



2025:DHC:7313-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 25th AUGUST, 2025

IN THE MATTER OF:

+ **CRL.A. 471/2025**

LAKHVEER SINGH

.....Appellant

Through: Ms. Tanu Bedi, Mr. Mayank Tripathi,
Mr. Naresh Jain, Mr. Vijay Shukla,
Mr. Chiranjeev Mahto, Ms. Ambika
Singh, Mr. Akshat Shukla,
Advocates.

versus

NATIONAL INVESTIGATION AGENCY

.....Respondent

Through: Mr. Rahul Tyagi, SPP for NIA with
Mr. Jatin, Mr. Amit Rohila and Mr.
Mathew M. Phillip, Advocates; Mr.
Sanjeev CIO, NIA (DSP)

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN

SHANKAR

JUDGMENT

SUBRAMONIUM PRASAD, J.

1. The present Appeal has been filed by the Appellant under Section 21 of the National Investigation Agency [“NIA”] Act, 2008, to assail the order dated 28.09.2024 passed by the learned Additional Sessions Judge-03, New Delhi District, Patiala House Courts, Delhi [“**Trial Court**”] in NIA case bearing RC No. 38/2022/NIA/DLI titled **NIA vs Arshdeep Singh @ Arsh Dalla Etc.**, whereby the bail application of the Appellant was dismissed.
2. The present case emanates from the registration of the NIA case bearing RC No. 38/2022/NIA/DLI for offences under Sections 120B of the



Indian Penal Code, 1860 [“**IPC**”] and Sections 18/18B/20 of the Unlawful Activities (Prevention) Act, 1967 [“**UAPA**”] by the NIA, pursuant to the order dated 26.08.2022 issued by the Ministry of Home Affairs (CTCR Division).

3. Case initiated by the Respondent/NIA is premised on the following information received by it through credible sources:

- i. An alleged conspiracy was hatched by the members of a criminal syndicate/gangs based in India and abroad to carry out terrorist acts in the state of Delhi as well as other parts of the country by executing targeted killings using lethal firearms and explosives.
- ii. Further information was received that in order to collect funds and strengthen their logistical resources, the accused persons have engaged in smuggling and said aforementioned accused persons have engaged in smuggling and trafficking of illegal arms, ammunition, explosives, narcotics and are also involved in other criminal activities such as extortion, contract killings, kidnapping for ransom and laundering these funds into various businesses operated through their associates under pseudonymous identities. It is alleged that for these purposes, they are also involved in the creation and use of fake and forged identity documents and in order to further commit terrorist activities and expand their cadre, they are recruiting impressionable youth.
- iii. The sources of the Respondent/NIA had also brought to light that to extend their reach and spread panic among the public they are sensationalizing their terrorist acts through cyberspace



and social media. Further, the Respondent/NIA were also seized with information that these accused individuals are operating from foreign countries and from jails located in different Indian states and are directing their operatives and associates to carry out such terrorist acts.

- iv. During the investigation into the aforementioned information received by Respondent/NIA, it came to light that, to increase their area of influence, the members of the gang came in contact with extremists, especially with the associates of Pro-Khalistan organizations in Indian jails and abroad, and other such related supporters who aided in arranging sophisticated weapons. According to the Respondent/NIA, it was further established that the members of the syndicate/gang are in touch with Arshdeep Singh Gill @ Arsh Dalla, who was based in Canada and was a Designated Individual Terrorist, who was associated with Harshdeep Singh Nijjar, 'Chief' of Khalistan Tiger Force.
- v. It is alleged that the Appellant was active in procuring and supplying illegal weapons, and vehicles for execution of conspiracy and committing terror activities. The Appellant was discovered to have been the major logistics support of the Bambiha gang and acted as a major supplier to the Bambiha Gang and harbourer of its members.
- vi. It is alleged that the Appellant is a close associate to the gangster Chhotu Ram @ Bhat who he used to provide with his Mahindra Scorpio No. PB 30W 2389 to transport weapons and gang members from one place to other.



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- vii. The Respondent/NIA conducted a raid in the house of the Appellant on 21.02.2023 during which illegal weapons, empty magazines and ammunitions were recovered from the house of the Appellant, including 01 revolver (.32 bore), 2 pistols (.32 bore), 01 pistol (.45 bore), 01 pump action gun (.32 bore), DBBL Gun (12 bore), 01 rifle (0.256 bore) several live ammunitions and other incriminating material. Tabulation of the articles seized from the house of the Appellant by the Respondent/NIA is given below:

Serial No.	Description of Articles seized
1.	One iPhone 11, Black colour, Model no. MHDA3HN/A, Srl No. GV4J365HN735, IMEI 355435974439217 355435973458770. With one Jio SIM 89918670400185946165 Mob no. 9988500088
2.	One 32 bore revolver, weapon no. FGL0916
3.	One .32 bore pistol, weapon number- RP224669, with one (01) empty magazine.
4.	One .32 bore pistol, weapon no. 179109716-2017 (RFI-IN-2017) with two empty magazines
5.	One 12 bore pump action gun 84426-2018
6.	One 12 bore DBBL 12776-D/8/15
7.	One 12 Bore DBBL C/5-14647 (2014)
8.	Ammunition 60 nos. of 0.256 bore
9.	Ammunition 82 nos. of 45 bore pistol
10.	Ammunition 46 nos. of 0.32 bore pistol
11.	Ammunition 21 nos. of .32 bore revolver
12.	Ammunition 141 nos. of 12 bore
13.	Documents a) Photocopy of passbook bearing account number 631910310000312 of Bank of India



	b) Photocopy of passbook bearing account number 0193000102058939 of PNB c) Photocopy of passbook bearing account number 14821750000058 of HDFC d) Photocopy of passbook bearing account number 14821750000058 of HDFC e) Photocopy of passbook bearing account number 14821690003158 of HDFC f) Photocopy of passbook bearing account number 50100033289990 of HDFC g) Photocopy of passbook bearing account number 3423468150 of Central Bank of India h) Photocopy of passbook bearing account number 3582047273 of Central Bank of India i) Photocopy of passbook bearing account number 3365380020 of Central Bank of India j) Photocopy of passbook bearing account number 3582047749 of Central Bank of India k) Photocopy of passbook bearing account number 3582768331 of Central Bank of India l) Photocopy of passbook bearing account number 3582047761 of Central Bank of India m) One leaf of cheque bearing account number 14821140002841 of HDFC in the name of Parminder Kaur
14.	Photo copy of owner property document (house, page no. 01 to 06, in Punjabi language)

- viii. The CFSL Report of the said arms reveals that they were in working order. Resultantly, the Appellant was arrested by the Respondent/NIA on 22.02.2023.



- ix. Outcome of the investigation as stated in the First Supplementary Chargesheet dated 09.08.2023 filed before the Special Court, NIA, Patiala House Courts, New Delhi, is that at one end, the conspirators sitting abroad, in association with accused persons from jail, continue to operate through their on-ground associates being executioners/financiers, harbourers and weapons' suppliers, including the Appellant herein.
 - x. As per the Respondent/NIA's case, these persons have indulged in terrorizing singers, sports persons, innocent civilians, businessmen, property dealers, builders, etc., for extortion of terror funds and procuring weapons locally, or through Pakistan based conspirators for execution of terror activities.
 - xi. The Respondent/NIA's findings in the Chargesheet dated 09.08.2023 also reveals that on the basis of the seizure of items from the Appellant's house, the Respondent/NIA was certain of the fact that the Appellant indulged in procuring and supplying of illegal weapons and vehicles for execution of the conspiracy and committing terror activities.
 - xii. It is also alleged that the Appellant provides major logistics support to the Bambiha gang in association with Chhotu Ram @ Bhat, who also happened to be the Appellant's childhood friend. In turn, Chhotu Ram @ Bhat has been associated with other members *inter alia* Sukhdool Singh @ SukhaDuneke, a prominent member of the Bambiha group.
4. The Chargesheet dated 09.08.2023 was produced before the learned Trial Court and at present, the trial is at the stage of framing of charges.



5. Meanwhile, the Appellant preferred a bail application under Section 43D(5) of UAPA, which came to be dismissed by the learned Trial Court *vide* the Impugned Order dated 28.09.2024. Aggrieved thereby, the Appellant has preferred the present Appeal before this Court, challenging the Impugned Order, *inter alia*, on the following grounds:

- i. The Appellant was not informed of the grounds of his arrest by the Respondent/NIA in writing, which is contrary to the law laid down by the Apex Court in Pankaj Bansal v. Union of India &Ors. (2024) 7 SCC 576, Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254, and Vihaan v. State of Haryana, 2025 SCC Online SC 269.
- ii. The Appellant was merely provided with the Arrest Memo which contained nothing and thereby fails to fulfill the requirements under Section 43B of UAPA as well as Article 22 of the Constitution of India.
- iii. The learned Trial Court has failed to discuss how the mere possession of weapons, licensed or unlicensed is an offence under UAPA, as there is neither evidence nor allegation that these weapons were used in the commission of any terrorist act or were bought from a terrorist or were in the process of being supplied to a terrorist.
- iv. The learned Trial Court has failed to consider that there was no evidence that the car lent by the Appellant to the accused Chhotu Ram @ Bhat was lent at a time when Chhotu Ram @ Bhat was not an accused in the instant case.
- v. The Appellant is implicated in the present case only for his knowing co-accused Chhotu Ram @ Bhat as his childhood



friend, who is not even a terrorist, but only alleged to be a member of Bambiha Gang. Even so, Bambiha Gang is not a declared terrorist organization. There is no linkage with the other 20 accused persons, let alone the lead accused in the FIR, being Arshdeep Singh.

- vi. It is stated that the rejection of bail by the learned Trial Court is in ignorance of the principles of bail jurisprudence.

6. The learned Counsel for the Appellant has further relied on the judgments of the Apex Court in Union of India v. K.A. Najeeb, (2021) 3 SCC 713, Thwaha Fasal v. Union of India, (2022) 14 SCC 766, Jahir Hak v. State of Rajasthan, (2022) 18 SCC 389, Vernon v. The State of Maharashtra &Anr., (2023) 15 SCC 56, Shoma Kanti Sen v. State of Maharashtra &Anr., (2024) 6 SCC 591, Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254, Javed Gulam Nabi Shaikh v. State of Maharashtra &Anr., (2024) 9 SCC 813, Sheikh Javed Iqbal @Ashfaq Ansari @Javed Ansari v. State of Uttar Pradesh, 2024 SCC OnLine SC 1821, Jalaluddin Khan v. Union of India, (2024) 10 SCC 574, Tapas Kumar Palit v. State of Chattisgarh, 2025 SCC OnLine SC 322, Shaheen Welfare Association v. Union of India & Ors., (1996) 2 SCC 616, and Angela Harish Sonatakke v. State of Maharashtra, (2021) 3 SCC 723.

7. *Per contra*, Mr. Rahul Tyagi, learned Special Public Prosecutor for the Respondent/NIA vehemently seeks dismissal of the instant Appeal on the following grounds:

- i. A huge cache of illegal arms and ammunition of prohibited bore of foreign origin was recovered from the Appellant in the raid conducted by the Respondent/NIA at his residence on 22.02.2023. By placing reliance on the judgment rendered by a



coordinate bench of this Court in Joginder Singh v. NIA, 2025 SCC OnLine Del, it is submitted that this alone would disentitle the Appellant from being released on bail, even if all other evidence against him is ignored.

- ii. The Appellant has failed to satisfy this Court that his case qualifies the tripod test, as crystallized in the judgment of the Apex Court in Gurwinder Singh v. State of Punjab &Ors., (2024) 5 SCC 403. Owing to his connection with a terror syndicate, past reputation, and connection with foreign operatives based out of Canada, it is reasonably apprehended that the Appellant will suborn witnesses and flee the jurisdiction. As such, the Appellant's case does not satisfy the tripod test.
- iii. There is no violation of Article 22 of the Constitution of India the Appellant was arrested after due communication of grounds of arrest, and the Appellant had duly acknowledged the same on the Arrest Memo dated 22.03.2023,
- iv. The Appellant is accused of offences which are part of Chapter IV and VI of the UAPA and therefore, the limitation of Section 43D(5) of the UAPA shall be applicable.
- v. A perusal of the Chargesheet as well as the material collected during investigation would show that there exist reasonable grounds for believing the accusations against the Appellant are prima facie true and in view of the limitation of Section 43D(5) of UAPA, he is not entitled to be released on bail.
- vi. The limitation of Section 43D(5) of UAPA is in addition to the restrictions under the CrPC or any other law for the time being



in force on granting of bail and in this regard, the Appellant has failed to make out a case that the accusations against the Appellant are not prima facie true. The Appellant has thus, failed to satisfy the additional rigors applicable to a bail application.

vii. In light of the above and other incriminating evidence, there is sufficient material on record to make out a prima facie case against the Appellant and his involvement in various violent protests and anti-national activities.

8. In support of his contentions, learned SPP for the Respondent/NIA has relied upon the judgments of the Apex Court in National Investigation Agency v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1, and coordinate benches of this Court in Umar Khalid v. State of National Capital Territory of Delhi, 2022 SCC OnLine Del 3423, and Mohd. Amir Javed v. State 2023 SCC OnLine Del 5777.

9. The only material available for deciding the present appeal filed against the Order dated 28.09.2024 by which the bail application of the Appellant stands dismissed is the chargesheet along with statements under Section 161 Cr.P.C and the recoveries. During the course of hearing, the Respondent/NIA has produced the witness statements of Jagsir Singh, Tarsem Singh and Hardeep Singh, which depict the presence of weapons in the residence of the Appellant as well as the association of the Appellant with Chhotu Bhat. Relevant extracts therefrom are being reproduced hereunder:

"PW-349

Statement of Jagsir Singh s/o Malkit Singh, r/o Guru Teg Bahadur Nagar, Village Giderbaha, Sri Muktsar



Sahib, Punjab in connection with case No. RC-38/2022/NIA/DLI under section 161 Cr.P.C recorded on 28.07.2023.

1 state that, my name is Jagsir Singh s/o Malkit Singh, I am working for Lakhvir Singh s/o Jarnail Singh for the last 20 years and assist him in farming work. On 21.02.2023 NIA conducted raid in the morning and seized 09 weapons with live ammunitions.

I further state that, in the year 2016 Lakhvir Singh got issued license in my and other servants and purchased arms and ammunitions in our and others servant's name. Further stated that, I never used weapon issued in my name, Lakhvir Singh kept all weapons with him and these were being used by him and associates as per their requirement.

I further state that Lakhvir Singh is very close to gangster Chhotu Ram @ Bhat and their associates and Chhotu Ram @ Bhat and his gang members often used to visit Lakhvir's House and stay there with weapons. Further, Not only this Chhotu Ram @ Bhat also used Lakhvir's arms & ammunitions and Mahindra Scorpio bearing No. PB 60 W 2389 frequently to transport weapons and his gang members.

The above statement read over to me in vernacular.

PW-346

Statement of Tarsem Singh s/o Gurdeep Singh, r/o Near Water Works, Peori, Village-Gidderbaha, Sri Muktsar Sahib, Punjab in connection with case No. RC. 38/2022/NIA/DLI under section 161 Cr.P.C recorded on 28.07.2023,

1 state that, my name is Tarsem Singh s/o Gurdeep Singh, I am working for Lakhvir Singh s/o Jarnail



Singh and assist him in farming work. On 21.02.2023 NIA conducted raid and seized my licence weapons with live ammunitions.

1 further state that, in the year 2016 Lakhvir Singh himself got issued license in my anme and purchased arms and ammunitions. Further, I never used my weapon issued in my name.

I further state that Lakhvir Singh kept my weapon with him and used as per his requirement.

I further state that gangster Chhotu Ram @ Bhat often visited house of Lakhvir Singh with their associates and stay there with weapons. Further, Chhotu Ram Bhat and his associates also used Lakhvir's Mahindra Scorpio bearing No. PB 60 W 2389 for their persons works.

The above statement read over to me in vernacular.

PW 158

Statement of Hardeep Singh s/o Balraj Singh, r/o Dandiwal Patti, Village-Gidderbaha, Sri Muktsar Sahib, Punjab in connection with case No. RC 38/2022/NIA/DLI under section 161 Cr.P.C recorded on 28.07.2023.

1 state that, my name is Hardeep Singh s/o Balraj Singh, I am working for Lakhvir Singh s/o Jarnail Singh for the last 15 years and residing at his house. On 21.02.2023 NIA conducted raid in the morning time and seized weapons and ammunitions.

I further stated that, in the year 2016 Lakhvir Singh got issued my weapon license and purchased arms and



ammunitions. Further, Lakhvir Singh always kept my weapon and used the same as per his requirement.

I further stated that Lakhvir Singh is closed to gangster Chhotu Ram @ Bhat and Chhotu Ram @ Bhat always visit Lakhvir Singh's house with their associates with weapons.

I further stated that, Lakhvir Singh provides arms & ammunitions and Mahindra Scorpio bearing No. PB 60 W 2389 to Chhotu Ram @ Bhat time to time as and when he needed.

The above statement read over to me in vernacular."

10. We have considered the arguments put forth by the learned counsels for the parties and have carefully perused the material on record.

11. As is evident, the Respondent/NIA's case, primarily commences from the receipt of information regarding a conspiracy to revive the Khalistan Secessionist movement in Punjab. Upon investigation, the Respondent/NIA unearthed 22 accused persons who were involved with each other in various capacities, towards the common objective of carrying out terrorist acts in the state of Delhi as well as other parts of the country by executing targeted killings using lethal firearms and explosives.

12. Investigation carried out by the Respondent/NIA further revealed that certain individuals named in the list of 22 accused persons were linked to Pro-Khalistan organizations, albeit those which are not a part of the First Schedule to the UAPA. Be that as it may, since the present case involves allegations of offences under the UAPA along with other charges under the IPC and Arms Act, it is apposite to consider the bail provision envisaged under Section 43D of UAPA before analyzing the factual matrix.



"Section 43D. Modified application of certain provisions of the Code.

43D. Modified application of certain provisions of the Code.--(1) Notwithstanding anything contained in the Code or any other law, every offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of clause (c) of section 2 of the Code, and "cognizable case" as defined in that clause shall be construed accordingly.

(2) Section 167 of the Code shall apply in relation to a case involving an offence punishable under this Act subject to the modification that in sub-section (2),--

(a) the references to "fifteen days", "ninety days" and "sixty days", wherever they occur, shall be construed as references to "thirty days", "ninety days" and "ninety days" respectively; and

(b) after the proviso, the following provisos shall be inserted, namely:--

"Provided further that if it is not possible to complete the investigation within the said period of ninety days, the Court may if it is satisfied with the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of ninety days, extend the said period up to one hundred and eighty days:

Provided also that if the police officer making the investigation under this Act, requests, for the purposes of investigation, for police custody from judicial custody of any person in judicial custody, he shall file an affidavit stating the reasons for doing so and shall also explain the delay, if any, for requesting such police custody.

(3) Section 268 of the Code shall apply in relation to a case involving an offence punishable under this Act subject to the modification that--



(a) the reference in sub-section (1) thereof

(i) to "the State Government" shall be construed as a reference to "the Central Government or the State Government.";

(ii) to "order of the State Government" shall be construed as a reference to "order of the Central Government or the State Government, as the case may be"; and

(b) the reference in sub-section (2) thereof, to 'the State Government' shall be construed as a reference to "the Central Government or the State Government, as the case may be".

(4) Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person accused of having committed an offence punishable under this Act.

(5) Notwithstanding anything contained in the Code, no person accused of an offence punishable under Chapters IV and VI of this Act shall, if in custody, be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release:

Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under section 173 of the Code is of the opinion that there are reasonable grounds for believing that the accusation against such person is prima facie true.

(6) The restrictions on granting of bail specified in sub-section (5) is in addition to the restrictions under the Code or any other law for the time being in force on granting of bail.



(7) Notwithstanding anything contained in sub-sections (5) and (6), no bail shall be granted to a person accused of an offence punishable under this Act, if he is not an Indian citizen and has entered the country unauthorisedly or illegally except in very exceptional circumstances and for reasons to be recorded in writing."

13. The legal position for bail under the UAPA is continuously evolving, depending upon factors such as the kind of offences, period of incarceration, etc. However, the first and foremost component still remains that the accused shall not be released on bail if the allegations are *prima facie* true. This legal position was further examined in the judgment of the Apex Court in Gurwinder Singh v. State of Punjab & Ors., (2024) 5 SCC 403, wherein, at the very outset, it was observed that unlike in the conventional bail matters, under the UAPA, the legislative intent is to make "*Jail, the rule and Bail, the exception.*" The Apex Court, while analyzing another judgment pronounced by it in National Investigation Agency v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1, further laid down specific guidelines for considering bail applications under Section 43D(5) UAPA, and the relevant portions are being extracted below:

" 18. The approach of the High Court, to say the least, contends the learned Attorney General, was tenuous and not permissible at the stage of consideration of prayer for bail. The analysis done by the High Court is bordering on being perverse as it has virtually conducted a mini trial at the stage of consideration of the prayer for bail. According to the appellant, the charge-sheet filed against the respondent was accompanied by documentary evidence, statements of prospective witnesses and other evidence which indicated complicity of the respondent and reinforced



the aspect that the accusations made against him were prima facie true. It is submitted that at the stage of consideration of bail, the totality of the evidence available against the respondent must be reckoned and ought to be taken into account as it is, without anything more. The question of admissibility of such evidence would be a matter for trial. The sufficiency or insufficiency of the evidence cannot be the basis to answer the prayer for grant of bail. It is contended that after considering the statements of protected witnesses recorded under Section 164 of the Code, the same reinforces the accusations made against the respondent (Accused 10) as being prima facie true. Accordingly, it is submitted that the High Court order be set aside and the application for bail preferred by the respondent (Accused 10) be rejected.

19. The learned counsel for the respondent, on the other hand, submits that the High Court justly came to hold that no evidence was forthcoming to indicate the complicity of the respondent in the commission of the alleged offences and that the documents and evidence relied upon by the investigating agency were not enough to sustain the accusations, much less as being prima facie true. It is submitted that the accusations made against the respondent in the charge-sheet do not fall under Chapters IV and VI of the 1967 Act. Further, the pivotal document, No. D-132(a) was not sufficient to fasten any criminal liability upon the respondent. As a matter of fact, the said document is a loose sheet of paper and cannot be looked at in view of the mandate of Section 34 of the Evidence Act. To buttress this submission, reliance has been placed on CBI v. V.C. Shukla [CBI v. V.C. Shukla, (1998) 3 SCC 410 : 1998 SCC (Cri) 761] . In any case, the said document itself cannot and does not prima facie suggest that the funds, as shown, were received and disbursed in the manner described in the document. Further, there is no independent corroboration forthcoming much less to



establish the complicity of the respondent in attracting the imperatives of Section 17 of the 1967 Act.

*20. It is submitted by the learned counsel for the respondent that even if the contents of the said document were taken as it is, with the exception of Accused 4 (Altaf Ahmad Shah alias Fantoosh), no other person to whom the amount was paid or from whom the amount was received, has been arrayed as an accused in the charge-sheet. The statements of witnesses recorded under Section 161 or Section 164 CrPC do not mention anything about the involvement of the respondent in commission of the stated offences. The statements of the co-accused cannot be considered as admissions, much less used against the respondent. Further, there was no evidence to indicate the involvement of the respondent in the larger conspiracy much less regarding terrorist activity. It is submitted that the High Court was justified in analysing the materials on record to satisfy itself as to whether the accusations made against the respondent were prima facie true. That enquiry was permissible in terms of the exposition in *Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra* [*Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra*, (2005) 5 SCC 294 : 2005 SCC (Cri) 1057] and *Chenna Boyanna Krishna Yadav v. State of Maharashtra* [*Chenna Boyanna Krishna Yadav v. State of Maharashtra*, (2007) 1 SCC 242 : (2007) 1 SCC (Cri) 329] . According to the respondent, no fault can be found with the High Court and the view taken by the High Court, being a possible view, did not require any interference in exercise of the power under Article 136 of the Constitution of India. It is finally submitted that this Court, if it so desires, may impose additional conditions whilst upholding the order of bail passed by the High Court.*

21. Before we proceed to analyse the rival submissions, it is apposite to restate the settled legal



position about matters to be considered for deciding an application for bail, to wit:

(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

(ii) nature and gravity of the charge;

(iii) severity of the punishment in the event of conviction;

(iv) danger of the accused absconding or fleeing, if released on bail;

(v) character, behaviour, means, position and standing of the accused;

(vi) likelihood of the offence being repeated;

(vii) reasonable apprehension of the witnesses being tampered with; and

(viii) danger, of course, of justice being thwarted by grant of bail. (State of U.P. v. Amarmani Tripathi [State of U.P. v. Amarmani Tripathi, (2005) 8 SCC 21, para 18 : 2005 SCC (Cri) 1960 (2)] .)

23. By virtue of the proviso to sub-section (5), it is the duty of the Court to be satisfied that there are reasonable grounds for believing that the accusation against the accused is prima facie true or otherwise. Our attention was invited to the decisions of this Court, which has had an occasion to deal with similar special provisions in TADA and Mcoca. The principle underlying those decisions may have some bearing while considering the prayer for bail in relation to the offences under the 1967 Act as well. Notably, under the special enactments such as TADA, Mcoca and the



Narcotic Drugs and Psychotropic Substances Act, 1985, the Court is required to record its opinion that there are reasonable grounds for believing that the accused is “not guilty” of the alleged offence. There is a degree of difference between the satisfaction to be recorded by the Court that there are reasonable grounds for believing that the accused is “not guilty” of such offence and the satisfaction to be recorded for the purposes of the 1967 Act that there are reasonable grounds for believing that the accusation against such person is “prima facie” true. **By its very nature, the expression “prima facie true” would mean that the materials/evidence collated by the investigating agency in reference to the accusation against the accused concerned in the first information report, must prevail until contradicted and overcome or disproved by other evidence, and on the face of it, shows the complicity of such accused in the commission of the stated offence.** It must be good and sufficient on its face to establish a given fact or the chain of facts constituting the stated offence, unless rebutted or contradicted. In one sense, the degree of satisfaction is lighter when the Court has to opine that the accusation is “prima facie true”, as compared to the opinion of the accused “not guilty” of such offence as required under the other special enactments. 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. Nevertheless, we may take guidance from the exposition in *Ranjitsing Brahmajeetsing Sharma* [*Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra*, (2005) 5 SCC 294 : 2005 SCC (Cri) 1057] , wherein a three-Judge Bench of this Court was called upon to consider the scope of power of the Court to grant bail. In paras 36 to 38, the Court observed thus : (SCC pp. 316-17)



“36. Does this statute require that before a person is released on bail, the court, albeit prima facie, must come to the conclusion that he is not guilty of such offence? Is it necessary for the court to record such a finding? Would there be any machinery available to the court to ascertain that once the accused is enlarged on bail, he would not commit any offence whatsoever?”

37. Such findings are required to be recorded only for the purpose of arriving at an objective finding on the basis of materials on record only for grant of bail and for no other purpose.

*38. We are furthermore of the opinion that the restrictions on the power of the court to grant bail should not be pushed too far. If the court, having regard to the materials brought on record, is satisfied that in all probability he may not be ultimately convicted, an order granting bail may be passed. The satisfaction of the court as regards his likelihood of not committing an offence while on bail must be construed to mean an offence under the Act and not any offence whatsoever be it a minor or major offence. ... **What would further be necessary on the part of the court is to see the culpability of the accused and his involvement in the commission of an organised crime either directly or indirectly. The court at the time of considering the application for grant of bail shall consider the question from the angle as to whether he was possessed of the requisite mens rea.**”*

*And again in paras 44 to 48, the Court observed :
(SCC pp. 318-20)*

“44. The wording of Section 21(4), in our opinion, does not lead to the conclusion that the court must



arrive at a positive finding that the applicant for bail has not committed an offence under the Act. If such a construction is placed, the court intending to grant bail must arrive at a finding that the applicant has not committed such an offence. In such an event, it will be impossible for the prosecution to obtain a judgment of conviction of the applicant. Such cannot be the intention of the legislature. Section 21(4) of Mcoca, therefore, must be construed reasonably. It must be so construed that the court is able to maintain a delicate balance between a judgment of acquittal and conviction and an order granting bail much before commencement of trial. **Similarly, the court will be required to record a finding as to the possibility of his committing a crime after grant of bail. However, such an offence in futuro must be an offence under the Act and not any other offence. Since it is difficult to predict the future conduct of an accused, the court must necessarily consider this aspect of the matter having regard to the antecedents of the accused, his propensities and the nature and manner in which he is alleged to have committed the offence.**

45. It is, furthermore, trite that for the purpose of considering an application for grant of bail, although detailed reasons are not necessary to be assigned, the order granting bail must demonstrate application of mind at least in serious cases as to why the applicant has been granted or denied the privilege of bail.

46. **The duty of the court at this stage is not to weigh the evidence meticulously but to arrive at a finding on the basis of broad probabilities.** However, while dealing with a special statute like Mcoca having regard to the provisions contained in sub-section (4) of Section 21 of the Act, the



court may have to probe into the matter deeper so as to enable it to arrive at a finding that the materials collected against the accused during the investigation may not justify a judgment of conviction. **The findings recorded by the court while granting or refusing bail undoubtedly would be tentative in nature, which may not have any bearing on the merit of the case and the trial court would, thus, be free to decide the case on the basis of evidence adduced at the trial, without in any manner being prejudiced thereby.**

47. In *Kalyan Chandra Sarkar v. Rajesh Ranjan* [*Kalyan Chandra Sarkar v. Rajesh Ranjan*, (2004) 7 SCC 528 : 2004 SCC (Cri) 1977] this Court observed : (SCC pp. 537-38, para 18)

*‘18. We agree that a conclusive finding in regard to the points urged by both the sides is not expected of the court considering a bail application. Still one should not forget, as observed by this Court in *Puran v. Rambilas* [*Puran v. Rambilas*, (2001) 6 SCC 338 : 2001 SCC (Cri) 1124] : (SCC p. 344, para 8)*

“8. ... Giving reasons is different from discussing merits or demerits. At the stage of granting bail a detailed examination of evidence and elaborate documentation of the merits of the case has not to be undertaken. ... That did not mean that whilst granting bail some reasons for prima facie concluding why bail was being granted did not have to be indicated.”

We respectfully agree with the above dictum of this Court. We also feel that such expression of prima facie reasons for granting bail is a



requirement of law in cases where such orders on bail application are appealable, more so because of the fact that the appellate court has every right to know the basis for granting the bail. Therefore, we are not in agreement with the argument addressed by the learned counsel for the accused that the High Court was not expected even to indicate a prima facie finding on all points urged before it while granting bail, more so in the background of the facts of this case where on facts it is established that a large number of witnesses who were examined after the respondent was enlarged on bail had turned hostile and there are complaints made to the court as to the threats administered by the respondent or his supporters to witnesses in the case. In such circumstances, the court was duty-bound to apply its mind to the allegations put forth by the investigating agency and ought to have given at least a prima facie finding in regard to these allegations because they go to the very root of the right of the accused to seek bail. The non-consideration of these vital facts as to the allegations of threat or inducement made to the witnesses by the respondent during the period he was on bail has vitiated the conclusions arrived at by the High Court while granting bail to the respondent. The other ground apart from the ground of incarceration which appealed to the High Court to grant bail was the fact that a large number of witnesses are yet to be examined and there is no likelihood of the trial coming to an end in the near future. As stated hereinabove, this ground on the facts of this case is also not sufficient either individually or coupled with the period of incarceration to release the respondent on bail because of the serious allegations of tampering with the witnesses made against the respondent.'



48. In *Jayendra Saraswathi Swamigal v. State of T.N.* [*Jayendra Saraswathi Swamigal v. State of T.N.*, (2005) 2 SCC 13 : 2005 SCC (Cri) 481] this Court observed : (SCC pp. 21-22, para 16)

'16. ... The considerations which normally weigh with the court in granting bail in non-bailable offences have been explained by this Court in State v. Jagjit Singh [State v. Jagjit Singh, (1962) 3 SCR 622 : AIR 1962 SC 253 : (1962) 1 Cri LJ 215] and Gurcharan Singh v. State (UT of Delhi) [Gurcharan Singh v. State (UT of Delhi), (1978) 1 SCC 118 : 1978 SCC (Cri) 41] and basically they are — the nature and seriousness of the offence; 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 tampered with; the larger interest of the public or the State and other similar factors which may be relevant in the facts and circumstances of the case.'''

14. Notably, the Apex Court in NIA v. Watali (Supra) observed that the Court *in seisin* of a bail application, is not bound down to examine or dissect the evidence present before it, as the grant or rejection of bail is an exercise vastly different from that of discussing the merits and demerits of a case.

15. Having recalled the basic principles on grant of bail under UAPA, this Court shall now address the main thrust of arguments advanced by the Appellant, being that his arrest by the Respondent/NIA was illegal and as such, violated Article 22 of the Constitution of India as well as Section 43B of UAPA. Reliance has been placed on the judgment of the Apex Court in Pankaj Bansal (supra), paragraphs whereof relevant for discussion are being extract below:



"38. In this regard, we may note that Article 22(1) of the Constitution provides, inter alia, that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest. This being the fundamental right guaranteed to the arrested person, the mode of conveying information of the grounds of arrest must necessarily be meaningful so as to serve the intended purpose. It may be noted that Section 45 PMLA enables the person arrested under Section 19 thereof to seek release on bail but it postulates that unless the twin conditions prescribed thereunder are satisfied, such a person would not be entitled to grant of bail. The twin conditions set out in the provision are that, firstly, the court must be satisfied, after giving an opportunity to the Public Prosecutor to oppose the application for release, that there are reasonable grounds to believe that the arrested person is not guilty of the offence and, secondly, that he is not likely to commit any offence while on bail. To meet this requirement, it would be essential for the arrested person to be aware of the grounds on which the authorised officer arrested him/her under Section 19 and the basis for the officer's "reason to believe" that he/she is guilty of an offence punishable under the 2002 Act. It is only if the arrested person has knowledge of these facts that he/she would be in a position to plead and prove before the Special Court that there are grounds to believe that he/she is not guilty of such offence, so as to avail the relief of bail. Therefore, communication of the grounds of arrest, as mandated by Article 22(1) of the Constitution and Section 19 PMLA, is meant to serve this higher purpose and must be given due importance.

39. We may also note that the language of Section 19 PMLA puts it beyond doubt that the authorised officer has to record in writing the reasons for forming the belief that the person proposed to be arrested is guilty of an offence punishable under the 2002 Act. Section



19(2) requires the authorised officer to forward a copy of the arrest order along with the material in his possession, referred to in Section 19(1), to the adjudicating authority in a sealed envelope. Though it is not necessary for the arrested person to be supplied with all the material that is forwarded to the adjudicating authority under Section 19(2), he/she has a constitutional and statutory right to be “informed” of the grounds of arrest, which are compulsorily recorded in writing by the authorised officer in keeping with the mandate of Section 19(1) PMLA. As already noted hereinbefore, it seems that the mode of informing this to the persons arrested is left to the option of ED's authorised officers in different parts of the country i.e. to either furnish such grounds of arrest in writing or to allow such grounds to be read by the arrested person or be read over and explained to such person.”

16. The principles laid down in Pankaj Bansal (supra), being that in a case under PMLA, were held to be akin to Section 43B(1) of UAPA by the Apex Court itself in another judgment namely Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254. The Apex Court specifically observed that upon the application of the golden rules of interpretation, the provisions which lay down a very important constitutional safeguard to a person arrested on charges of committing an offence either under the PMLA or under the UAPA, have to be uniformly construed and applied. Relevant paragraphs of the Prabir Purkayastha (supra) judgment are being extracted below:

“17. Upon a careful perusal of the statutory provisions (reproduced supra), we find that there is no significant difference in the language employed in Section 19(1) of the PMLA and Section 43B(1) of the UAPA which can persuade us to take a view that the interpretation of the phrase ‘inform him of the grounds for such arrest’ made by this Court in the case of Pankaj Bansal(supra)



should not be applied to an accused arrested under the provisions of the UAPA.

18. We find that the provision regarding the communication of the grounds of arrest to a person arrested contained in Section 43B(1) of the UAPA is verbatim the same as that in Section 19(1) of the PMLA. The contention advanced by learned ASG that there are some variations in the overall provisions contained in Section 19 of the PMLA and Section 43A and 43B of the UAPA would not have any impact on the statutory mandate requiring the arresting officer to inform the grounds of arrest to the person arrested under Section 43B(1) of the UAPA at the earliest because as stated above, the requirement to communicate the grounds of arrest is the same in both the statutes. As a matter of fact, both the provisions find their source in the constitutional safeguard provided under Article 22(1) of the Constitution of India. Hence, applying the golden rules of interpretation, the provisions which lay down a very important constitutional safeguard to a person arrested on charges of committing an offence either under the PMLA or under the UAPA, have to be uniformly construed and applied.

19. We may note that the modified application of Section 167 CrPC is also common to both the statutes. Thus, we have no hesitation in holding that the interpretation of statutory mandate laid down by this Court in the case of Pankaj Bansal(supra) on the aspect of informing the arrested person the grounds of arrest in writing has to be applied *pari passu* to a person arrested in a case registered under the provisions of the UAPA.

20. Resultantly, there is no doubt in the mind of the Court that any person arrested for allegation of commission of offences under the provisions of UAPA or for that matter any other offence(s) has a



fundamental and a statutory right to be informed about the grounds of arrest in writing and a copy of such written grounds of arrest have to be furnished to the arrested person as a matter of course and without exception at the earliest. The purpose of informing to the arrested person the grounds of arrest is salutary and sacrosanct inasmuch as, this information would be the only effective means for the arrested person to consult his Advocate; oppose the police custody remand and to seek bail. Any other interpretation would tantamount to diluting the sanctity of the fundamental right guaranteed under Article 22(1) of the Constitution of India.

21. The Right to Life and Personal Liberty is the most sacrosanct fundamental right guaranteed under Articles 20, 21 and 22 of the Constitution of India. Any attempt to encroach upon this fundamental right has been frowned upon by this Court in a catena of decisions. In this regard, we may refer to following observations made by this Court in the case of Roy V.D. v. State of Kerala (2000) 8 SCC 590:-

"7. The life and liberty of an individual is so sacrosanct that it cannot be allowed to be interfered with except under the authority of law. It is a principle which has been recognised and applied in all civilised countries. In our Constitution Article 21 guarantees protection of life and personal liberty not only to citizens of India but also to aliens."

Thus, any attempt to violate such fundamental right, guaranteed by Articles, 20, 21 and 22 of the Constitution of India, would have to be dealt with strictly.

22. The right to be informed about the grounds of arrest flows from Article 22(1) of the Constitution of India and any infringement of this fundamental right would vitiate the process of arrest and remand. Mere fact that a charge sheet has been filed in the matter,



would not validate the illegality and the unconstitutionality committed at the time of arresting the accused and the grant of initial police custody remand to the accused.”

17. Further, the Apex Court in Vihaan v. State of Haryana, **2025 SCC Online SC 269**, has observed that an arrest gets vitiated for non-compliance of the constitutional requirement of Fundamental Rights under Articles 21 and 22. The Apex Court has specifically laid down how this compliance under Article 22(1) takes place:-

“18. Therefore, as far as Article 22(1) is concerned, compliance can be made by communicating sufficient knowledge of the basic facts constituting the grounds of arrest to the person arrested. The grounds should be effectively and fully communicated to the arrestee in the manner in which he will fully understand the same. Therefore, it follows that the grounds of arrest must be informed in a language which the arrestee understands. That is how, in Pankaj Bansal [Pankaj Bansal v. Union of India, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] , this Court held that the mode of conveying the grounds of arrest must necessarily be meaningful so as to serve the intended purpose. However, under Article 22(1), there is no requirement of communicating the grounds of arrest in writing. Article 22(1) also incorporates the right of every person arrested to consult an advocate of his choice and the right to be defended by an advocate. If the grounds of arrest are not communicated to the arrestee, as soon as may be, he will not be able to effectively exercise the right to consult an advocate. This requirement incorporated in Article 22(1) also ensures that the grounds for arresting the person without a warrant exist. Once a person is arrested, his right to liberty under Article 21 is curtailed. When such an important fundamental right is curtailed, it is necessary that the person concerned must understand on what grounds he has been arrested. That is why the mode of conveying information of the grounds must be meaningful so as to serve the objects stated above.”



18. Notwithstanding the aforesaid observations, the Apex Court in Ram Kishor Arora v. Enforcement Directorate, (2024) 7 SCC 599 has observed as follows:

“23. As discernible from the judgment in Pankaj Bansal case [Pankaj Bansal v. Union of India, (2024) 7 SCC 576] also noticing the inconsistent practice being followed by the officers arresting the persons under Section 19 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 mandatory or obligatory till the date of the said judgment. The submission of the learned Senior Counsel Mr Singhvi 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 [Pankaj Bansal v. Union of India, (2024) 7 SCC 576] could neither be held to be illegal nor the action of the officer concerned in not furnishing the same in writing could be faulted with. As such, the action of informing the person arrested about the grounds of his arrest is a sufficient compliance of Section 19 PMLA as also Article 22(1) of the Constitution of India, as held in Vijay Madanlal [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1 : 2022 SCC OnLine SC 929] .



24. Insofar as the facts of the present case are concerned, it is not disputed that the appellant was handed over the document containing grounds of arrest when he was arrested, and he also put his signature below the said grounds of arrest, after making an endorsement that “I have been informed and have also read the abovementioned grounds of arrest.” The appellant in the rejoinder filed by him has neither disputed the said endorsement nor his signature below the said endorsement. The only contention raised by the learned Senior Counsel Mr Singhvi is that he was not furnished a copy of the document containing the grounds of arrest at the time of arrest. Since the appellant was indisputably informed about the grounds of arrest and he having also put his signature and the endorsement on the said document of having been informed, we hold that there was due compliance of the provisions contained in Section 19 PMLA and his arrest could neither be said to be violative of the said provision nor of Article 22(1) of the Constitution of India.” (emphasis supplied)

19. In the abovementioned Judgment, the Apex Court has held that the Judgment of Pankaj Bansal v. Union of India, (2024) 7 SCC 576, had only a prospective application. In any event, keeping in view the law laid by the Apex Court in Ram Kishor Arora (supra), this Court notes that in the present case, it is not disputed that the Appellant was provided with the Arrest Memo at the time of his arrest, i.e., on 22.02.2023. Further, this Arrest Memo, which bears the signature of the Appellant, also contains a question as to whether the grounds of arrest have been explained, if possible, in his mother tongue to the accused. The answer to this question has been written as ‘yes’. Immediately on the next day, i.e., on 23.02.2023, the Appellant was produced before the learned Trial Court, in an application filed by the Respondent/NIA seeking police custody of the Appellant. *Vide* order dated



22.02.2023, the Respondent/NIA's application was allowed by the learned Trial Court. Therefore, in view of the aforesaid discussion, this Court is unable to agree with the argument of the Appellant that his arrest by the Respondent/NIA was illegal and stands vitiated. It cannot be forgotten that a huge cache of arms and ammunition has been recovered from the house of the Appellant.

20. Now, delving specifically into the allegation of a conspiracy which has been brought forth by the Respondent/NIA against the Appellant and 21 other accused persons, this Court deems it first to refer to Section 18 of the UAPA, which is being extracted below:

" Section 18. Punishment for conspiracy, etc.

18. Punishment for conspiracy, etc.--Whoever conspires or attempts to commit, or advocates, abets, advises or incites, directly or knowingly facilitates] the commission of, a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine."

21. This Court also deems it appropriate to refer to the observations of the Apex Court on the offence of conspiracy in Kehar Singh and Ors. v. The State (Delhi Administration), (1988) 3 SCC 609, which are being extracted below:

"275. Generally, a conspiracy is hatched in secrecy and it may be difficult to adduce direct evidence of the same. The prosecution will often rely on evidence of acts of various parties to infer that they were done in reference to their common intention. The prosecution will also more often rely upon circumstantial evidence. The conspiracy can be undoubtedly proved by such evidence direct or circumstantial. But the court must



enquire whether the two persons are independently pursuing the same end or they have come together to the pursuit of the unlawful object. The former does not render them conspirators, but the latter does. It is, however, essential that the offence of conspiracy required some kind of physical manifestation of agreement. The express agreement, however, need not be proved. Nor actual meeting of the two persons is necessary. Nor it is necessary to prove the actual words of communication. The evidence as to transmission of thoughts sharing the unlawful design may be sufficient.”

22. The Apex Court in State of Maharashtra v. Som Nath Thapa, (1996) 4 SCC 659, has also observed that conspiracy can be proved by circumstances and other materials. The relevant portion of the said Judgment reads as under:-

“24. The aforesaid decisions, weighty as they are, lead us to conclude that to establish a charge of conspiracy knowledge about indulgence in either an illegal act or a legal act by illegal means is necessary. In some cases, intent of unlawful use being made of the goods or services in question may be inferred from the knowledge itself. This apart, the prosecution has not to establish that a particular unlawful use was intended, so long as the goods or service in question could not be put to any lawful use. Finally, when the ultimate offence consists of a chain of actions, it would not be necessary for the prosecution to establish, to bring home the charge of conspiracy, that each of the conspirators had the knowledge of what the collaborator would do, so long as it is known that the collaborator would put the goods or service to an unlawful use.”

23. The sum and substance of the allegations against the Appellant is he provided logistic support (arms and ammunitions) to the Bambiha Gang, of



which Chotu Ram @ Bhat was a part. This Chotu Ram @ Bhat, according to the Chargesheet filed by the Respondent/NIA is an associate of Sukhpreet @ Budha (A-3), who in turn was connected to Arshdeep Singh Gill @ Arsh Dalla (A-1), a designated individual terrorist, who in turn was associated with Harshdeep Singh Nijjar, the erstwhile 'Chief' of Khalistan Tiger Force. Of these persons, Arshdeep Singh Gill @ Arsh Dalla has been declared as a Proclaimed Offender on 08.08.2023.

24. As per the Chargesheet, Arshdeep Singh Gill @ Arsh Dalla in connivance with others who are arraigned as accused persons by the Respondent/NIA, is known to extort money from Indian businessmen, singers, sportspersons and others, by threatening them of dire consequences if the demands are not met. An important revelation from the Chargesheet appears to be that arms and ammunitions are generally supplied across the India-Pakistan border on the directions of Arshdeep Singh Gill @ Arsh Dalla. In this syndicate, the Appellant has been investigated as a ground level facilitator/ provider of logistic support.

25. The instance of recovery of large arms and ammunition from the house of the Appellant, the corroboration thereof by the prosecution witnesses and the failure of the Appellant to accord any valid explanation for their presence, gives this Court sufficient reasons to believe that a *prima facie* case is made out against the Appellant.

26. Upon a perusal of the Chargesheet, this Court is of the opinion that there are reasonable grounds for believing that the accusations against the Appellant are *prima facie* true. Even otherwise, this Court does not have the power to question the investigative findings of the Respondent/NIA at this stage, where the trial is yet to begin, neither does this Court have the power to examine the merits and demerits of the evidence. This Court is of the



opinion that in case the Appellant is released on bail, the chances of the Appellant indulging in the very same activities cannot be ruled out the chances of the accused being a flight risk, cannot also be ruled out.

27. It is trite law that the Court while examining the issue of *prima facie* case as required under sub-section (5) of Section 43D, is not expected to hold a mini trial, which is in line with the law laid down by the Apex Court in Thwaha Fasal (supra).

28. Therefore, this Court is of the view that the Appellant has not been able to discharge the burden upon him in order to secure Bail. Accordingly, in view of the foregoing discussion, the present Appeal is dismissed.

29. It is made clear that the observations made hereinabove shall not tantamount to be an expression on the merits of the Appellant's case pending before the learned Trial Court or be read as an expression of opinion on the merits of the case. These observations are confined to the consideration of the prayer for Bail alone.

SUBRAMONIUM PRASAD, J

HARISH VAIDYANATHAN SHANKAR

AUGUST 25, 2025

hsk/AP