence?

2.3 Whether there is apprehension of accused influencing witnesses?

22. The question of entering the ‘second test’ of the inquiry will not arise if the ‘first test’ is satisfied. And merely because the first test is satisfied, that does not mean however that the accused is automatically entitled to bail. The accused will have to show that he successfully passes the ‘tripod test’.

[33]. Hence, we are of the considered view that the material on record prima facie indicates the complicity of the accused as a part of the conspiracy since he was knowingly facilitating the commission of a preparatory act towards the commission of terrorist act under section 18 of the UAP Act.

[34]. For the aforementioned reasons the bail application of the Appellant is rejected and consequently the appeal fails...

14. In *Sheikh Javed Iqbal v. State of U.P.*, [2024] 7 S.C.R. 1054; 2024 INSC 534, July 18, 2024, the Hon’ble Supreme Court holds,

[5]. First Information Report (FIR) was lodged against the appellant by the informant Inspector Tej Bahadur Singh under Sections 121A, 489B and 489C of IPC. It came to be registered as Crime No. 01 of 2015. Informant stated that fake Indian currency notes of the denomination of Rs. 1,000 and Rs. 500, totalling a sum of Rs. 26,03,500.00, were recovered from the possession of the appellant on 22.02.2015 at about 09:10 PM from the Indo-Nepal border. He was apprehended by a constable of the ATS team and brought to the ATS Headquarter. In the course of investigation, the appellant disclosed his name as Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari, resident of Narayani Parsa, Belwa, Nepal. In addition to the fake Indian currency notes, one Nepalese driving licence of the appellant and one Nepalese citizenship certificate also of the appellant were recovered besides two mobile phones. According to the police, appellant had confessed that he was engaged in the illegal trade of supplying counterfeit Indian currency notes in Nepal. The appellant was arrested on 23.02.2015.

[32]. This Court has, time and again, emphasized that right to life and personal liberty enshrined under Article 21 of the Constitution of India is overarching and sacrosanct. A constitutional court cannot be restrained from granting bail to an accused on account of restrictive statutory provisions in a penal statute if it finds that the right of the accused-undertrial under Article 21 of the Constitution of India has been infringed. In that event, such statutory restrictions would not come in the way. Even in the case of interpretation of a penal statute, howsoever stringent it may be, a constitutional court has to lean in favour of constitutionalism and the rule of law of which liberty is an intrinsic part. In the given facts of a particular case, a constitutional court may decline to grant bail. But it would be very wrong to say that under a particular statute, bail cannot be granted. It would run counter to the very grain of our constitutional jurisprudence. In any view of the matter, K.A. Najeeb (supra) being rendered by a three Judge Bench is binding on a Bench of two Judges like us.

[33]. Thus, having regard to the discussions made above, we are of the considered view that continued incarceration of the appellant cannot be justified. We are, therefore, inclined to grant bail to the appellant.

15. In Harpreet Singh Talwar v. State of Gujarat, [2025] 6 S.C.R. 291; 2025 INSC 662, May 13, 2025, the Hon'ble Supreme Court holds,

[25]. Having given our anxious consideration to the submissions advanced by both sides and upon careful perusal of the material on record, we are of the view that the Appellant has not been able to make out a case for grant of regular bail at this stage.

[26]. We say so for the reason that despite no direct recovery of contraband effected from the Appellant, the Prosecution's case is that he played a coordinating and enabling role in facilitating the import of narcotics concealed as talc through M/s Magent India—which he allegedly controlled through a proxy. The consignment, although not seized with heroin, shares structural and logistical similarities with those where heroin was ultimately found.

[27]. The charge against the Appellant must also be evaluated in light of the broader matrix of facts, including

- (i) his alleged meetings in Dubai with a principal foreign accused;
- (ii) the transfer of documents through intermediaries for the clearance of a flagged consignment;
- (iii) efforts to retrospectively fabricate invoices and assign responsibility to others;
- (iv) the use of multiple firms allegedly connected to him to obfuscate the true nature of the transactions; and
- (v) his telephonic calls to certain co-conspirators.

These aspects, supported by the statements of protected witnesses and circumstantial linkages, currently meet the threshold of prima facie satisfaction regarding the Appellant's complicity.

[28]. This Court is cognizant of the fact that no heroin or narcotic substances were directly recovered from the consignment linked to the Appellant. However, the investigative narrative does not rest solely on physical recovery but proceeds on the basis of conspiracy and facilitation. In such cases, the absence of direct seizure is not dispositive, particularly where there exists a pattern of covert coordination, fictitious entities, and barter-based compensation—features which, according to the prosecution, mark the smuggling architecture employed in the present matter.

[29]. The Appellant faces serious charges, which allegedly carry grave societal ramifications, including the facilitation of cross-border drug trafficking—an offence with well-documented links to organised crime and public health degradation. The seizure in the connected consignment is part of what the Prosecution claims to be the largest heroin bust in Indian history, valued at over INR 21,000 crores. The scale and sophistication of the operation, involving foreign syndicates, shell firms, medical visas, and false documentation, elevates this case far beyond routine NDPS violations.

[30]. This Court also cannot ignore the fact that multiple key witnesses still remain to be examined, and the trial while underway, will take time in completion. Out of 24 most vulnerable or material witnesses, two have died, and two others are untraceable. One of the deceased witnesses, a retired Customs Officer, was found dead on the very day he was scheduled to record his statement under Section 164 CrPC. The risk of witness tampering or elimination—whether directly attributable to the Appellant or not—is a real and present concern that militates against the grant of bail at this stage.

[31]. Moreover, the Appellant's criminal antecedents, though not involving prior accusations under the NDPS Act, include multiple DRI and customs proceedings involving smuggling of cigarettes, undervaluation of imports, and alleged complicity in corruption offences. These antecedents are relevant only for the limited purpose of evaluating the Appellant's propensity to interfere with the process of justice if enlarged on bail.

[32]. NIA has also highlighted that several accused remain absconding, including the primary foreign conspirators. In that context, the Appellant's foreign travel, overseas connections, and financial capacity cannot be overlooked in evaluating the possibility of flight risk. These are not speculative concerns but flow directly from the Appellant's prior conduct and profile.

[33]. We are conscious of the settled principle that pre-trial incarceration should not translate into punitive detention. The Appellant has been in custody since 24.08.2022, and while we do not find that this duration alone warrants bail under the present circumstances, the Appellant shall remain at liberty to renew his prayer for bail after a period of six months, or upon substantial advancement in the trial, whichever is earlier. Such a course would allow the Prosecution to complete the examination of its

core witnesses while preserving the accused's right to seek release at a later and more appropriate stage.

[34]. Before parting with this matter, we deem it necessary to clarify that, at this stage, it would be premature and speculative to extend the allegations against the Appellant to the domain of terror financing. While the prosecution has invoked provisions of the UAPA and has broadly linked the smuggling enterprise to trans-national syndicates with suspected affiliations, there is no compelling reason to currently link the Appellant and proscribed terrorist organisations, either within or outside the country. The evidentiary foundation to sustain such a grave allegation must be clear and compelling—something that, can be seen only after a substantial portion of evidence is led by both the parties.

[35]. In light of the foregoing discussion, and without expressing any opinion on the merits of the case, we dismiss the instant appeal with the following directions:

- i. We are not inclined to enlarge the Appellant on regular bail at this stage. He shall be at liberty to renew his plea for regular bail after a period of 6 months, or at a stage where the ongoing trial has progressed substantially;
- ii. The NIA is directed to submit to the Special Court an additional list of witnesses who, in its assessment, are sensitive or material, inasmuch as their testimony may have a direct bearing on the role of the Appellant or other co-accused in the ongoing trial and connected investigation;
- iii. The Special Court is directed to list the matter twice in a month and record the statements of Prosecution witnesses on a continuous and uninterrupted basis; and
- iv. If the Presiding Officer of the Special Court has not been posted thus far, we request the Hon'ble Chief Justice of the High Court of Gujarat to do the needful within a week.

16. In the light of the Judicial Precedents of Hon'ble Supreme Court of India, considering the nature of allegations against the appellant and keeping in mind the stage of trial, and the pre-trial custody, we are of the considered opinion that further pre-trial incarceration would cause grave injustice to the appellant.

17. Further, the appellant, through his counsel, undertakes not to indulge in any Anti-India activity and also that he would not cross the limits of his speech and expression beyond what is permitted under Article 19 of the Constitution of India and considering the entire facts and the pre-trial custody, which on the face of it, is excessive for the purpose of pre-trial custody and the undertaking given by the appellant through counsel, we are of the considered opinion that his further custody is not required.

18. Without commenting on the case's merits, in the facts and circumstances unique and peculiar to this case, and for the reasons mentioned above, the appellant makes a case for bail.

19. Given the above, provided the appellant is not required in any other case, the appellant shall be released on bail in the FIR captioned above, subject to furnishing bonds of Rs. 1 lac to the satisfaction of the concerned trial Court and due to unavailability before any nearest Chief Judicial Magistrate or Duty Magistrate/ Ilaqa Magistrate.

20. The appellant shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The appellant shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

21. The appellant shall not seek any unnecessary adjournment, and if he does so, the State shall have the right to apply for cancellation of bail.

22. The appellant shall mention his current address, phone number, e-mail, if any, and present address, native address, and in case of change, he shall inform the SHO of the police station concerned through a registered letter by mentioning the case number. Additionally, he shall also inform the concerned Court before whom the bonds were furnished.

23. Given the background of allegations against the appellant, it becomes paramount to protect the members of society as well as the integrity of the country, and incapacitating the accused would be one of the primary options until the filing of the closure report, discharge, or acquittal. Consequently, it would be appropriate to restrict the possession of firearms. This restriction is being imposed based on the preponderance of evidence of probability and not of evidence of certainty, i.e., beyond a reasonable doubt; and as such, it is not to be construed as an intermediate sanction. Given the nature of the allegations and the other circumstances peculiar to this case, the appellant shall surrender all weapons, firearms, and ammunition, if any, along with the arms license, to the concerned authority within fifteen days of release from prison and inform the Investigator of compliance. However, subject to the Indian Arms Act, 1959, the appellant shall be entitled to renew and take it back in case of acquittal in this case, provided that this is otherwise permissible under the concerned rules. Restricting firearms would instill confidence in society; it would also restrain the accused from influencing the witnesses and repeating the offense.

24. The conditions mentioned above imposed by this court are to endeavor to reform and ensure that the accused does not repeat the offense. In Mohammed Zubair v. State of

NCT of Delhi, 2022:INSC:735 [Para 28], Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of Hon'ble Supreme Court holds that "The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts, while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed."

25. In *Md. Tajiur Rahaman v. The State of West Bengal*, decided on 08-Nov-2024, SLP (Crl) 12225-2024, Hon'ble Supreme Court holds in Para 7, "It goes without saying that if the petitioner is found involved in such like offence in future, the concession of bail granted to him today will liable to be withdrawn and the petitioner is bound to face the necessary consequences."

26. This bail is conditional, with the foundational condition being that if the appellant repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than three years, the State shall file an application to revoke this bail before the trial Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and as per their discretion, they may cancel this bail.

27. In addition to the above conditions, the Appellants shall abide by all the following conditions as were ordered by the Hon'ble Supreme Court of India in *Gulfisha Fatima v. State (Govt. of NCT of Delhi, 2026-INSC-2, Jan 05, 2026*. It is clarified that the conditions mentioned in *Gulfisha Fatima supra* are to be preferred over the following conditions imposed by this Court:

[434]. vii. The appellants shall not make or publish or disseminate any information, statement, article or post whether in print, electronic or social media concerning the present case or its participants till conclusion of the trial.

viii. The appellants shall not participate in any programme or address or attend any gathering, rally or meeting, whether physically or virtually till conclusion of the trial.

ix. The appellants shall not circulate any post either in electronic form or physical form or circulate any hand bills, posters, banners, etc in any form whatsoever.

xi. The appellants shall maintain peace and good behaviour throughout and in the event of any offence committed during the pendency of the trial, the prosecution would be at liberty to seek for revocation of the bail granted by filing such application before the Trial Court and in the event of such application being filed the Trial Court shall consider it on its own merits.

[435]. In case of breach of any of the afore-stated conditions imposed or in the event of appellants having misused the liberty granted, it shall be open to the Trial Court to cancel the bail which would be necessarily after affording opportunity of hearing to the appellants.

28. Any observation made hereinabove is tentative and is not an expression of opinion on the case's merits, and it shall have no bearing on the trial or on the case of the co-accused, and the trial Court shall not advert to these comments.

29. It is clarified that this bail order shall not be considered as a blanket bail order in any other matter and is only limited to granting bail in the FIR mentioned above.

30. In Amit Rana v. State of Haryana, CRM-18469-2025 [in CRA-D-123-2020, decided on 05.08.2025], a Division Bench of Punjab and Haryana High Court in paragraph 13, holds that “To ensure that every person in judicial custody who has been granted bail or whose sentence has been suspended gets back their liberty without any delay, it is appropriate that whenever the bail order or the orders of suspension of sentence are not immediately sent by the Registry, computer systems, or Public Prosecutor, then in such a situation, to facilitate the immediate restoration of the liberty granted by any Court, the downloaded copies of all such orders, subject to verification, must be accepted by the Court before whom the bail bonds are furnished.”

31. Given the above, the impugned order is set aside and appeal is allowed in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

(SUKHVINDER KAUR)
JUDGE

06.05.2026
Anju rani

Whether speaking/reasoned	YES
Whether reportable	NO