

CRA-D-1660-2024 (O&M)**-1-**

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

**CRA-D-1660-2024 (O&M)
Dated: 02.04.2026**

Rohit alias Ballu**...Appellant**

Vs.

State of Punjab**...Respondent**

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

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

Mr. Adeshwar Singh Pannu, AAG, Punjab.

ROHIT KAPOOR, J. (Oral)

CRM-47620-2024

The instant application has been filed seeking condonation of delay of 5 days in preferring the appeal against the order dated 24.10.2024 passed by the learned Additional Sessions Judge, Shaheed Bhagat Singh Nagar, vide which bail application of the applicant/appellant has been rejected.

For the reasons stated in the application, the same is allowed and delay is condoned.

Main case

1. The appellant has challenged the order dated 24.10.2024 passed by the learned Additional Sessions Judge, Shaheed Bhagat Singh Nagar, whereby his bail application in FIR No.241 dated 08.11.2021 registered under sections 307, 427, 212, 120-B IPC; sections 3, 4, 5 of the Explosive Substances Act; sections



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13, 17, 18, 18-B, 20 of the Unlawful Activities (Prevention) Act, 1967 (for short 'UAPA'); and section 25 of the Arms Act, registered at Police Station City Nawanshahr, has been dismissed.

2. The allegations against the accused are that he is an accomplice of the co-accused Kuldeep alias Sunny and Amandeep alias Amnu who were involved in an occurrence of bomb blast at CIA Staff office, Nawanshahr with an intention to murder the officials of the CIA. It is specifically alleged that during interrogation, the appellant/accused has confessed that he was part of a larger conspiracy of carrying out acts of violence on the asking of co-accused Rinda Baba who is an active head of Babbar Khalsa Group, who has further connection with Wadhawa Singh Babbar. It is further alleged that the appellant/accused has disclosed that under the lure of money, he along with the accused Kuldeep alias Sunny, Jivtesh Sethi, and Amandeep alias Amnu were involved in an incident of bomb blast at police post Kalma.

3. Learned counsel for the appellant submits that the appellant, who is a young man of 30 years of age, was not named in the FIR and has been falsely implicated in the matter. It is argued that the appellant is not connected to the alleged incident of throwing of explosive material outside the office of the CIA Staff, Nawanshahr directly, and was apprehended on the alleged receipt of a secret information regarding carrying of explosive substances pertaining to some other incident. It is submitted that nothing except one mobile phone and one car has been recovered from the appellant. He is in custody for almost 4 years. The challan has already been presented on 10.09.2022 and charges stand framed. Nothing is to be recovered from the appellant, and no useful purpose would be



served by keeping him in indefinite custody. It is pointed out that about 29 out of the total 50 witnesses are yet to be examined, and conclusion of the trial is likely to take a long time. The learned counsel has drawn our attention to various orders passed by this Court granting bail to the co-accused Manish alias Baba, Jivtesh Sethi, Pardeep Bhatti, and Amandeep alias Amnu, and contends that the appellant also deserves to be granted bail on the ground of parity. Reliance has been placed upon the judgment of the Supreme Court in the cases of *Union of India versus K.A. Najeeb, (2021) 3 SCC 713* and *Shoma Kanti Sen versus State of Maharashtra and another, 2024 SCCOnline SC 498*, wherein it has been held that long custody by itself would entitle the accused under UAPA to grant of bail by invoking Article 21 of the Constitution of India. Reference is also made to the judgments of the Supreme Court in the cases of *Vernon versus The State of Maharashtra and another, 2023 SCCOnline 885*, *Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari versus State of Uttar Pradesh, bearing Criminal Appeal No.2790 of 2024, decided on 18.07.2024* and *Javed Gulam Nabi Shaikh versus State of Maharashtra, another, bearing Criminal Appeal No.2787 of 2024, decided on 03.07.2024*, *Surinder kumar Khanna vs. Directorate of Revenue Intelligence, (2018) 8 SCC 271*, and *Lohit Kaushal vs. State of Haryana, 2009 17 SCC 106*.

4. The prayer for grant of bail to the appellant is vehemently opposed by the learned State counsel. He submits that the appellant/accused is part of a larger conspiracy to destabilize the nation, by carrying out acts of violence. It is argued that the appellant along with his other co-accused is actively involved in commission of serious offences which threaten the unity, integrity, security and



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sovereignty of India and their intent is to strike terror in people of India. It is further submitted that the appellant is also involved in another case u/s 435, 427, 120-B of the IPC and section 3 of the Explosive Substances Act. He has filed the custody certificate which indicates that the appellant has been in custody for a total period of 3 years, 10 months and 7 days as on 10.03.2026. It is therefore submitted that in view of the serious allegations against the appellant, he is not entitled to the concession of bail.

5. Heard.

6. The allegations against the appellant are that he is an accomplice of the co-accused Kuldeep alias Sunny and facilitated his travel in his car and was also involved in the procurement and placing of bomb at police post Kalma. It may be noticed that there is no allegation regarding his direct involvement in the commission of offence of throwing of hand grenade at the office of the CIA Staff, Nawanshahr. His alleged involvement regarding a separate act of planting of bomb at police post Kalma is only based upon confessional statements made during the course of interrogation. No explosive substance has been recovered from him, and the only recovery is that of one mobile phone and one S-Presso car, allegedly used for facilitating the commuting of the co-accused Kuldeep alias Sunny. Nothing has been brought to our notice regarding any injury having been caused to any person on account of the alleged planting of bomb at police post Kalma. We are conscious of the fact that the conditions for granting bail to an accused under UAPA are stringent. However, at the same time, it is the duty of the Court to carefully scrutinize the material against the appellant. We do not find sufficient ground justifying his further incarceration, especially when four other



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co-accused, including Kuldeep alias Sunny and Amandeep alias Amnu from whom one pistol along with live cartridge and one tiffin bomb was recovered, have been granted the benefit of regular bail. The case of the appellant is at a far better footing as there is no such recovery from him, and the allegations are limited to facilitation of travel of the co-accused, and at best being involved in carrying of explosive substance.

7. Article 21 of the Constitution of India enshrines the fundamental right to protection of life and liberty which also includes the right to speedy trial, which is sacrosanct. It has been held by the Supreme Court in a catena of judgments that long custody by itself would entitle the accused under UAPA to the grant of bail by invoking Article 21 of the Constitution of India. In the instant case, a large number of witnesses are yet to be examined and in such a situation, it would be difficult to hazard a guess about the conclusion of the trial. The appellant is in custody for a period of 3 years, 10 months and 7 days as on 10.03.2026. The Constitutional Court would like to prevent a situation where the lengthy and arduous process of trial, becomes the punishment in itself. Reference can be made to the judgment of the Supreme Court in the case of ***Union of India versus K.A. Najeeb (supra)***, wherein it has been held that long custody would be an essential factor while granting bail under UAPA. Article 21 of the Constitution of India provides right to speedy trial and long period of incarceration would be a good ground to grant bail to an under-trial for an offence punishable under UAPA. It has also been held that the embargo under Section 43-D of UAPA would not negate the powers of the Court to give effect to Article 21 of the



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Constitution of India. The relevant extract of the judgement is reproduced hereunder:-

“It is thus clear to us that the presence of statutory restrictions like Section 43-D(5) of UAPA per se does not oust the ability of Constitutional Courts to grant bail on grounds of violation of Part III of the Constitution. 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 UAPA being used as the sole metric for denial of bail or for wholesale breach of constitutional right to speedy trial.

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Instead, Section 43-D(5) of UAPA merely provides another possible ground for the competent Court to refuse bail, in addition to the wellsettled considerations like gravity of the offence, possibility of tampering with evidence, influencing the witnesses or chance of the accused evading the trial by absconsion etc.”

8. In the case of ***Shoma Kanti Sen (supra)***, the Supreme Court has held that generally pre-conviction detention at the investigation stage is necessary to maintain purity in the course of trial and also to prevent an accused from being a fugitive from justice or to prevent further commission of an offence. Once it is apparent that a timely trial is not possible and the accused has suffered incarceration for a significant period of time, the Court would ordinarily be obligated to enlarge them on bail as any form of deprivation of liberty must be proportionate to the facts of the case and also follow a just and fair procedure. A balance must be made between the prosecution’s right to lead evidence of its



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choice and establish the charges beyond any doubt and simultaneously, the respondent's rights guaranteed under Part-III of the Constitution. The relevant extract thereof is reproduced hereunder:-

“This Court has already accepted right of an accused under the said offences of the 1967 Act to be enlarged on bail founding such right on Article 21 of the Constitution of India. This was in the case of Najeeb (supra), and in that judgment, long period of incarceration was held to be a valid ground to enlarge an accused on bail in spite of the bailrestricting provision of Section 43D (5) of the 1967 Act. Preconviction detention is necessary to collect evidence (at the investigation stage), to maintain purity in the course of trial and also to prevent an accused from being fugitive from justice. Such detention is also necessary to prevent further commission of offence by the same accused. Depending on gravity and seriousness of the offence alleged to have been committed by an accused, detention before conclusion of trial at the investigation and post-chargesheet stage has the sanction of law broadly on these reasonings. But any form of deprival of liberty results in breach of Article 21 of the Constitution of India and must be justified on the ground of being reasonable, following a just and fair procedure and such deprival must be proportionate in the facts of a given case. These would be the overarching principles which the law Courts would have to apply while testing prosecution's plea of pre-trial detention, both at investigation and post-chargesheet stage.”

9. The Supreme Court in the case of ***Vernon versus The State of Maharashtra and another(supra)*** has held that serious allegations against accused by itself cannot be a reason to deny bail to the accused. The relevant extract thereof is reproduced hereunder:-

“In the case of Zahoor Ahmad Shah Watali (supra) 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.**"*

10. In the case of ***Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari versus State of Uttar Pradesh(supra)***, it has been held 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. The relevant extract thereof is reproduced hereunder:-



“In Gurwinder Singh (supra) on which reliance has been placed by the respondent, a two Judge Bench of this Court distinguished K.A. Najeeb (supra) holding that the appellant in K.A. Najeeb (supra) was in custody for five years and that the trial 25 of the appellant in that case was severed from the other co-accused whose trial had concluded whereupon they were sentenced to imprisonment of eight years; but in Gurwinder Singh, the trial was already underway and that twenty two witnesses including the protected witnesses have been examined. It was in that context, the two Judge Bench of this Court in Gurwinder Singh observed that mere delay in trial pertaining to grave offences cannot be used as a ground to grant bail.

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.

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continued incarceration of the appellant cannot be justified.”

11. In the case of ***Javed Gulam Nabi Shaikh versus State of Maharashtra, another(supra)***, the Supreme Court has observed that criminals are not born out but made. Howsoever serious a crime may be, an accused has a right



to speedy trial as enshrined under the Constitution of India. Moreover, the purpose of bail is only to secure the attendance of the accused at the trial and bail is not to be withheld as a form of punishment. The relevant extract thereof is reproduced hereunder:-

“13. The aforesaid observations have resonated, time and again, in several judgments, such as Kadra Pahadiya & Ors. v. State of Bihar reported in (1981) 3 SCC 671 and Abdul Rehman Antulay v. R.S. Nayak reported in (1992) 1 SCC 225. In the latter the court reemphasized the right to speedy trial, and further held that an accused, facing prolonged trial, has no option:

“The State or complainant prosecutes him. It is, thus, the obligation of the State or the complainant, as the case may be, to proceed with the case with reasonable promptitude. Particularly, in this country, where the large majority of accused come from poorer and weaker sections of the society, not versed in the ways of law, where they do not often get competent legal advice, the application of the said rule is wholly inadvisable. Of course, in a given case, if an accused demands speedy trial and yet he is not given one, may be a relevant factor in his favour. But we cannot disentitle an accused from complaining of infringement of his right to speedy trial on the ground that he did not ask for or insist upon a speedy trial.”

14. In Mohd Muslim @ Hussain v. State (NCT of Delhi) reported in 2023 INSC 311, this Court observed as under:

“21. Before parting, it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable. Jails are overcrowded and their living conditions, more often than not, appalling. According to the Union Home Ministry’s response to Parliament, the National Crime Records Bureau had recorded that as on 31st December 2021, over 5,54,034 prisoners were lodged in



jails against total capacity of 4,25,069 lakhs in the country. Of these 122,852 were convicts; the rest 4,27,165 were undertrials.

22. The danger of unjust imprisonment, is that inmates are at risk of “prisonisation” a term described by the Kerala High Court in A Convict Prisoner v. State reported in 1993 Cri LJ 3242, as “a radical transformation” whereby the prisoner loses his identity. He is known by a number. He loses personal possessions. He has no personal relationships. Psychological problems result from loss of freedom, status, possessions, dignity any autonomy of personal life. The inmate culture of prison turns out to be dreadful. The prisoner becomes hostile by ordinary standards. Self-perception changes.

23. There is a further danger of the prisoner turning to crime, “as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal” (also see Donald Clemmer’s ‘The Prison Community’ published in 1940). Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.”

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18. Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.”



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12. In view of the above settled position of law and in view of the fact that the appellant has been in custody for a total period of 3 years, 10 months and 7 days as on 10.03.2026; the co-accused have been granted bail; and culmination of the trial is likely to take sufficiently long time, we deem it appropriate to allow the appeal and set aside the impugned judgment. The appellant is ordered to be released on regular bail subject to following conditions, besides furnishing of requisite bail bonds to the satisfaction of the trial Court/Duty Magistrate concerned:-

- (i) He shall furnish bond of 10 lakh with two sureties of Rs.10 lakh each;
- (ii) He shall surrender his passport, if any, in the Trial Court, if he is holding the same and it is still with him;
- (iii) He shall appear before Trial Court on each and every date unless exempted by Court;
- (iv) He shall appear before the Investigating Officer as and when summoned;
- (v) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or who is cited as witness;
- (vi) He shall not involve in any criminal activity and if during the pendency of trial, he is found involved in commission of any offence punishable under UAPA, the prosecuting agency would be free to approach this court for recalling this order and cancellation of his bail;



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- (vii) He shall not sell, transfer or in any other manner create third party right over his immovable property;
- (viii) He shall furnish an undertaking to the effect that in case of his absence, Trial Court may proceed with trial and he shall not claim re-examination of any witness.
- (ix) At the time of release of the appellant, the SHO, Police Station City Nawanshahr, SBS Nagar, shall be informed. He shall appear before the SHO on every alternate Monday till the conclusion of the trial.

13. In the event there is a breach of any of the abovementioned conditions, or of the conditions to be imposed by the Trial Court independently, it would be open to the prosecution to seek cancellation of the bail of the defaulting appellant without any further reference to this Court. Similarly, if the appellant seeks to threaten or otherwise influence any of the witnesses, whether directly or indirectly, then also the prosecution shall be at liberty to seek cancellation of bail of the concerned appellant by making appropriate application before the Trial Court.

14. Needless to mention that the observations made hereinabove are only for the determination of appeal seeking bail and shall have no bearing on the merits of the trial.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

02.04.2026
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No