IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Neutral Citation No. 2023:PHHC:118039-DB

CRA-D-148-2023 (O&M)
Reserved on: 01.09.2023
Decided on : 06.09.2023

Chandeep Singh @ Gabbar Singh ….Appellant

Versus

National Investigation Agency ….Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Sumit Kalyan, Advocate, for
Mr.Bhanu Pratap Singh, Advocate for the appellant.

Mr.Sukhdeep Singh Sandhu, Special Prosecutor for respondent-NIA.

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G.S. Sandhawalia, J.

The present appeal, filed under Section 21 of the National Investigation Agency Act, 2008 (for short, the '2008 Act'), is directed against the order dated 12.01.2023 whereby the bail application was dismissed by the Special Judge, NIA Court, SAS Nagar Mohali, Punjab in RC No.20/2019/NIA/DLI dated 23.09.2019 arising out of FIR No.280 dated 05.09.2019. The said FIR had been lodged under Sections 304, 153-A and 120-B IPC and Sections 13, 18, 18A, 18B, 20, 23 of the Unlawful Activities (Prevention) Act, 1967 (for short, the 'UAPA Act') and Sections 3, 4 & 5 of Explosive Substance Act, 1908, initially lodged at Police Station Sadar, Tarn Taran. The FIR thereafter was lodged by the NIA on 23.09.2019 on the information being received by the Central Government on account of the gravity of the offence and the national and international linkages which were required to be looked into by the NIA.

2. The applicant-Chandeep Singh @ Gabbar Singh (A-4), though not named in the FIR, had been arrested at a later stage of the investigation in the case of 15.09.2019 by the Punjab Police due to his associated role and accordingly, has been held not entitled for concession of bail by the learned Special Judge. The reasoning which weighed with the learned Special Judge to dismiss the bail application was on the ground that on an earlier occasion, the bail of the applicant had been dismissed on 08.06.2020 and an appeal preferred before this Court bearing CRA-D-339-2020 had been dismissed on 11.12.2020 (Annexure A-6). The reason given was that there was no change of circumstances for filing his application for the second time. The bail application was rejected though it had been pointed out that in the intervening period on 14.01.2022 (Annexure A-4) bail had been granted to the co-accused, Amarjeet Singh @ Amar Singh (A-8).

3. The Trial Court came to the conclusion that this Court while granting bail to Amarjeet Singh, exercised its powers being a Constitutional Court and therefore, the present applicant was not entitled for the benefit of bail, in view of the dismissal of his appeal at an earlier point of time. Reliance was also placed upon the charge-sheet filed that the appellant had met with various other co-accused from the year 2013-2014 and had been initiated into radicalization by Bikramjit Singh @ Bikkar Panjwar @ Bikkar Baba (A-9) and regular meetings were taking place and there was an attendance in the religious events and he had become a member of the terrorist gang founded by co-accused for committing terrorist acts. After the bomb-blast had taken place on 04.09.2014 due to which FIR had been lodged, he had informed Amarjeet Singh about the incident and rushed to meet the co-accused, Harjit Singh

(A-2) and Gurjant Singh (A-3) at the Guru Nanak Dev Hospital, Tarn Taran. Resultantly, it was held that he was inclined to Pro-Khalistani ideology and was sharing posts on myriad issues relating to Khalistan and Referendum 2020 and using the social media platform for spreading propaganda against Government of India. Since a charge had already been framed against him on 03.12.2020, finding a prima facie case against him under Sections 120-B, 153-A of IPC, Sections 13, 18, 20 & 23 of UAPA Act and Sections 3, 4 & 5 of Explosives Substances Act, 1908 the Trial Court choose not to grant the benefit of bail. Observations were also made that he being a local resident could influence witnesses and may tamper with evidence and may flee from justice if released on bail. Keeping in view the rigors of Section 43(D)(5) of UAPA Act, the relief had been denied.

4. Mr.Bhanu Pratap Singh, counsel for the appellant has submitted that the appellant was in custody since 15.09.2019 and a period of almost 4 years has passed and out of the 120 witnesses which were to be examined, only 14 have been examined and in the absence of any incriminating material recovered from him and since co-accused, Amarjeet Singh had been granted the benefit of bail in CRA-D-226-2021 and thereafter Manpreet Singh @ Mann (A-7) had also been granted the benefit of bail in CRA-D-440-2022 on 07.12.2012 (Annexure A-5), the appellant is also entitled for the said relief. It was accordingly contended that even as per the charge-sheet which had been filed, it was the case of the prosecution that he was in touch with Harjit Singh, Gurjant Singh and Harpreet Singh and name of some Pakistani numbers were found in his mobile phone data which would not prove that he was having connection with the Pakistani based persons. Merely because his Facebook profile

showed that he had religious views as a Sikh believing in Khalistan and therefore, it did not indicate his views towards the Khalistan movement. Merely because earlier he was also known as Chandeep Singh Khalistani in his Facebook profile and that was not sufficient to associate him or frame him as a member of the gang to bring him within the purview of Section 20 of the UAPA Act.

5. It was accordingly pointed out that even as per the challan, the allegations were only that he had met other co-accused and had been initiated into radicalization by A-9 and had became a close associate and meetings were being called for carrying out of terrorist attacks. He had alleged to have informed A-5, Malkiat Singh and then gone to meet A-2 and A-3 after the bomb-blast at the hospital at Tarn Taran and therefore, had been closely associated with the other members of the terrorist gang. It was accordingly submitted that there was a charge of having thrown a bomb on Professor Darshan Singh on 07.03.2016 and for promoting disharmony, enmity, hatred and ill-will between various religious groups and charge under Section 153A had been framed which was punishable only upto 3 years. Similarly he had been charged under Section 13 of the UAPA Act which was again punishable only upto 7 years and there was nothing substantial to bring him within the ambit of charge under Section 20 of the UAPA Act. The charge of throwing the bomb on the vehicle of Darshan Singh on 07.03.2016 was also baseless in as much as no FIR had been lodged regarding that incident. This fact had already been noticed in the case of Manpreet Singh, the co-accused on 07.12.2022 (A-5) while granting him the concession of bail.

6. Mr.Sandhu has opposed the bail application and submitted that the offences were grave and the appellant should not be granted the

benefit of bail as he was in touch with persons who were accused of making and testing bombs and charge had also been framed. The charge under Section 20 of the UAPA Act would go on to show that he was liable to be sentenced for life. It is accordingly contended that the earlier bail application had been dismissed on 11.12.2020 and therefore, there was no reason to take a different view. Admittedly, the FIR was lodged on 05.09.2019 on account of information received by Harsha Singh, SI/SHO at Police Station Sadar, Tarn Taran that on the night of 04/05.09.2019 at around 8 PM that a bomb blast had occurred in a piece of vacant land on the link road leading from Tarn Taran to Patti near Pandori Gola towards Bath side. In the blast which had taken place in a vacant plot in which lot of reeds had grown and trash had been thrown one person had been seriously injured namely Gurjant Singh and 2 persons had died. The persons who had died were Bikramjit Singh @ Vicky son of Bikkar Singh son of Sukhwinder Singh and Harpreet Singh @ Happy son of Kuldeep Singh. Resultantly, FIR under Section 304 IPC read with Sections 4 & 5 of the Explosives Act, 1908 was lodged. The FIR thereafter was lodged by the NIA on 23.09.2019 on the information being received by the Central Government on account of the gravity of the offence and the national and international linkages which were required to be looked into by the NIA.

7. The Punjab Police had arrested the present appellant on 15.09.2019 and their categorical averments were regarding the other accused whereas the present appellant's role has not been mentioned. It was only on the basis of the recovery of social media accounts i.e. the Facebook, Gmail, Instagram which have been downloaded he has been involved. However, complete data of Facebook accounts could not be recovered due to technical reasons except the Facebook account of the

appellant, as would be clear from para No.17.6 of the challan filed. Similarly the analysis of his mobile phone data to the extent of his ideology was one of the reasons prima facie he has been implicated, which reads as under:

> "Analysis of Mobile phone data of Chandeep Singh (A-4) : A-4 was in contact with Harjit Singh, Gurjant Singh and Harpreet Singh. Some Pakistani numbers are found which prove that he was in touch with Pakistani based persons. A-4 mentioned his religious view as SIKH KHALISTAN (Means Khalistan Zindabad) in his Facebook profile which clearly indicated A-4's view towards Khalistan movement. A-4 also mentioned his previous name as Chandeep Singh Khalistani (Saturday, 20 January 2018 at 17:03 UTC+05:30) in his Facebook profile."

8. The linkage is only that he was radicalized by A-9 and they had hatched the controversy for making and testing of bombs. The role attributed in the challan reads as under:

> "17.22. Role and activities of/ offences established against A-4: During investigation it emerged that A-4 met A-5, A-8 and A-9 during 2013-14 at Sri Harmandir Sahib, Amritsar regularly. While A-4 was being initiated into radicalization by A-9, the Bargari sacrilege incident took place and that incident and series of similar incidents afterwards led to prolonged agitations in 2015-16, where A-4 met other co-accused and became close associates. Through regular meetings at various places, communication on Social media and Whatsapp, attendance in religious events; he became a member of terrorist gang formed by the co-accused persons for committing terrorist act. He also attended meetings conducted by this gang to carry out terrorist attack in Punjab and was witness to procurement, storage, demonstration and actual usage of explosives. After the incident on September 4, 2019, he informed A-5 about incident and immediately rushed to meet A-2 and A-3 at Guru Nanak Dev Hospital, Tarn Taran. A-4 was strongly inclined towards pro-Khalistani ideology with a very active and impactful social media presence sharing posts on myriad issues relating to Khalistan and Referendum 2020. He used social media platform

for spreading propaganda against Govt. of India and in support of Khalistan. A-4 was in contact with his associates based in Pakistan through mobile phone and social media. He was closely associated with other co-accused persons and used to participate in agitation/ procession against established government in support of Khalistan with intention to create unrest in Punjab.

ii) Therefore as per averments made in the earlier paragraphs, it is established that A-4 was associated with a pro-Khalistan terrorist gang that supported Khalistan movement. A-4 was closely associated with other members of above terrorist gang with intention to further its activities and was in conspiracy with co-accused persons and planning to carry out terrorist attack. Thereby, A-4 committed offences under sections 120B r/w 153A of IPC and sections 13 and 20 of the UA(P) Act, 1967."

9. The above investigation would only go on to show that appellant was associated with the co-accused and his Facebook offending material relating to Khalistan. He has also been charge-sheeted for throwing a bomb on 07.03.2016 at Professor Darshan Singh for which it has already been noticed in the earlier order granting bail to Manpreet Singh @ Mann (A-7) on 07.12.2022 that no FIR had also been lodged regarding the said incident. The relevant portion reads as under:

"It is also pertinent to notice that on 11.10.2022, directions were issued that copy of the FIR regarding the incident of 07.03.2016 be placed on record and thereafter, it was noticed that no FIR was lodged regarding the said incident at all. The affidavit had also been filed by the Investigating Officer, Inspector Ram Gopal Sharma that the appellant had pointed out the place where the bombs had been thrown at the house of Sarpanch and similarly reference has been made to A-2 that certain persons had identified the photographs as to which persons had thrown the bomb at the vehicle of Professor Darshan Singh and the photographs of Manpreet Singh had been pointed out from the 31 photographs placed in front of the said person. Apparently, no FIR was lodged at the time the incident had happened."

10. The appellant has been in custody for the last 4 years and the three charges which have been framed against him are as under:

> "That in the year 2015-16, during and after incidents of sacrilege of Sri Guru Garanth Sahib in the state of Punjab you accused Massa Singh @ Mandeep Singh (A-1), Harjit Singh @ Harjit (A-2), Gurjant Singh (A-3), Chandeep Singh @ Gabbar Singh (A-4), Malkit Singh @ Sher Singh @ Shera (A-5), Amritpal @ Amrit Singh (A-6), Manpreet Singh @ Maan (A-7), Amarjeet Singh @ Amar Singh (A-8) and Bikkar Singh @ Vikram @ Vicky (since deceased), Harpreet Singh @ Happy @ Gujjar (since deceased) and other unknown being recruited by accused Bikramjit Singh @ Bikkar Panjwar @ Bikkar (since absconding accused), formed a pro-khalistani terrorist gang and entered into a larger criminal conspiracy to create instability and disturbance in law and order situation in Punjab especially in Amritsar and Tarn Taran and to spread disharmony among different sects and to support the Khalistan movement by violent means and initiate terrorist attacks in the state of Punjab, India, with ultimate aim/objective of establishing an independent Khalistani State by violent means and thus, you all the aforesaid accused persons committed an offence punishable under section 120-B of IPC and within the cognizance of this Court.
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> Secondly, on 07.03.2016 in pursuance of the aforesaid criminal conspiracy, you accused Massa Singh @ Mandeep Singh (A-1), Harjit Singh @ Harjit (A-2), Gurjant Singh (A-3), Chandeep Singh @ Gabbar Singh (A-4), Malkit Singh @ Sher Singh @ Shera (A-5), Amritpal @ Amrit Singh (A-6), Manpreet Singh @ Maan (A-7), Bikramjit Singh @ Bikkar Panjwar @ Bikkar (A-9) (since absconding accused) attack and threw bomb on the vehicle of Prof. Darshan Singh being a person of different religious sect/ideology when he was on his way to Ludhiana after delivering his address in the special Gurmat Seminar at Tarn Taran and you all have promoted disharmony and feeling of enmity, hatred and ill-will between different religious groups, caste and communities and thus, you all the aforesaid accused persons committed an offence punishable under Section 153A of IPC and within the cognizance of this Court.

Thirdly, during the aforesaid period, place and in pursuance of the aforesaid criminal conspiracy, you accused Massa Singh @ Mandeep Singh (A-1), Harjit Singh @ Harjit (A-2), Gurjant Singh (A-3), Chandeep Singh @ Gabbar Singh (A-4), Malkit Singh @ Sher Singh @ Shera (A-5), Amritpal @ Amrit Singh (A-6), Manpreet Singh @ Maan (A-7), Amarjeet Singh @ Amar Singh (A-8) and Bikkar Singh @ Vikram @ Vicky (D-1) (since deceased), Harpreet Singh @ Happy @ Gujjar (D-2) (since deceased) and other unknown being recruited by accused Bikramjit Singh @ Bikkar Panjwar @ Bikkar (since absconding accused), to execute the above conspiracy, formed a terrorist gang and become member of the terrorist gang supporting Khalistani ideology to carry out and commit terrorist attacks in the territory of the India with ultimate aim/ objective of establishing an independent Khalistani State by violent means and thus, you all the aforesaid accused person committed an offence punishable under Section 20 of Unlawful Activities (Prevention) Act, 1967 and within the cognizance of this Court.

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Sixthly, during the aforesaid period and in pursuance of the aforesaid criminal conspiracy you accused Massa Singh @ Mandeep Singh (A-1), Harjit Singh @ Harjit (A-2), Gurjant Singh (A-3), Chandeep Singh @ Gabbar Singh (A-4), Malkit Singh @ Sher Singh @ Shera (A-5), Amritpal @ Amrit Singh (A-6), Manpreet Singh @ Maan (A-7), Amarjeet Singh @ Amar Singh (A-8) and Bikkar Singh @ Vikram @ Vicky (since deceased), Harpreet Singh @ Happy @ Gujjar (since deceased) and other unknown being recruited by accused Bikramjit Singh @ Bikkar Panjwar @ Bikkar (since absconding accused), formed a pro-khalistan terrorist gang and takes part in commission of unlawful activities of supporting the Khalistan movement by violent means with ultimate aim/ objective of establishing an independent Khalistani State and thereby you all the accused persons committed an offence punishable u/s 13 of Unlawful Activities (Prevention) Act, 1967 and within the cognizance of this Court."

11. Apparently, the appellant has not been charged for the serious incident of retrieving the bombs from any pit when they had got exploded or of arranging explosive materials and making and throwing crude bombs and concealing the same and neither he has been charged for a terrorist attack at Muradpura Dera by throwing bombs or testing the same. The statutory restrictions contained in Section 43(D)(5) of the 1967 Act have been held to be lighter than the ones in the NDPS Act by the Apex Court in **Union of India Vs. K.A. Najeeb (2021) 3 SCC 713**. Similar view was also expressed in **National Investigation Agency Vs. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1**.

12. The charge under Section 20 of the UAPA Act of having formed a terrorist gang and having committed any offence prima facie could not be linked with others in the form of any credible evidence in the investigation. Thus, the observations in Zahoor Ahmad Shah Watali (supra) have to be kept in mind which read as under:

> "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."

13. Reference can also be made to the judgment of the Apex Court passed in 'Thwaha Fasal Vs. Union of India', 2021 (13) Scale 1, wherein the bail order granted had been set aside by the High Court. The Apex Court noticed that sanction had not been granted under Section 20 of the 1967 Act and, therefore, the Special Court could not take cognizance in view of Section 45 and, therefore, a prima facie case could not be stated to be made out against the accused. Resultantly, it was held that the cancellation of bail was not justified. Relevant portion of the said judgment reads as under:-

"23. Therefore, while deciding a bail petition filed by an accused against whom offences under Chapters IV and VI of the 1967 Act have been alleged, the Court has to consider whether there are reasonable grounds for believing that the accusation against the accused is prima facie true. If the Court is satisfied after

examining the material on record that there are no reasonable grounds for believing that the accusation against the accused is prima facie true, then the accused is entitled to bail. Thus, the scope of inquiry is to decide whether prima facie material is available against the accused of commission of the offences alleged under Chapters IV and VI. The grounds for believing that the accusation against the accused is prima facie true must be reasonable grounds. However, the Court while examining the issue of prima facie case as required by sub-section (5) of Section 43D is not expected to hold a mini trial. The Court is not supposed to examine the merits and demerits of the evidence. If a charge sheet is already filed, the Court has to examine the material forming a part of charge sheet for deciding the issue whether there are reasonable grounds for believing that the accusation against such a person is prima facie true. While doing so, the Court has to take the material in the charge sheet as it is.

24. Under sub-section (1) of Section 45 of the 1967 Act, the Court is not empowered to take cognizance of any offence under Chapters IV and VI without previous sanction of the Central Government. Procedure for obtaining sanction has been laid down in sub-section (2) of Section 45, which reads thus:-

> " [(2) Sanction for prosecution under sub-section (1) shall be given within such time as may be prescribed only after considering the report of such authority appointed by the Central Government or, as the case may be, the State Government which shall make an independent review of the evidence gathered in the course of investigation and make a recommendation within such time as may be prescribed to the Central Government or, as the case may be, the State Government.]"

25. The order of sanction dated 18th April 2020 is a part of the charge sheet which is placed on record of these appeals. Paragraphs 2 and 3 of the order of sanction show that though the offence was registered under Sections 20, 38 and 39 of the 1967 Act, by a letter dated 13th April 2020, NIA did not seek sanction for prosecuting any of the three accused for the offence punishable under Section 20. Sanction was sought to prosecute the accused

> nos.1 and 2 for the offences punishable under Sections 38 and 39. In addition, a sanction was sought to prosecute the accused no.2 under Section 13. Paragraph 4 of the order refers to the authority appointed by the Central Government under sub-section (2) of Section 45 consisting of a retired of a High Court and a retired Law Secretary, as well as the report submitted by the said authority. Paragraph 6 of the said order records prima facie satisfaction of the Central Government that a case is made out against the accused under the provisions of the Act of 1967, as mentioned in letter dated 13th April 2020. Thus, as of today, sanction under sub-section (1) of Section 45 has not been accorded for prosecuting the accused for the offence punishable under Section 20 of the Act of 1967 and, therefore, as of today, the Special Court under NIA Act cannot take cognizance of the offence punishable under Section 20. Therefore, for deciding the issue of prima facie case contemplated by sub-section (5) of Section 43D, the case against the both accused only under Sections 38 and 39 is required to be considered. In view of the absence of sanction and the fact that NIA did not even seek sanction for the offence punishable under Section 20, a prima facie case of the accused being involved in the said offence is not made out at this stage. As stated earlier, sub-section (5) of Section 43D will not apply to Section 13, as Section 13 has been incorporated in Chapter III of the 1967 Act."

14. Keeping in view the fact that two of the co-accused have also been granted bail on 14.01.2022 and 07.12.2022 (Annexures A-4 & A-5) who had been in custody for over 2 years and 4 months and 3 years and 2 months, respectively, we are of the considered opinion that the earlier bail application dismissed on 11.12.2020 which was more than 2 ½ years earlier would not be a bar as such for fresh consideration and it was not appropriate for the Trial Court to say that no fresh cause of action has arisen. Admittedly, the trial is creeping along and there has been no substantial progress and therefore, it was also not justified in holding that

only the Constitutional Courts would have the power to grant bail as Section 43-C of the UAPA provides for application of the provisions of Cr.P.C. It was also the bounden duty of the Trial Court to examine the role of the appellant by meticulously perusing the challan and keeping in mind the restrictions imposed under the provisions of Section 43-D and merely because a charge had been framed would not be a ground to deny the benefit of bail. It is not the case of the respondents that the appellant is involved in other cases and has a criminal background.

15. In **'Sudesh Kedia Vs. Union of India', (2021) 4 SCC 704**, bail had been denied under the 1967 Act read with Arms Act, on account of the fact that person named in the FIR was operative of a terrorist gang and was extorting levy from coal traders, transporters and contractors in the State of Jharkhand. The bail application had been dismissed both by the Special Court and the High Court. The Apex Court allowed the bail application on the ground that no case of conspiracy had been made out prima facie, since the appellant had only met a member of the organization and on account of the fact that Rs.9,95,000/- received from his house, the amount could not be stated to be received from terrorist activity. Reference was also made to provisions of Section 43-D (5) of the 1967 Act, to hold that it was the bounden duty of the Court to apply its mind to examine the entire record for the purpose of satisfying itself, whether the prima facie case is made out against the accused or not.

16. A Co-ordinate Bench in CRA-D-405-2020 titled *Jagtar Singh Johal @ Jaggi Vs. National Investigating Agency,* granted the benefit of bail by noting that 5 years of incarceration had already gone by and the right of the accused to speedy trial and access to justice could not be

brushed aside, which order has not been interfered with in SLP-6717-2022.

17. Recently the Apex Court in Criminal Appeal No.639 of 2023 titled *Vernon Vs. The State of Maharashtra & another,* decided on 28.07.2023 granted the appellant therein the benefit of bail who had been charged under provisions of Section 13, 16, 17, 18, 18B, 20, 38, 39 & 40 of the 1967 Act. The allegation against the appellant was his involvement with the Communist Party of India (Maoist) which was a notified terrorist organization since the year 2009. Keeping in view the fact that 5 years of custody had lapsed, it was held that graver the offence the greater the care which is to be taken to see that the offences would fall within the four corners of the Act. It was accordingly observed that when statutes have stringent provisions, the duties of the Court would be more onerous and merely because allegations were serious but on that reason alone bail could not be denied.

18. It is pertinent to notice that under Section 153A IPC, the maximum punishment is only 3 years whereas under Section 13 of the 1967 Act, it is upto 7 years. It is only under Section 20 of the UAPA, the sentencing may extend to imprisonment for life. The appellant having undergone almost 4 years of detention cannot be expected to continue in detention merely on account of the fact that the offences are serious as per the prosecution version.

19. Resultantly, prima facie we are of the considered opinion that the prosecution not being able to connect the appellant with the charge under Section 20 of the UAPA Act which would be punishable for life on the ground that he was a member of the terrorist gang, which would entitle the appellant for the benefit of regular bail, during the pendency of the

trial. He be produced before the Special Court within a week from today to enable him to seek bail by furnishing bail bonds/surety bonds. The Special Court shall also put a condition that the appellant shall report to the local police station after every 15 days on 1st and 15th of the month at 10:00 AM before the concerned SHO, to ensure that his whereabouts are always ascertainable.

20. The present appeal stands allowed in the above-said terms. Needless to say that any observations made herein are only for the purposes of granting the regular bail and it is not an observation on the merits of the case which is to be decided on the basis of the evidence to be led.

(G.S. SANDHAWALIA)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

06.09.2023
sailesh

Whether speaking/reasoned	Yes	
Whether Reportable :	Yes	