



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

**CRA-D-450-2024 (O&M)
Date of Decision : 26-02-2026**

KHUSHALBIR SINGH @ CHITTUAppellant

VERSUS

STATE OF PUNJABRespondent(s)

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Arnav Sood, Advocate
for the appellant.

Mr. Rahul Rampal, Addl. A.G., Punjab.

HARSIMRAN SINGH SETHI, J. (Oral)

1. By way of the present appeal filed under Section 21 of the National Investigation Act, 2008, the appellant seeks the grant of Regular Bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). The said relief has been declined by the Court of the learned Additional Sessions Judge, Amritsar vide order dated 16.02.2024 hence, the present appeal.

2. It may be noticed that the appellant is an accused in FIR No.152 dated 16.08.2022 at Police Station Ranjit Avenue, Amritsar registered under Sections 3, 4 and 5 of the Explosives Act, Sections 13, 16, 17, 18, 18-B and 20 of the Unlawful Activities Prevention Act, 1967 read with Section 120-B of the IPC.

3. Learned counsel appearing on behalf of the appellant argues that the appellant has only been roped in the present case on the basis of the disclosure statement of the co-accused and the only allegation alleged against the appellant is that he picked up co-accused Fatehdeep Singh from Jandiala bypass Taran Taran and dropped him at somewhere near Amritsar.

4. Learned counsel for the appellant submits that no connection has been established between the appellant and co-accused Gurpreet Singh @ Gopi. It is contended that, even if the allegations alleged against appellant are assumed to be correct for the sake of argument yet said allegations do not lead to disclosure of any material which could suggest the appellant's involvement in a conspiracy to detonate an IED in the car of a police official, namely Dilbagh Singh.

5. Learned counsel for the appellant submits that appellant has been in the custody approximately for more than 3 ½ years and keeping in view the fact that there are more than 60 witnesses, who are to be examined out of which only 20 witnesses have been examined and the trial is likely to take some time to conclude in the near future hence, no justification arises for keeping the appellant-Khushalbir Singh @ Chintu behind the bars during the entire period of the trial hence, keeping in view the settled principle of law and Article 21 of the Constitution of India, is also to be borne in mind even qua the accused under trial hence, the present case is fit for the grant of regular bail.

6. Learned counsel appearing on behalf of the respondent-State controverts the argument raised on behalf of the appellant. He submits that the contention of learned counsel for appellant that there was no connection

of the appellant with the co-accused Gurpreet Singh @ Gopi, is incorrect as the phone which was recovered from the appellant shows that he was in constant touch with other said co-accused.

7. Learned counsel for the respondent-state further submits that it has already come on record that the appellant was also paid money for picking up co-accused Fatehdeep Singh and dropping him at a particular point, which co-accused was to plant the IED on the car of the police official who had an exemplary record during the terrorism days, so as to disrupt the peace especially on the eve of Independence Day.

8. Learned counsel for the respondent-State further submits that even during that period, the appellant has been in custody, the conduct of appellant is not unblemished as unauthorised phone has been recovered from him thrice during the said period so as to defy law which shows that in case, such kind of an accused is brought out of the custody, the question would remain that whether he will act as a good citizen qua the safety of the other citizens or not, which question can only be answered in negative keeping in view the conduct of the appellant.

9. As per the learned State counsel, there is already a production warrant issued against the appellant in respect of an FIR No.240/2023 dated 16.08.2023 registered at Police Station Islamabad.

10. Learned counsel for the respondent submits that not only the conduct of the appellant that, he was a part of a conspiracy of planting 2.79 Kgs of explosive material along with other co-accused as the case of a police official so as to disrupt the peace and that too on the eve of Independence Day coupled with the conduct of appellant while being in Jail as has been

putforth before the benefit of Regular Bail being sought may kindly be denied and the impugned order passed by the trial Court, is perfectly valid and legal and the same may kindly be upheld.

11. We have heard learned counsel for the parties and have gone through the records of the present case with his able assistance.

12. The grant of Regular bail depends upon many factors which includes the actual allegations alleged against the accused coupled with the time period of custody already undergone. The conduct of such accused after the arrest is also very material to be looked into whether the grant of bail will be in the interest of the society at large as well, or not.

13. In the present case, though the appellant was nominated on the basis of the disclosure statement of the co-accused but, the investigation has prima facie connected a chain of events so as to implicate and attribute the role of disturbing the peace of the appellant while being part of the conspiracy and actual participation in putting the IED on a car of a police official who performed the duties with bravery during the terrorism days.

14. Learned counsel for the appellant has not even prima facie able to show the discrepancies in the investigation so as to exonerate the appellant.

15. Learned counsel for the appellant further submits that his role in the said crime committed is only qua the logistics as he has only brought the co-accused from a particular place and dropped him to the spot where the other accused was to perform his part qua the explosion which was to be done on the car of the police official.

16. On being asked as to how the said allegation is rebutted, learned counsel for the appellant has not been able to dislodge that for doing such act, an amount was paid to the appellant, which prima facie shows the active participation of the appellant in the whole process.

17. It has been further submitted that the conduct of the appellant even while behind bars is as such that it creates a doubt in the mind of the Court whether, the grant of Regular Bail will be in the interest of the general public as, the allegations against the appellant is qua disturbing the peace by being involved in the illegal activities so as to conduct explosions.

18. It has been pointed out that on three separate occasions, the appellant was found in possession of an unauthorised mobile phone while being in custody, which was prohibited. In this regard, FIRs have also been registered against the appellant. In case, the appellant is not behaving properly even behind the bars, no such benefit of Regular Bail can be given to the appellant that in case he is granted the concession of Regular Bail, his conduct will be in a manner required.

19. The factum of the conduct of appellant in the jail has also gone unrebutted at the hands of the learned counsel for the appellant.

20. The argument which has been raised by the learned counsel for the appellant is that he is already behind bars for more than 3 ½ years and the trial initiated against him is not likely to conclude in the near future hence, the appellant should be extended the concession of Regular Bail. The said argument is being raised on the basis of Article 21 of the Constitution of India.

21. Learned counsel for the appellant places reliance upon the judgment of the Hon'ble Supreme Court of India in Criminal Appeal No.98 of 2021 titled "***Union of India vs. K.A Najeesh***", decided on 01.02.2021.

22. Learned counsel for the appellant further submits that incarceration of more than five years in the said case was treated good enough to grant Regular Bail, which judgment should also be made applicable in the case of the appellant.

23. It may be noticed that the said judgment was given in the peculiar facts and circumstances of the present case as, not only the accused therein had undergone an incarceration of more than five years but still 276 witnesses were yet to be examined which shows that the trial was not likely to be concluded in short time coupled with the fact that other co-accused had been given punishment of around 8 years and the accused would be given punishment in same ball park, if found guilty, out of which 2/3rd of incarceration period had been undergone, for which reason he was granted bail.

24. It has been further submitted that the said argument has already been considered by the Hon'ble Supreme Court of India in ***Gulfisha Fatima Vs. State (Govt. NCT of Delhi) 2026 SCC Online SC 10*** wherein, after considering the said judgment in ***K.A Najeesh's case (supra)***, the Hon'ble Supreme Court of India has held that the allegations alleged, the role attributed and the conduct of the accused seeking benefit of bail has to be seen even while adjudicating the said claim for the grant of Regular Bail based upon Article 21 of the Constitution of India. Relevant paragraphs of the said judgement are as under:-

“XXXX.....385. The Court remains mindful that the alleged acts culminated in serious violence yet, the gravity of the incident cannot be the sole criterion to perpetuate detention when the individual’s attributed role is operational rather than directive. The prosecution has not demonstrated that Shadab’s custodial presence is required for ongoing investigation or that further evidence is contingent upon his continued incarceration. In the absence of such necessity, indefinite pre-trial detention would assume a punitive character inconsistent with constitutional guarantees of personal liberty under [Article 21](#), particularly where the alleged conduct is neither shown to be ongoing nor presently repeatable in a manner jeopardising the proceedings.

386. The Court further notes that the documentary and electronic evidence forming the backbone of the prosecution case has already been secured and subjected to forensic processes, and no submission has been advanced suggesting that Shadab’s custodial presence is indispensable for recovery of additional material. The absence of any pending investigative step requiring his confrontation or custodial interrogation weighs significantly against continued deprivation of liberty, for pre-trial detention cannot be justified merely to await the vicissitudes of trial when the evidentiary record is substantially crystallised.

387. Moreover, while the prosecution advances the thesis of layered participation culminating in coordinated disruptions across multiple sites, it is incumbent upon the Court to maintain proportionality between the attributed layer of involvement and the nature of liberty restriction imposed. Insofar as Shadab is alleged to have functioned at an executory tier without demonstrated autonomy over escalation or violence, extending pre-trial detention would risk conflating operational participation with strategic authorship, contrary to the requirement that liberty be curtailed only upon individualised and contemporaneous necessity.

388. The Court is also persuaded that calibrated conditions can adequately address the State’s concerns regarding potential interference with the administration of justice. In the absence of material demonstrating that measures would be insufficient, continued incarceration cannot be sustained.

389. In these circumstances and bearing in mind that the constitutional presumption favours liberty unless its curtailment is demonstrably necessary for legitimate and current purposes of investigation or trial, the Court finds no compelling grounds to justify the further confinement of Shadab Ahmad. The differentiated hierarchy of roles articulated by the prosecution underscores that his alleged conduct, while forming part of the evidentiary matrix for trial, does not presently establish a continuing threat warranting custodial restraint. Subject to strict compliance with conditions imposed by the Court, enlargement on bail remains the proportionate course.....XXXX.....

FINAL CONCLUSION AND OPERATIVE DIRECTIONS

426. *The present batch of appeals has required the Court to engage with questions that lie at the intersection of personal liberty and collective security. The guarantee of liberty enshrined under [Article 21](#) of the Constitution is of foundational importance, and no constitutional court can be unmindful of the gravity of restraining liberty before guilt is adjudicated. At the same time, the Constitution does not conceive liberty in isolation. The security of the community, the integrity of the trial process, and the preservation of public order are equally legitimate constitutional concerns. When bail is sought in prosecutions governed by a special statute, the Court is required to undertake a difficult and sensitive balancing exercise, conscious that neither liberty nor security admits of absolutism.*

427. *While undertaking this exercise, the Court cannot proceed on any consideration except restricting the contours of inquiry confining to law. Where Parliament has prescribed a distinct statutory threshold for the grant of bail, and where the prosecution places prima facie material suggesting organised and deliberate activity affecting public order and security of the Nation, the Court cannot turn a Nelson's eye to such material merely because incarceration is prolonged or liberty is invoked in the abstract. Equally, where continued detention is not shown to be necessary to serve a legitimate purpose recognised by law, the Court must not hesitate to restore liberty, subject to stringent conditions that safeguard the larger public interest.*

428. *The position of law that emerges may be stated with clarity. The right to personal liberty enshrined under [Article 21](#) is of seminal importance, and prolonged pre-trial incarceration is a matter of serious constitutional concern. At the same time, where Parliament has, in the context of a special statute, conditioned the grant of bail upon the satisfaction of a defined statutory threshold, a constitutional court cannot treat such restraint as avoidable. [Section 43D\(5\)](#) of the Unlawful Activities (Prevention) Act, 1967, represents a legislative judgment that offences alleged to implicate the security of the State warrant a distinct bail regime. The constitutional role of the Court, therefore, is neither to mechanically enforce the statutory embargo nor to neutralise it by invocation of liberty as straight-jacket formula, but to apply it with disciplined scrutiny. Where the prosecution material, taken at face value, discloses reasonable grounds for believing the accusation to be prima facie true, the statutory restraint must ordinarily operate. Where it does not, liberty must prevail. [Article 21](#) thus commands the manner of application of the statute; it does not dissolve the statutory condition itself.*

429. *It is in this constitutional and statutory framework that the individual appeals have been examined based on facts obtained. The Court has consciously avoided a collective or uniform approach. Each appellant has been assessed on the basis of the role attributed, the nature of material relied upon, and the stage of the proceedings, strictly within the limited compass of adjudication for grant of bail.....XXXX”*

25. After giving due consideration to all the aspects including the role attributed to the appellant, no ground is made out for the grant of the Regular Bail to the appellant, at this stage and the same is accordingly dismissed.

26. Present application(s), if any, shall stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

26-02-2026
Sapna Goyal

(VIKAS SURI)
JUDGE

NOTE: Whether speaking/reasoned: YES
Whether reportable : NO