

CRA-D-1369-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-D-1369-2024

JUDGEMENT RESERVED ON	JUDGEMENT PRONOUNCED ON	OPERATIVE PART PRONOUNCED OR FULL	UPLOADED ON
25.02.2026	17.03.2026	FULL PRONOUNCED	17.03.2026

Bikramjeet Singh @ Vicky ...Appellant

Versus

State of Punjab and another ... Respondents

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

Present: Mr. Vikram Satpal Anand, Advocate for
Mr. Gaurav Singla, Advocate
for the appellant.

Ms. Pooja Nayar Sharma, D.A.G., Punjab.

Mr. Sukhdeep Singh Sandhu, Special Public Prosecutor
for NIA- respondent No.2.

* * * *

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Section
52	19.10.2018	Sultan Wind, Police Commissionerate, Amritsar	124-A/153-A/153-B/120-B IPC (Section 17, 18, 19 of Unlawful Activities (Prevention) Act and 25/54/59 of Arms Act added later on)

Re-Registered as

RC No.	Dated	Police Station	Section
19/2020/ NIA/DLI	05.04.2020	National Investigation Agency, New Delhi	-

Bail Application number before the Sessions Court	CIS No. BA/2529/2024 CNR No. PBSA01006228-2024
Date of Decision	05.09.2024

1. Aggrieved by the dismissal of regular bail by the Special Judge, NIA, Mohali vide order dated 05.09.2024, the appellant had come up before this Court by filing the present appeal under Section 21 of the National Investigation Agency Act, 2008.

2. Per custody certificate, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	244	13.09.2019	42, 52A of Prisons Act	Islamabad
2.	4	04.02.2023	120, 120-B IPC and 25/54/59 of Arms Act	SSOC
3.	251	22.11.2024	21/29-61-85 of NDPS Act	Model Town Hoshiarpur
4.	72	07.03.2025	52A of Prisons Act	City Hoshiarpur
5.	107	27.07.2015	399, 402 IPC and 25 of Arms Act	Pasiana

3. The appellant’s counsel 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.

4. The State’s counsel opposes the bail.

5. Facts of the case are being taken from the reply dated 22.01.2025 filed by the Special Public Prosecutor of the National Investigative Agency in the present appeal.

6. Appellant has been arraigned as A-3. The evidence against the appellant is mentioned in para no.6 onwards of the reply. The case of the NIA is that appellant (A-3) along with accused Kuldeep Singh @ Keepa (A-11) pasted posters of ‘Khalistan Zindabad Referendum 2020’ at various places in Patiala, Ludhiana, Jalandhar and many other places of Punjab and Delhi. The said fact has been corroborated by CDR analysis of appellant and Kuldeep Singh @ Keepa (A-11).

7. As per para no.7 of the reply, appellant (A-3) along with other accused had visited Sri Nagar to procure weapons for carrying terror activities in Punjab with intention to create terror in the minds of general public. The investigation is stated to have also pointed out that appellant (A-3) was recruited by a terrorist gang run by A-11. Further, the NIA Special

CRA-D-1369-2024

Court Mohali has framed charges, as such there is more than prima facie case, rather the evidence is sufficient for trial and as such, charges were framed.

8. Counsel for NIA submits that once there is sufficient evidence, there is no reason to presume absence of prima facie, as such there is no occasion to grant bail to accused-appellant (A-3).

9. This Court is not doubting about presence or absence of evidence for the reason that once charges were framed, it was for the applicant to challenge the same which he did not, as such there is more than prima facie case against the appellant. Further, this Court is not deciding the present appeal on merits of the case but is more concerned about Article 21 of Constitution of India i.e. right of life.

10. **As per the custody certificate dated 24.02.2026, the custody of the appellant in this FIR is 06 years, 06 months and 24 days.**

11. In Angela Harish Sontakke v. State of Maharashtra, SLP (CRL)-6888-2015, decided on May 04, 2016, the Hon'ble Supreme Court holds,

[2]. We have heard the learned counsels for the parties. Charges have been framed against the accused appellant under Sections 10, 13, 17, 18, 18A, 18B, 20, 21, 38, 39 and 40(2) of the Unlawful Activities (Prevention) Act, 1967, amended 2008 and Sections 387, 419, 465, 467, 468, 471 read with Section 120-B of the Indian Penal Code, 1860. Undoubtedly, the charges are serious but the seriousness of the charges will have to be balanced with certain other facts like the period of custody suffered and the likely period within which the trial can be expected to be completed.

[3]. The accused appellant has been in custody since April, 2011 i.e. for over five years. The trial is yet to commence in as much as the learned State Counsel has submitted that the 9th of May, 2016 is the first date fixed for the trial. There are over 200 witnesses proposed to be examined. The accused appellant is a lady. She has also been acquitted of similar charges leveled against her in other cases. Taking into account all the aforesaid facts we are of the view that the accused appellant should be admitted to bail.

12. In Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya v. National Investigation Agency, Dec 01, 2021, [2021] 9 S.C.R. 607 607, the Hon'ble Supreme Court holds,

[11]. We have to balance the nature of crime in reference to which the appellant is facing a trial. At the same time, the period of incarceration which has been suffered and the likely period within which the trial can be expected to be completed, as is informed to this Court that the statement of PW-1/de-facto complainant has still not been completed and there are 298 prosecution witnesses in the calendar of witness although the respondent has stated in its counter affidavit that it may examine only 100 to 105 witnesses but indeed may take its own time to conclude the

trial. This fact certainly cannot be ignored that the appellant is in custody since 6th July, 2012 and has completed nine and half years of incarceration as an undertrial prisoner.

[12]. This Court has consistently observed in its numerous judgments that the liberty guaranteed in Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial is imperative and the undertrials cannot indefinitely be detained pending trial. Once it is obvious that a timely trial would not be possible and the accused has suffered incarceration for a significant period of time, the Courts would ordinarily be obligated to enlarge him on bail.

[13]. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. At the same time, timely delivery of justice is part of human rights and denial of speedy justice is a threat to public confidence in the administration of justice.

[15]. In the above circumstances, we are of the view that the appellant accused has made out a case for grant of post-arrest bail pending trial.

13. In *Jahir Hak v. State of Rajasthan*, [2022] 3 S.C.R. 101, Apr 11, 2022, the Hon'ble Supreme Court holds,

[10] No doubt, in the said case, as pointed out by the learned counsel appearing on behalf of the State, the Court was dealing with an order passed by the High Court granting bail, whereas, in this case, the converse is true, that is, the impugned order is one rejecting the application for bail. The fact remains that the appellant has been in custody as an undertrial prisoner for a period of nearly 8 years already. The appellant, it may be noted, is charged with offences, some of which are punishable with a minimum punishment of 10 years and the sentence may extend to imprisonment for life. Learned counsel for the appellant also points out that one of the co-accused namely Shri Aadil Ansari has been released on bail on 30.09.2020 by this Court. No doubt, in this regard, we keep in mind the submission of the State that the role attributed to the said accused is different.

[11] The condition in Section 43D(5) of the Act of 1967 has been understood to be less stringent than the provisions contained in Narcotic Drugs and Psychotropic Substances Act, 1985, as already noticed by us. We would think that in the nature of the case against the appellant, the evidence which has already unfolded and above all, the long period of incarceration that the appellant has already undergone, time has arrived when the appellant be enlarged on bail. We bear in mind the fact that the prosecution seeks to examine as many as 109 witnesses of which only 6 witnesses have been fully examined so far. Accordingly, we allow the appeal, set aside the impugned order and direct that the appellant shall be released on bail subject to such conditions as shall be fixed by the trial Court.

14. 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 *prima 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.

[22]. As narrated earlier, the appellants are in custody for four and half years. The charge has not been framed and the prosecution proposes to examine more than 140 witnesses. Some of the accused are absconding. Thus, there is no possibility of the trial commencing in the near future.

15. 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.

16. In Javed Gulam Nabi Shaikh v. State of Maharashtra, [2024] 7 Digital SCR 992; 2024-INSC-645, July 03, 2024, the Hon'ble Supreme Court holds,

[8]. Having regard to the aforesaid, we wonder by what period of time, the trial will ultimately conclude. Howsoever serious a crime may be, an accused has a right to speedy trial as enshrined under the Constitution of India.

[9]. Over a period of time, the trial courts and the High Courts have forgotten a very well settled principle of law that bail is not to be withheld as a punishment.

[22]. In view of the aforesaid, this appeal succeeds and is hereby allowed. The impugned order passed by the High Court is set aside.

[23]. The appellant is ordered to be released on bail subject to the terms and conditions which the trial court may deem fit to impose. However, we on our own would impose the condition that the appellant shall not leave the limits of Mumbai city and shall mark his presence at the concerned NIA office or police station once every fifteen days. Any other condition which the trial court may deem fit to impose, it may do so in accordance with law.

17. 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.

18. In Athar Parwez v. UOI, [2024] 12 S.C.R. 1093; 2024-INSC-995, Dec 17, 2024, the Hon'ble Supreme Court holds,

[19]. Long incarceration and unlikely likelihood of trial being completed in near future has also been taken as a ground for exercising its constitutional role by the Constitutional Courts to grant bail on violation of Article 21 of the onstitution of India which guarantees trial to be concluded within a reasonable time. Gross delay in conclusion of the trial would justify such invocation leading to a conclusion of violation of Part III the Constitution of India, which may be taken as a ground to release an undertrial on bail...

[31]. It is thus apparent that the first test as has been laid down by the various judgments of this Court referred to above, stands satisfied relating to Section 43-D(5) of the UAPA, 1967...

[32]. The Appellant was arrested on 12.07.2022. He has undergone custody for more than two years and four months. Chargesheet was filed on 07.01.2023 but till date charges have not been framed which is an admitted position. There are 40 accused and 354 witnesses cited by the prosecution to be examined. There can be no doubt that the trial is not likely to complete soon, and as has been laid down by various judgments of this Court as has been referred to above, the Appellant cannot be allowed to languish in jail indefinitely and that too without a trial. If such an approach is allowed Article 21 of the Constitution of India would stand violated....

19. 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.

20. 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.

21. 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.

22. 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.

23. In *Gulfisha Fatima v. State (Govt. of NCT of Delhi)* 05 Jan, 2026, the Hon'ble Supreme Court holds,

[434]. The appellants granted bail shall be released subject to the following conditions, which are imposed not as matters of form, but as substantive safeguards in the interest of national security, public order, and the integrity of the trial process.

i. Each of the appellants shall execute a personal bond in the sum of ₹2,00,000/- (Rupees Two Lakhs only) with two local sureties of the like sum to the satisfaction of the Trial Court.

ii. The appellants shall remain within the National Capital Territory of Delhi and shall not leave its territorial limits without prior permission of the Trial Court. Any request for travel shall disclose reasons and such prayer/request shall be considered by the Trial Court strictly on its merits

iii. The appellants shall surrender their passports, if any, before the Trial Court. Where no passport exists, an affidavit to that effect shall be filed. We direct the respondent to intimate all the immigration authorities in the country not to permit their exit from the country in any manner whatsoever, without express permission from the Trial Court.

iv. The appellants shall furnish their current residential addresses, contact numbers, and e-mail addresses to the Investigating Officer as well as to the Trial Court. The appellants shall not change their place of residence or contact particulars without giving at least seven days' prior written intimation to the Investigating Officer and the Trial Court.

v. Each of the appellants, namely Gulfisha Fatima, Meeran Haider, Shifaur-Rehman, Mohd. Saleem Khan, and Shadab Ahmed, shall personally appear twice a week, that is on Monday and Thursday between 10:00 a.m. and 12:00 noon, before the Station House Officer, Police Station Crime Branch, Delhi Police, Office of the Commissioner of Police, Police Headquarters, Jai Singh Marg, New Delhi – 110001 and mark their attendance. The Station House Officer shall maintain a separate register of attendance in respect of each of these appellants and shall furnish a monthly compliance report to the Trial Court, which shall be placed on the main record of the case.

vi. The abovenamed appellants shall not directly or indirectly contact, influence, intimidate or attempt to contact any witness or any person connected with the proceedings, nor shall they associate with or

participate in the activities of any group or organization linked to the subject matter of the present FIR/ final report.

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.

x. The appellants shall fully cooperate with the trial and shall appear on every date of hearing unless exempted for reasons to be recorded by the Trial Court to its satisfaction and they shall

not exhibit any conduct that has the effect of delaying the proceedings.

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.

24. The Appellants shall abide by all the above conditions as were ordered by the Hon'ble Supreme Court of India in Gulfisha Fatima *supra*, before the police station concerned in the present case.

25. In addition to the above conditions, the Appellant shall also abide by the following additional conditions, wherever these do not overlap with the conditions mentioned in Gulfisha Fatima *supra*. It is clarified that the conditions mentioned in Gulfisha Fatima *supra* are to be preferred over the following conditions imposed by this Court.

26. 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.

CRA-D-1369-2024

27. 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.

28. 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.

29. 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.

30. 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."

31. 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."

32. 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.
33. 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.
34. 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.
35. 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.”*
36. Appeal allowed in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

(SUKHVINDER KAUR)
JUDGE

17.03.2026
Jyoti Sharma

Whether speaking/reasoned	YES
Whether reportable	NO