



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JANUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE H.P.SANDESH

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO.1015 OF 2025

BETWEEN:

1. MR. IRFAN NASIR @ IRFI,

[REDACTED]

...APPELLANT

(BY SRI. RAVI L. VAIDYA, ADVOCATE)

AND:

1. THE NATIONAL INVESTIGATION AGENCY,
BENGALURU,
REPRESENTED BY LEARNED SPECIAL
PUBLIC PROSECUTOR.

...RESPONDENT

(BY SRI. SACHIN C., ADVOCATE FOR
SRI. PRASANNA KUMAR P., SPECIAL PUBLIC PROSECUTOR)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 21(4)
OF NIA ACT PRAYING TO SET ASIDE THE ORDER DATED





15.04.2025 PASSED BY THE LEARNED COURT OF THE 49TH ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (SPECIAL COURT FOR THE TRIAL OF NIA CASES) (CCH-50) AT BENGALURU IN SPL.C.C.NO.595/2021 AND THEREBY ENLARGE THE APPELLANT ON BAIL IN THE SAID SPL.C.C.NO.595/2021, [RC NO.33/2020/NIA/DLI].

THIS APPEAL COMING ON FOR ADMISSION THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE VENKATESH NAIK T)

Heard the learned counsel for the appellant/accused No.3 and the learned Special Public Prosecutor for the respondent/NIA.

2. The appellant/accused No.3 has filed this appeal under Section 21(4) of the National Investigation Agency Act, 2008, to set aside the order dated 15.04.2025 passed by the learned 49th Additional City Civil and Sessions Judge (Special Court for the Trial of NIA Cases), (CCH-50) at Bengaluru in Spl.C.C.No.595/2021 and R.C.No.33/2020/NIA/DLI and prayed to enlarge him on bail in the said Spl.C.C.No.595/2021.



3. The brief facts of the case is that, in connection with the said case, two accused persons were arrested on 08.03.2020 for their alleged affiliation with the banned terrorist organization, Islamic State Khorasan Province (ISKP). During the investigation, another accused, Abdur Rehman @ Dr.Brave was arrested on 17.03.2020. During his interrogation, he disclosed that he had traveled to Syria in the year 2013-14 along with Afroz Ahmed, allegedly funded by members of a group called "Quran Circle." He further revealed that pro-ISIS activists were actively operating in Bengaluru, involved in identifying and radicalizing gullible Muslim youths, recruiting them, raising funds and facilitating their illegal travel to Syria via Turkey to join and fight for ISIS. Pursuant to these developments, the Ministry of Home Affairs, New Delhi, by its order No.11011/61/2020/NIA dated 18.09.2020, directed the NIA to register and investigate a new case under Sections 120B and 125 of IPC and Sections 17, 18 and 18B of the Unlawful Activities (Prevention) Act ('UAP Act' for short). Accordingly, the NIA registered R.C.No.33/2020/NIA/DLI on 19.09.2020 against four accused persons and took up the investigation.



4. On 07.10.2020, after securing intimation from the Special Court, search were conducted at the residential premises of accused No.3 Irfan Nasir and accused No.5 Ahamed Abdul Cader, during which, incriminating digital and physical articles, including a diary, were seized. Based on the materials recovered and subsequent examination of the accused, accused Nos.3 and 5 were arrested on the same day and they were remanded to judicial custody. Later, the Investigating Officer completed the investigation and filed the charge-sheet against the appellant and others.

5. The Special Court by the impugned order, rejected the bail application holding that there are reasonable grounds to believe that the appellant has committed the offences alleged against him. The Special Court further held that having regard to the material available on record with regard to commission of offences under the provisions of UAP Act, the Court is barred from granting bail in view of Section 43D of the UAP Act. Challenging the said order, the above appeal is filed.

6. Sri Ravi L. Vaidya, the learned counsel for the appellant/accused No.3 submits that there is a delay in



conducting trial by the Special Court. The Special Court ought to have appreciated that though the recording of evidence in the above case commenced on 21.05.2024, however, as on the date of filing of the application for bail, only 13 witnesses have been examined as against 60 witnesses cited by the prosecution. The right of the appellant to speedy trial is violated resulting in violation of Article 21 of the Constitution of India. Secondly, there is non-furnishing of grounds of arrest by the Investigating Officer and since the respondent/NIA has failed to furnish the grounds of arrest in writing to the appellant at the time of arrest, the remand and further custody of the appellant becomes void-ab-initio being violative of Article 22(1) of the Constitution of India. The Special Court has committed an error in holding that the requirement of furnishing the grounds of arrest in writing is applicable to only those cases where the arrest is subsequent to the date of decision of **Pankaj Bansal v. Union of India and Others** reported in **(2024) 7 SCC 576**. In this regard, the Special Court has failed to appreciate the settled law enunciated in the matter of **Madhu Limaye and others** reported in **(1969) 1 SCC 292**, **Prabir Purkayastha V/s. State (NCT of Delhi)** reported in



(2024) 8 SCC 254, Vihaan Kumar V/s. State of Haryana and Another reported in ***(2025) SCC Online SC 269*** and ***Hari Kishan V/s. State of Maharashtra And Others*** reported in ***(1962) SCC Online SC 117***. Further, the appellant/accused No.3 is relying on third ground i.e., his health condition. The learned counsel vehemently contended that all these aspects have not been considered by the Special Court, hence prayed to allow the appeal.

In support of his contention, he relied upon following citations:

1. *(1969) 1 SCC 292*
2. *(2003) 7 SCC 517*
3. *2022 (3) MLJ 333*
4. *(2004) 8 SCC 254*
5. *2025 SCC Online SC 269*
6. *(2021) 5 SCC 435*
7. *(2021) 3 SCC 713*
8. *(2024) 8 SCC 293*
9. *2025 SCC Online SC 322*
10. *GAHC010208062025 (Gauhati High Court)*

7. Per contra, Sri Sachin.C representing Sri Prasanna Kumar P, learned Special Public Prosecutor appearing for the respondent/NIA vehemently contended that the appellant/accused No.3 previously had approached the Special



Court seeking bail on three occasions and the same were rejected by the Special Court. The appellant has not indicated any change in law or circumstances to justify the filing of successive bail applications before the Special Court and without any such change, the successive application was not maintainable before the Special Court. He further contended that during the course of investigation, the Investigating Officer collected the material evidence indicating that the appellant was an active worker of an unlawful organization and the appellant had organized several meetings and had participated in the crime. It is further contended that the investigation report clearly reveals that the appellant was a member of a terrorist gang, was a part of criminal conspiracy to wage war against the Government of Syria; he was a member of an unlawful assembly with a common object to commit a terrorist act. The role of the appellant has been established through prosecution witnesses, statement of protected witnesses and documentary/electronic evidence and prima facie case was made out against him. Hence, the final report was filed under Section 173 of Cr.P.C. before the Special Court and the Special



Court took cognizance of the offences committed by the appellant and therefore, the appeal requires to be rejected.

8. The learned Special Public Prosecutor further contended that earlier the appellant had approached this Court in Crl.A.No.1535/2021 seeking bail and the same was rejected by order of this Court dated 01.07.2022 and being aggrieved by the order passed by this Court, the appellant approached the Hon'ble Apex Court in SLP (Crl.) No.7125/2022 and the same was dismissed on 29.08.2023 with a direction to the Special Court to complete the hearing and pass orders as expeditiously as possible, preferably within four months from the date of the order. Previously, the bail application of the appellant was rejected by the Special Court on 09.09.2024 and the same was not challenged before this Court or before the Hon'ble Apex Court.

9. Considering the submissions made by both sides and examining the material available on record, the point that arises for consideration of this Court is:

- (i) Whether the impugned order of rejection of bail application suffers from any arbitrariness



or illegality warranting interference at the hands of this Court?

10. Admittedly, the appellant/accused No.3 had filed successive bail petition before the Special Court. It is trite law that personal liberty cannot be taken away, except in accordance with the procedure established by law. Personal liberty is a constitutional guarantee. It is also trite law that the person's bail application once rejected is not precluded from filing a subsequent application for grant of bail, if there is a change in the fact situation. At the same time, the issues which have been canvassed earlier could not be permitted to be re-agitated, as the same leads to speculation and uncertainty in the administration of justice and they lead to forum hunting. The Hon'ble Apex Court in various judgments has held that successive bail applications are not barred *per se*, but they can be entertained only if there is a demonstrable change in circumstances since the rejection of the previous application.

11. In the instance case, the appellant has taken several grounds amongst others and some grounds were urged in the earlier application. Now, the learned counsel for the



appellant relied upon three grounds i.e., 1. delay in trial; 2. non-furnishing of grounds of arrest to the appellant and; 3. health condition of the appellant.

12. Insofar as the delay in conducting the trial is concerned, the Special Court has examined 13 witnesses at the time of filing of this appeal and subsequently, the Special Court recorded the evidence of two witnesses, as rightly submitted by the learned counsel for the appellant. According to the learned Special Public Prosecutor, the Special Court examined in all 19 witnesses as on date. It appears that the prosecution has shown much progress in the matter and it was only on the request of the accused persons, the framing of charge was deferred from time to time. Though the Hon'ble Apex Court directed to expedite the trial, but this was not brought to the notice of the Special Court by the accused No.3/appellant. Hence, the delay cannot be attributed to the prosecution and the accused person shall not be permitted to take the benefit from his own wrong doing as the prosecution has got examined 19 witnesses out of 60 witnesses and has shown substantial progress in recording the evidence. The learned Special Public



Prosecutor vehemently contended that the prosecution has always been ready and willing to conduct the trial on day-to-day basis to ensure speedy disposal of the said case.

13. Secondly, the appellant has taken the contention that the grounds of arrest was not furnished to the appellant, thereby invalidating his arrest. The Hon'ble Apex Court in the case of **Pankaj Bansal** (*supra*), has laid down the mandate of furnishing of grounds of arrest and clarified that the Investigating Officer shall be duty bound to furnish the grounds of arrest "henceforth" i.e., from the date of said judgment i.e., 03.10.2023". This aspect was also considered by the Hon'ble Apex Court in the case of **Ram Kishor Arora v. Directorate of Enforcement** reported in **(2023) SCC Online SC 1682**, wherein, it was clarified that the requirement to furnish grounds of arrest would only apply prospectively. Admittedly, the appellant/accused No.3 in the present case was arrested on 07.10.2020 i.e., prior to the aforementioned decisions of the Hon'ble Apex Court. The learned counsel for accused No. 3 further relies on the decisions of the Hon'ble Apex Court in **Prabir Purkavastha vs. State (NCT of Delhi)** reported in



(2024) 8 SCC 254, and *Vihaan Kumar vs. State of Haryana and another*, reported in 2025 SCC OnLine SC 269.

14. In these decisions, the Hon'ble Apex Court has unequivocally held that an arrested person has both a fundamental and statutory right to be informed of the grounds of arrest in writing, and that a copy of such written grounds must be furnished to the arrestee as a matter of course and without exception, at the earliest opportunity. Any violation of this constitutional safeguard vitiates the process of arrest and remand. The legal position enunciated by the Hon'ble Apex Court in the aforementioned cases is well-settled and not in dispute. In the present case, as noted above, the Investigating Officer orally informed accused No. 3 of the grounds of arrest at the time of his apprehension. However, he failed to provide the grounds of arrest in writing, thereby raising the issue of non-compliance with the constitutional and statutory mandate.

15. The central issue for determination is "whether accused No.3 is entitled to bail on the sole ground that the grounds were not communicated in writing at the time of his arrest, thereby constituting a violation of Article 22(1). In



response, the learned Special Public Prosecutor has relied on ***Pankaj Bansal v. Union of India***, reported in **(2024) 7 SCC 576**, wherein the Hon'ble Apex Court held that in cases under The Prevention of Money Laundering Act, 2002 (for short, 'PMLA'), the grounds of arrest must be furnished in writing on the date of the arrest. This principle was later extended to cases under the U.A. (P) Act in ***Prabir Purkayastha*** as well.

16. Reference is also made to ***Ram Kishore Arora Vs. Directorate of Enforcement (Criminal Appeal No. 3865/2023)***, where the Hon'ble Apex Court, at para 23, clarified that the requirement to furnish written grounds of arrest, as laid down in *Pankaj Bansal*, applies prospectively from the date of the judgment, i.e., 03.10.2023. Since Accused No. 3 was arrested on 07.10.2020, prior to this date, the non-furnishing of written grounds of arrest does not render his arrest illegal.

17. Paragraph 23 in ***Ram Kishore Arora*** (*Supra*) is significant and reads as follows:

"23. As discernible from the judgment in Pankaj Bansal Case also noticing the inconsistent practice being followed by the officers arresting the persons under Section 19 of PMLA, directed to furnish the grounds of



*arrest in writing as a matter of course, "henceforth", meaning thereby from the date of the pronouncement of the judgment. The very use of the word "henceforth" implied that the said requirement of furnishing grounds of arrest in writing to the arrested person as soon as after his arrest was not the mandatory or obligatory till the date of the said judgment. The submission of the learned Senior Counsel Mr. Singhavi for the Appellant that the said judgment was required to be given effect retrospectively cannot be accepted when the judgment itself states that it would be necessary "henceforth" that a copy of such written grounds of arrest is furnished to the arrested person as a matter of course and without exception. Hence non furnishing of grounds of arrest in writing till the date of pronouncement of judgment in **Pankaj Bansal** case could neither be held to be illegal nor the action of the concerned officer in not furnishing the same in writing could be faulted with. As such, the action sufficient compliance of Section 19 of PMLA as also Article 22(1) of the Constitution of India, as held in **Vijay Madanlal (Supra)**"*

(emphasis supplied)

18. In this decision, the Hon'ble Apex Court clearly held that in ***Pankaj Bansal's (Supra)***, the use of the word "henceforth" signifies that the direction to furnish the grounds of arrest in writing applies prospectively, from the date of the judgment. Consequently, the failure to provide written grounds of arrest prior to the pronouncement of the ***Pankaj Bansal (Supra)*** judgment, cannot be deemed illegal, nor can the action of the concerned officer be faulted on that ground. The Hon'ble Apex Court further held that oral communication of the grounds of arrest to the arrestee constitutes sufficient compliance with



Section 19 of the PMLA as well as Article 22(1) of the Constitution of India. In the present case, accused No. 3 was arrested prior to the pronouncement of the ***Pankaj Bansal*** (*Supra*) judgment, and the grounds of arrest were duly communicated to him at the time of his arrest. In light of the above authoritative pronouncement, such oral communication satisfies the constitutional requirement under Article 22(1) of the Constitution of India. Therefore, the ratio laid down by the Hon'ble Apex Court is squarely applicable to the facts of the present case, and accused No.3 is not entitled to bail on this ground. Such being the case, the aforementioned contention of the learned counsel for the appellant/accused No.3 is contrary to the law laid down by the Hon'ble Apex Court. Hence, in view of the same, the appellant cannot avail such ground.

19. Insofar as third ground with regard to health condition of the appellant is concerned, the appellant has not furnished any documents with regard to the same. Hence, he is not entitled for any relief under this ground also. However, this Court can direct the Special Court to expedite the trial.



Considering the material available on record and the fact that the Special Court has dealt with all the aspects of the material in its order and has rightly rejected the bail application of the appellant and the same does not require interference at the hands of this Court.

20. Accordingly, we pass the following:

ORDER

- (i) The Criminal Appeal is dismissed.
- (ii) The Special Court is directed to expedite the trial.

Pending applications, if any, stands dismissed.

**Sd/-
(H.P.SANDESH)
JUDGE**

**Sd/-
(VENKATESH NAIK T)
JUDGE**