



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Reserved on.12.11.2025
Pronounced on: 05.12.2025

1. **CRA-D-1081-2022 (O&M)**

GURMEJ SINGH Appellant

Versus

UNION OF INDIA AND ANOTHER Respondent

2. **CRA-D-42-2024 (O&M)**

GURMUKH SINGH Appellant

Versus

NATIONAL INVESTIGATION AGENCY Respondent

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MRS. JUSTICE RAMESH KUMARI**

Present : Mr. Raj Kumar Malik, Advocate and
Mr. Robin Singh Hooda, Advocate for the appellant
in CRA-D-1081-2022.

Mr. Puran Singh Hundal, Advocate and
Mr. Robin Singh Hooda, Advocate for the appellant
in CRA-D-42-2024.

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

RAMESH KUMARI, J.

1. This order shall dispose of the abovementioned appeals against
dismissal of their second bail applications by the then learned Special Judge,
NIA, Punjab.



2 (a) FIR No.85 dated 25.08.2021 at Police Station Mamdot, under Section 120-B IPC, Section 25(1A) Arms Act, Sections 18, 21, 23, 29 of NDPS Act, Sections 13, 18-B, 20, 21, 23, 39 of Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as 'UAP Act'),& Sections 4, 5, 6 of Explosive Substance Act was registered on the basis of ruqqa sent by SHO/ Inspector Gurpreet Singh, P.S. Mamdot, wherein he stated that he received reliable information that Darvesh Singh @ Shinda and his father Anokh Singh s/o of Jagtar Singh resident of village Bainke Wale Jhugge (Nihala Kilcha) along with 5-6 unidentified persons being resident of the border of India Pakistan, having full knowledge about border area and the above said persons are fully involved in smuggling of articles received from Pakistan in the area of Rajasthan and Punjab and they are involved in smuggling of intoxicant substances (i.e. opium, heroin), weapons, ammunition and explosive substances. In case, an immediate raid is conducted, then said intoxicant substances, weapons/ ammunition and explosive substances can be recovered from them in huge quantity.

The information was also sent to NIA on 06.11.2021 and RC No.31/2021/NIA/DLI was registered.

Prosecution allegations against applicant-appellant Gurmej Singh @ Geju:-

2(b)(i) The allegation against the applicant-appellant Gurmej Singh @ Gejuis that he received funds amounting to ₹8 lakh from co-accused-Darvesh Singh @ Shinda on the direction of the co-accused Harmesh Singh @ Harmesh @ Kali and delivered to his associates for executing their terrorist agenda. Those funds were generated from exchange of smuggled Narcotics by



co-accused Darvesh Singh @ Shinda and the applicant-appellant Gurmej Singh, sent from across the border by co-accused Lakhvir Singh Rode @ Baba and his associates Mansa Sandhu @ Mnnsh and others. There are further allegations that in the second week of August 2021, co-accused Darvesh Singh @ Shinda handed over the amount of ₹8 lakh derived from the proceeds of exchange of Narcotics to the applicant-appellant Gurmej Singh @ Geju. This amount was hidden by co-accused Harmesh Singh @ Harmesh @ Kali behind the house of Hansa Singh, residents of Sunder Wale Jhugge, District Ferozepur and on the direction of co-accused Harmesh Singh @ Harmesh @ Kali and co-accused Darvesh Singh @ Shinda, the bag was dug out from behind the house of Hansa Singh by co-accused Darvesh Singh @ Shinda who handed it over to applicant-appellant Gurmej Singh @ Geju, who concealed it under the firewood kept in his fields. On further communication with Saraj Singh @ Sarpanch, applicant-appellant Gurmej Singh @ Geju delivered this money to Karanbir Singh, who is an employee of Saraj Singh @ Sarpanch.

2(b)(ii) Further, the allegation against the applicant-appellant Gurmej Singh @ Geju is that he has handed over terror funds to other associates in conspiracy. He is in contact with Pakistan based Mansa Sandhu @ Mnnsh who is close associate of Lakhbir Singh Rode @ Baba, on the direction of co-accused Harmesh Singh @ Harmesh @ Kali, who is his younger brother.

2(b)(iii) The applicant-appellant Gurmej Singh @ Geju, in order to conceal his identity, used SIM cards issued in the name of proxy identities.

2(b)(iv) During investigation, house of the applicant-appellant Gurmej Singh @ Geju was raided on 09.12.2021 and during search of his house one blue coloured mobile phone OPPO A 54, Model CPH 2239 bearing IMEI



No.1. 862026052353259, No.2.862026052353242 including SIM Card serial No.8991000905309445494U was recovered. The data retrieved from CERT-In, revealed incriminatory images and contacts. The said mobile phone was used exclusively by applicant-appellant Gurmej Singh @ Geju who has two Email accounts i.e.saabohisaab@gmail.com and saabsingh70791@gmail.com, WhatsApp Account 19084666899@s.WhatsApp.net and 15636005027@s.WhatsApp.net, Facebook ID angrejsaab.saab.

2(b)(v) Applicant-appellant Gurmej Singh @ Geju saved mobile No.923114435400 of Mansa Sandhu @ Mnnshin the contact list of his phone and used to talk with him and his associates time and again regarding receipt of narcotics substances and terrorist funds.

2(b)(vi) Images of Bhindranwale and of different guns were also retrieved from his mobile set showing that mind set of applicant-appellant Gurmej Singh @ Geju is inclined towards the ideology of Khalistan.

2(b)(vii) Applicant-appellant Gurmej Singh @ Geju used motorcycle Bajaj Platina bearing registration No.PB059367 which is registered on the name of Joginder Singh, his father and this motorcycle was used by applicant-appellant Gurmej Singh @ Geju to transport/conceal/deliver consignment and he used same motorcycle for transporting/concealing/delivering terror fund of ₹8 lakh which was received by him from co-accused Darvesh Singh @ Shinda @ Shinda at the instance of Harmesh Singh @ Kali.

2(b)(viii) That applicant-appellant Gurmej Singh @ Geju in criminal conspiracy with Harmesh Singh @ Kali, Darvesh Singh @ Shinda and Pakistan based co-accused Lakhbir SinghRode @ Baba and his associate Mansa Sandhu



@ Mnnsh conspired with a common agenda for transferring funds for use in terror activities in the State of Punjab and other parts of India.

2(b)(ix) Terror funds were generated for commission of crime in exchange of smuggled narcotics by co-accused Harmesh Singh @ Kali, Darvesh Singh @ Shinda and used by the applicant-appellant Gurmej Singh @ Geju.

2(b)(x) Applicant-appellant Gurmej Singh @ Geju was earlier arrested in FIR No.23 dated 26.10.2017, registered at P.S. SSOC Amritsar, Punjab which pertains to recovery of arms, heroin and huge amount of funds but he was released on bail in the said case. He was also accused in FIR No.161/2017 under Sections 21, 25 and 29 of NDPS Act, Police Station Sadar Patti, District Tarn Taran, Punjab (he has since been acquitted in FIR No.161/2017).

Prosecution allegations against applicant-appellant Gurmukh Singh:-

3(a)(i) Applicant-appellant Gurmukh Singh and co-accused Gagandeep were arrested in FIR No.92 dated 20.08.2021 registered at Police Station Sadar, Phagwara, District Kapurthala under Sections 25(1AA) 27-54-59 Arms Act, Sections 4,5 of Explosive Substance (Amendment) Act, 2001, 13/16/17/18/18-B/20 of Unlawful Activities (Prevention) Act, 1967, Section 120-B IPC, Section 12 Passport Act, 1967 which is also a connected offence of this case. At that time applicant-appellant Gurmukh Singh and co-accused Gagandeep Singh were already in custody in case RC No.31/2021/NIA/DLI and were charged by NIA before NIA Special Court, Mohali for the offences committed by them for receiving arms and ammunition, hand-grenades,



narcotics, explosive materials and tiffin bombs from co-accused Harmesh Singh@ Harmesh @ Kali and other co-accused.

3(a)(ii) Huge quantity of arms and ammunition, hand-grenades, narcotics, explosive materials and tiffin bombs were received from across the border by co-accused Harmesh Singh@ Harmesh @ Kali, Darvesh Singh @ Shinda and were further received by other co-accused and got recovered by applicant-appellant Gurmukh Singh, Gurmeet Singh and Gagandeep Singh. The subject matter of the FIR No.92/2021 is continuing offence of NIA case RCNo.31/2021/NIA/DLI arising out of FIR No.85/2021. Master mind of the cases, co-accused Lakhbir Singh Rode @ Baba, who is nephew of Jarnail Singh Bhindranwale and is the chief of terrorist of outfit International Sikh Youth Federation which was banned by Government of India vide Gazette Notification No.15 of 2022 dated 28.03.2002. Lakhbir Singh Rode @ Baba was declared as an ‘individual terrorist’ by India on 01.07.2020 vide SO No.2165(E). Lakhbir Singh Rode @ Baba is accused in 9 other cases. Applicant-appellant Gurmukh Singh @ Geju is nephew of said Lakhbir Singh Rode @ Baba. Co-accused Lakhbir Singh Rode @ Baba, motivated co-accused Harmesh Singh@ Harmesh @ Kali and applicant-appellant Gurmukh Singh by using various encrypted communication applications like WhatsApp, Viber, Text Now and also resorted to communication via virtual numbers in order to evade scrutiny of the Law Enforcement Agencies. Lakhbir Singh Rode @ Baba directed Harmesh Singh@ Harmesh @ Kali and applicant-appellant Gurmukh Singh for recruiting more persons in conspiracy and he has been successful in radicalising and recruiting the accused persons of this case to execute his illegal designs for carrying out terrorist acts in Punjab and other



parts of India and to revive militancy, disturb peace and communal harmony in India.

3 (a) (iii) There are two separate groups in the chain of execution of the conspiracy. Co-accused Harmesh Singh @ Harmesh @ Kali, Darvesh Singh @ Shinda and applicant-appellant Gurmej Singh @ Geju in one group while applicant-appellant Gurmukh Singh and Gagandeep Singh were in the other group. The activities of both the groups were coordinated by co-accused Lakhbir Singh Rode @ Baba and others in association with Pakistan based entities such as Mansa Sandhu @ Mnnsh, Malik Jeera and Miyan and they were in touch with them through audio/video apps and audio/video calls and other social media apps.

3(a)(iv) Between June 2021 to August 2021, Harmesh Singh @ Harmesh @ Kali, Darvesh Singh @ Shinda and applicant-appellant Gurmukh Singh received total 8 consignments of narcotics substances and explosive materials, weapons and ammunition and 12 kg heroin was smuggled from Pakistan into India. Out of 12 kg heroin, 3kg was delivered to Baldev Singh @ Debu and 9 KG to men sent by Mansa Sandhu @ Mnnsh.

3(a)(v) After receipt of consignments, directions were received by Harmesh Singh @ Harmesh @ Kali from Lakhbir Singh Rode @ Baba to pass on the consignment except narcotics to the other members of the network by concealing them at pre-decided locations. The arms, ammunition, explosive materials were concealed by Harmesh Singh @ Harmesh @ Kali and Darvesh Singh @ Shinda near milestones 17KM, 19KM and 20KM on Ferozepur-Fazilka Road. After concealing the articles, Harmesh Singh @ Harmesh @ Kali and Darvesh Singh @ Shinda used to put a stone/rubber tube or such other



material for easy identification of the location by the co-accused. They would click a picture of the place and would share it with Lakhbir Singh Rode @ Baba for passing on the information to linked associates. The photographs of these places of concealment have been found in digital data retrieved from the seized mobile phones of Harmesh Singh@ Harmesh @ Kali and Darvesh Singh @ Shinda.

3(a)(vi) Applicant-appellant Gurmukh Singh and co-accused Gagandeep Singh used to collect the consignments from these areas as per directions of Lakhbir Singh Rode @ Baba and Mansa Sandhu @ Mnnsh. The details of consignment received are as under:-

Consignment, timing and delivery location	Breakdown of contents in consignment
1 st consignment 18 July 2021 Essar Petrol Pump near 17 Mile stone	<ul style="list-style-type: none"> • 02 pistols .30 bore (with magazine, 05 cartridges) • 02 Magazines • 01 rubber tube (one feet long) • Yellow wire bundle • 02 Detonators in plastic container
2 nd consignment 30 July 2021 Essar Petrol Pump near 17 Mile stone	<ul style="list-style-type: none"> • 04 grenades • Two IEDs/Tiffin Bombs
3 rd consignment 03 August 2021 Essar Petrol Pump near 17 Mile stone	<ul style="list-style-type: none"> • INR 3 Lakh in denominations of INR 500 delivered by Harmesh Singh@ Harmesh @ Kali and Darvesh Singh @ Shinda

Grand total:-

Pistols	2 Nos.
IED (Tiffin Bomb)	02 Nos.
01 rubber tube (one feet long)	1 Nos.



Yellow Wire bundle	1 Nos.
Grenades	4 Nos.
Magazines	4 Nos.
Detonator boxes	2 Nos.
Terror funds	INR 3 Lakh

3(a)(vii) These consignments were picked up by applicant-appellant Gurmukh Singh and Gagandeep Singh and further concealed and placed on the directions of Lakhbir Singh Rode @ Baba to be received by other associates linked in the conspiracy. They concealed these items at different places around Jalandhar-Phagwara highway, Virasat Haveli Jalandhar, Humbowal underpass of Jalandhar-Amritsar highway, Bughipura chowk (Moga) etc. for facilitating the terror activities. After placing these consignments, applicant-appellant Gurmukh Singh would share the image/video of the place through WhatsApp, Viber, etc. with Lakhbir Singh Rode @ Baba who would direct the other associates linked in conspiracy to collect them for further use.

3(a)(viii) The consignments of narcotics/ heroin received from across border were sold/handed by Harmesh Singh @ Harmesh @ Kali and Darvesh Singh @ Shinda to other associates, as per direction of their handlers and a sum of INR 102 Lakh was received by A-1 and A-2. Out of this Harmesh Singh @ Harmesh @ Kali received INR 17 Lakh. Out of this INR 17 Lakh, INR 3 lakh were delivered to applicant-appellant Gurmukh Singh and Gagandeep Singh. Remaining amount of INR 85 lakh was delivered to other associates in crime, as per directions of Mansa Sandhu @ Mnnsh etc.



3(a)(ix) That during investigation of FIR No. 92/2021 the following Explosives, IED's, Hand grenades, Arms & Ammunition were recovered from applicant-appellant Gurmukh Singh ;

- i. 5 Grenades,
- ii. 2 Boxes Detonators,
- iii. 1 small rubber tube Detonator,
- iv. 2 Rubber tubes filled with explosive material,
- v. 1 yellow wire (Pakistani),
- vi. ₹ 3,78,000,
- vii. 1 pistol.45 bore along with magazine,
- viii. 24 cartridges,
- ix. 14 Indian passports,
- x. 1 packet suspicious powder,
- xi. 1 Tiffin bomb,
- xii. 4 Pistol magazines,
- xiii. Packing material,
- xiv. Mobile phones Apple 12 pro and Samsung,
- xv. 1 Endeavour car no. PCS 400 Black colour

3(a)(x) The material recovered from applicant-appellant Gurmej Singh @ Geju and his associate, were part of the consignments of arms, ammunitions, explosives, IEDs (Tiffin Bombs), detonator, etc., sent by Lakhbir Singh Rode @ Baba and his associates, via drones, from across Pakistan border and were meant for terrorist activities. The recovered Indian Currency notes of INR 3,78,000 have also been identified as including proceeds of sale of narcotics



and were delivered to applicant-appellant Gurmukh Singh and Gagandeep Singh by Darvesh Singh @ Shinda.

3(a)(xi) That the Charge-sheet has been filed in the instant case against accused including applicant-appellant Gurmej Singh @ Geju u/s 120-B of the IPC, 1860, section 25(1A) of Arms Act, 1959, sections 4, 5 & 6 of Explosive Substance Act, 1908 and sections 18 & 20, 21, 23 & 38 of UAP Act, 1967. Further instigation is still going on.

4 Initially charge sheet was filed on 04.03.2022 against co-accused Harmesh Singh @ Kali, Darvesh Singh @ Shinda, Gurmukh Singh, Gagandeep Singh and absconding accused Lakhbir Singh Rode @ Baba who is based in Pakistan. Supplementary charge sheet was filed against applicant-appellant Gurmej Singh @ Geju on 22.04.2022 under Section 120-B IPC, Sections 18, 20 and 38 of UAP Act and Section 29 of NDPS Act.

Submissions of learned counsel for applicant-appellant Gurmej Singh @ Geju:-

5. Learned counsel for the applicant-appellant Gurmej Singh contended that learned trial Court committed error in dismissing his application. Nothing is recovered from his possession. The allegations in the FIR in a nutshell is against two persons Darvesh Singh @ Shinda and Anokh Singh that they are indulging in smuggling of intoxicant substances, weapons and explosives from Pakistan into India as they are residing in the border area of India. Applicant-appellant Gurmej Singh has not been named in the said FIR. However, applicant-appellant Gurmej Singh was arrested in the present case on 26.10.2021. He has already been acquitted in case arising out of FIR No.161/2017 under Section 21, 25 and 29 of NDPS Act and under Section 25,



54, 59 of Arms Act registered at P.S. Sadar Patti, District Tarn Taran. He has been granted benefit of regular bail in case arising out of FIR No.23/2017, under Section 21, 25, 27A,29 of NDPS Act and Section 25 of Arms Act at Police Station SSOC, Amritsar. He is falsely implicated in FIR No.35/2020 under Section 52A of Prison Act at P.S. City Ferozepur and FIR No.119 of 2018 under Section 42, 52A of Prison Act, P.S. Gate Hakima, Amritsar and he is already on bail. Harmesh @ Kala, minor brother of applicant-appellant Gurmej Singh @ Geju was picked up by the Police on 12.08.2021. He was not produced even after lapse of 48 hours before learned Illaqa Magistrate. Applicant-appellant Gurmej Singh @ Geju filed CRWP-7756-2021 before this Court and then he was produced before Court through video conferencing on 18.08.2021. On 13.08.2021, some officials from SSOC Staff, Amritsar had visited the house of applicant-appellant Gurmej Singh @ Geju and threatened his family to produce him otherwise he would be eliminated in an encounter. He moved representation to DGP, Punjab on 17.08.2021 but no action was taken. He filed CRM-M-35198-2021 and when the Police officials came to know it, they threatened him to withdraw it and when applicant-appellant Gurmej Singh @ Geju refused, he was falsely implicated on 25.08.2021 and CRM-M-35198-2021 was dismissed as withdrawn. Prior to registration of case, he was behind bar for three years in another case. Applicant-appellant Gurmej Singh @ Geju is implicated on the basis of disclosure statement of other co-accused. The statutory rigor of Section 43-D(5) of UAP Act cannot come in the way because the Court can grant bail if the provisions of any legislation contradict the constitutional right of accused (**Union of India Vs. Gurmej Singh @ Geju**).



K.A Najeeb (2021) 3 SCC 713. He is involved in following other FIRs the details of which are as under:-

- i) FIR No. 210 dated 04.08.2017 u/ss 307, 506, 148, 149 IPC registered at P.S. Sadar, Ferozepur (acquitted).
- ii) FIR No.161 dated 29.09.2017 registered under sections 21, 25, 29 of NDPS Act and Section 25, 54, 59 of Arms Act at Police Station Sadar, Patti, District Tarn Taran (on bail);
- iii) FIR No.23 dated 26.10.2017 u/ss 21, 25, 27-A, 29 of NDPS Act and Sections 25 of Arms Act, 1959 at Police Station SSOC, Amritsar (on bail);
- iv) FIR No.35 dated 28.01.2020 u/s 52-A of Prison Act, 1984 at P.S. City, Ferozepur (on bail);
- v) FIR No.119/2018 under sections 42, 52-A of Prison Act, P.S. Gate Hakima, District Amritsar (on bail).

He is acquitted in case FIRs No.210 and 161 and is on bail in other cases except the present one.

Learned counsel for applicant-appellant Gurmej Singh @ Geju vehemently prayed for setting aside the impugned order of learned Judge, Special Court with further prayer that in case he is granted concession of regular bail, he is ready to accept the conditions as imposed by the Court.

Submissions of learned counsel for applicant-appellant Gurmukh Singh:-

6. Learned counsel for applicant-appellant Gurmukh Singh contended that during the investigation of this case, Police recorded the statement of co-accused-Gagandeep Singh and dragged the applicant-appellant Gurmukh Singh in this case due to political reasons as he along with his father -Jasveer Singh Rode, former Jathedar of Sri Akal Takht Sahib, Amritsar was publishing a Punjabi Daily newspaper 'Aj Di Awaz' from Jalandhar. Applicant-appellant Gurmukh Singh was arrested on 20.08.2021 from Phagwara during



the investigation of the case. The Police raided his office and residence and had taken away an amount of ₹3,78,000/- from his house and planted some explosive substance on the applicant-appellant Gurmukh Singh, though, no objectionable articles were recovered by the Police from his residence. During his detention in case FIR No.92 dated 20.08.2021, he was arrested on 11.01.2022 by the Ferozepur Police in the present case. He was neither named in the FIR nor there was any recovery of any objectionable article from him during investigation. After completion of the investigation in the present case, challan was submitted by NIA in the Court of Special Judge, NIA, Punjab but sanction to prosecute the applicant-appellant Gurmukh Singh under Section 25(1A) of Arms Act and Sections 4,5 and 6 of Explosive Act, was not accorded by the competent authority. After completion of investigation in case FIR No.92 dated 20.08.2021, a report under Section 173 Cr.P.C. was submitted by the Phagwara Police under Section 25(1AA), 54, 59 of Arms (Amended) Act, 2001, Sections 4, 5 of Explosive Substances Act (Amendment Act, 2001) and Sections 121/121-A/122/120-B IPC and Section 13 of the Punjab Travel Profession (Regulations) Act, 2014 but charges were not framed on 30.11.2022 under Sections 13/16/17/18/18-B/20 of the Unlawful Activities (Prevention) Act, 1967, whereas no revision was filed by the State. The applicant-appellant Gurmukh Singh was granted bail in case FIR No.92 dated 20.08.2021. The second regular bail application was dismissed by learned trial Court without any reason. Sanction to prosecute the appellant under Arms Act and Explosive Substances Act is not taken and in the report under Section 173 Cr.P.C, it was wrongly mentioned that the sanction is obtained. Since no recovery is effected from the applicant-appellant Gurmukh Singh sanction



under Arms Act and Explosive Substances Act was rightly not accorded by District Magistrate, Firozepur. As regards the offences under UAPA, these provisions have been dropped by learned Additional Sessions Judge, Kapurthala. Applicant-appellant Gurmukh Singh is in custody since long. The allegations against him are that he was talking to his paternal uncle (elder brother of his father)-Lakhbir Singh (now deceased) stated to be in Pakistan but during investigation, NIA has not been able to find any transcription or text of any such telephonic talk. During the investigation, no incriminating evidence was found against the applicant-appellant Gurmej Singh. Provisions of NDPS Act, 1985 are also invoked against him but no article was recovered, making it case under the NDPS Act. He is not involved in any other case except in case FIR No.92 dated 20.08.2021 under Arms Act and Explosive Substances Act, registered at Police Station Phagwara. He is not declared as proclaimed offender in any case. He is involved in these cases being son of Jathedar Jasbir Singh Rode, former Jathedar of Sri Akal Takht Sahib, Amritsar who happens to be nephew of late Sant Jarnail Singh Bhindranwale. His father is not involved in any criminal case and he has been made a scapegoat by the Government to tame his father for political considerations. There is no such movement as '*Khalistan Movement*' in State of Punjab but the Government is highlighting the Khalistan phobia which has no basis, only to gain political mileage. Applicant-appellant Gurmukh Singh is not interested in politics and has never addressed any political congregation. Learned counsel for applicant-appellant Gurmukh Singh vehemently prayed for his release on regular bail while setting aside the impugned order passed by learned Judge, Special Court.



Submissions of Special Prosecutor for respondent-NIA

7. Arguments of Sh. Sukhdeep Singh Sandhu, Special Prosecutor for respondent NIA is that applicant-appellant Gurmukh Singh is nephew of Lakhbir Singh Rode @ Baba who is the chief of terrorist of outfit International Sikh Youth Federation which is banned by Government of India. He with the help of co-conspirators intended to strike terror in India. He along with his associates Mansa Sandhu used to send consignments of narcotic substances, weapon, ammunitions, explosive materials/IED(Tiffin Bombs) etc. from Pakitstan via drones on the border area. He motivated co-accused Harmesh Singh@ Harmesh @ Kali and applicant-appellant Gurmukh Singh through WhatsApp, Viber, Text Now etc. The consignments were picked up by applicant-appellant Gurmukh Singh and said Harmesh Singh@ Harmesh @ Kali and on their directions, the said articles were further concealed and placed at the locations on the directions of said Lakhbir Singh Rode @ Baba at different places in Punjab for execution of terrorist activities. The three consignments i.e. 1st consignment on 18.07.2021 containing 02 pistols .30 bore (with magazine, 05 cartridge), 02 magazines, 01 rubber tube (one feet long), yellow wire bundle and 02 detonators in plastic container were delivered at Essar Petrol Pump near 17 mile stone, 2nd consignment on 30.07.2021 containing 04 grenades and 02 IEDs/Tiffin Bombs and 3rd consignment dated 03.08.2021 again at same location i.e. Essar Petrol Pump near 17 mile stone, consisting of INR 3 lakh in denominations of INR 500 delivered by Harmesh Singh@ Harmesh @ Kali and Darvesh Singh @ Shinda, were picked up by applicant-appellant Gurmukh Singh and concealed at different places. During the raid of his house, 5 Grenades, 2 Boxes Detonators,1 small rubber tube



Detonator,2 Rubber tubes filled with explosive material,1 yellow wire (Pakistani),Rs. 3,78,000/-, 1 pistol.45 bore along with magazine, 24 cartridges,14 Indian passports,1 packet suspicious powder,1 Tiffin bomb,4 Pistol magazines, Packing material, Mobile phones Apple 12 pro and Samsung and 1 Endeavour Car no. PCS 400 Black colour were recovered. This *prima facie* proves that he is working at the instance of Lakhbir Singh Rode @ Baba and Mansa Sandhu @ Mnnsh to strike terror in the country to endanger the security, unity and integrity as well as social fabric and economy of the country.

Applicant-appellant Gurmej Singh @ Geju used to receive the funds which were generated by sale of narcotics substances which were smuggled from Pakistan and delivered to his associates. He received Rs. 8 lacs from Darvesh Singh alias Shinda which was proceeds of narcotics and handed over to Karanveer Singh, employee of Saraj Singh alias Sarpanch on the direction of other co-accused. He used to collect narcotic substances and money by using motorcycle which was registered in the name of his father-Joginder Singh. Applicant-appellant Gurmej Singh @ Geju was constantly in touch with Lakhbir Singh Rode @ Baba and Mansa Sandhu @ Mnnsh which is proved from the data retrieved from mobile phone recovered from his house which was used by him. Charges have been framed against them and requisite sanction to prosecute is also obtained against them. Learned Special Prosecutor for NIA submits that since charges are framed against the appellants, there exist facts which *prima facie* show the involvement of the appellants in commission of the offences for which they are challaned and charged and in support of his contention, he relies upon the judgment of the Hon'ble Supreme



Court in *Gurwinder Singh vs. State of Punjab, (2024) 5 SCC 40,3* which is in his opinion is *magna carta* to deal with the cases under UAPA.

Discussion:

8. During the course of arguments, both the learned counsel for the appellants and learned Special Prosecutor for NIA are ad-idem that Section 43D(5) of UAP Act creates some embargo for grant of bail. Contention of learned counsel for the appellants is that said Section is not applicable in the instant appeals whereas learned State counsel vehemently contended that from the facts investigated and stated in report under Section 173 Cr.P.C. and documents annexed thereto, embargo under Section 43D(5) of UAP Act is applicable. This Section reads as under:-

“43D(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.”

9. The proviso to Section 43D(5) of UAP Act clearly states that if Courts are satisfied that the prima-facie allegations against the accused are true after “*perusal of case diary or report made under section 173 Cr.P.C.*” bail cannot be granted. In other words, after examining documents annexed to report under Section 173 Cr.P.C. if the Courts are satisfied that allegations



against the accused are not true, bail under Section 43D(5) of UAP Act can be granted.

10. Hon'ble Apex Court in case *Gurwinder Singh v. State of Punjab, (2024) 5 SCC 403*, elaborately dealt with what amounts to a *prima facie* case. Paragraphs 24 to 26 of the aforesaid judgment are relevant which are reproduced herein for ready reference:-

“24. *The source of the power to grant bail in respect of non-bailable offences punishable with death or life imprisonment emanates from Section 439 Cr.P.C. It can be noticed that Section 43-D(5) of the UAP Act modifies the application of the general bail provisions in respect of offences punishable under Chapter IV and Chapter VI of the UAP Act.*

25. *A bare reading of sub-section (5) of Section 43-D shows that apart from the fact that sub-section (5) bars a Special Court from releasing an accused on bail without affording the Public Prosecutor an opportunity of being heard on the application seeking release of an accused on bail, the proviso to sub-section (5) of Section 43-D puts a complete embargo on the powers of the Special Court to release an accused on bail. It lays down that if the Court, “on perusal of the case diary or the report made under Section 173 of the Code of Criminal Procedure”, is of the opinion that there are reasonable grounds for believing that the accusation, against such person, as regards commission of offence or offences under Chapter IV and/or Chapter VI of the UAP Act is *prima facie* true, such accused person shall not be released on bail or on his own bond. It is interesting to note that there is no analogous provision traceable in any other statute to the one found in Section 43-D(5) of the UAP Act. In that sense, the language of bail limitation adopted therein remains unique to the UAP Act.*

26. *The conventional idea in bail jurisprudence vis-à-vis ordinary penal offences that the discretion of courts must tilt in favour of the oft-quoted phrase — “bail is the rule, jail is the exception” — unless circumstances justify otherwise — does not find any place while dealing with bail applications under the UAP Act. The “exercise” of the general power to grant bail under the UAP Act is severely restrictive in scope. The form of the words used in the proviso to Section 43-D(5) — “shall not be released” in contrast with the form of the words as found in Section 437(1) Cr.P.C — “may be released” — suggests the intention of the legislature to make bail, the exception and jail, the rule.*



11. Hon'ble Apex Court in. ***Union of India Vs. K.A Najeeb (2021)3 SCC 713***, observed as under:-

"long custody would be an essential factor while granting bail under the UAPA. Article 21 of the Constitution of India provides right to speedy trial and long period of incarceration would be a good ground to grant bail to an under trial for an offence punishable under the UAPA. It has also been held that the embargo under Section 43-D of the UAPA would not negate the powers of the Court to give effect to Article 21 of the Constitution of India."

12. In *Gurwinder Singh's case (supra)*, *K.A.Najeeb's case (supra)* was not followed because in the said case except the appellant, other co-accused had already undergone trial and were sentenced to undergo imprisonment of not exceeding eight years and Hon'ble Apex Court granted bail in anticipation of the impending sentence that the accused (*K.A.Najeeb's case*) might face upon conviction and also because the accused had already served portion of maximum imprisonment i.e. more than five years. The trial against accused was separated because he was declared proclaimed offender whereas trial against co-accused was completed and they were already sentenced. That factor was considered for grant of bail. Therefore, K.A.Najeeb's judgment cannot be applied to each case in UAP Act without considering the peculiar facts of the said case.

13. With the assistance of learned counsel for the appellant and learned Special Prosecutor for NIA, we have perused the final report/charge sheet submitted by the NIA before trial Court. The sanction to prosecute Gurmukh Singh and Gagandeep Singh under Sections 13,16, 17, 18, 18-B/20 of UAP Act and other Sections of IPC, Arms Act and Explosive Substances



Act, Section 13 of the Punjab Travel Professionals Regulations Act, 2014 is obtained on 14.02.2022.

14. During the course of arguments, learned counsel for applicant-appellant Gurmej Singh @ Geju has not denied the recovery of blue coloured mobile phone OPPO A 54, Model CPH 2239 bearing IMEI No.1. 862026052353259, No.2.862026052353242 including SIM Card serial No.8991000905309445494U from his house during search on 09.12.2021. As per allegations against him, there was incriminatory material in his phone and mobile No.923114435400 was also found in the contact list and he was regularly in touch with Mansa Sandhu who is also in touch with Lakhbir Singh Rode @ Baba(stated to have died as of now). Applicant-appellant Gurmej Singh @ Geju used to collect money after sale of narcotics material which was smuggled from Pakistan and that amount was used for terror funding. Though, counsel for applicant-appellant Gurmukh Singh pleaded that nothing is recovered from his possession, but the challan reveals the recovery as noted in para No.3(a)(viii) of this order. There is no reason for keeping 14 Indian Passports and other suspicious materials in his house.

15. Facts of this case it reveals that money received from sale of narcotic substance smuggled from across the border is used for terror funding and the accused-appellants are actively involved in India for terror funding at the behest of their masters who are working from across the border i.e. in Pakistan. The consignments of arms and ammunition, currency notes and narcotic substances i.e. Heroine is delivered from across the border. Accused Harmesh Singh @ Harmesh @ Kali, Darvesh Singh and Gurmej Singh allegedly used to separate the narcotic packages from the consignments,



photograph the arms and ammunitions, explosives etc. and share it via Whats App and other applications with co-accused Lakhbir Singh Rode @ Baba and after photography, consignment was concealed either in the crop fields or in the house of Darvesh Singh @ Shinda and after concealment of consignment at pre-decided destinations, photographs were clicked and shared with co-accused Lakhbir Singh Rode @ Baba who used to give information about it to appellant Gurmukh Singh, non-appellant Gagandeep Singh. Out of these consignments, two pistols, two Tiffin bombs, one rubber tube, four Grenades, 4 Magazines, two detonator boxes and terror funds of Rs. 3 lacs were stated to be picked up by appellant Gurmukh Singh and non-appellant Gagandeep Singh, concealed it at difference places for facilitation of terror activities. This prima-facie leads to the conclusion that both the appellants are part of anti national elements who indulge in Narco-terrorism, reflecting another dimension of anti national activities wherein there is a nexus between narcotic and terrorism. Since sponsoring terrorism is an expensive affair and alongwith arms and ammunitions, Heroine is smuggled inside the country from across the border of the country to fund terrorist activities and Rs. 8 lacs as terror fund was stated to have been transferred by appellant Gurmej Singh to employee of Saraj Singh, Sarpanch. The facts brought on record by the respondent-NIA prima-facie prove the involvement of appellants in the terrorist activities. The trial is in progress. Since they have links with persons across the border, who fund their activities, there are also chances of their absconding from trial.

Conclusion:

16. In view of above discussions, both the appellants are not entitled for grant of regular bail. Accordingly, both the appeals stand dismissed.



17. Any observations made herein, while deciding these appeals, shall have no bearings on the merits of the case.

18. To expedite the trial against the appellants, the trial Court is directed to take the following steps:-

- (i) The trial Court shall frame a schedule of dates in advance for summoning the witnesses and shall also endeavour to record the statements of the PWs whose presence is duly secured. Special Messengers be deputed for securing the presence of the prosecution witnesses. If deemed necessary, a letter may be written to the Senior Superintendent of Police, concerned, for getting the needful done for ensuring timely presence of prosecution witnesses; and
- (ii) The prosecution is directed to ensure the presence of all the prosecution witnesses before the trial Court on the dates as may be fixed by the trial Court for recording prosecution evidence. The District Attorney concerned to take necessary steps for the purpose of securing the presence of the remaining prosecution witnesses;

A copy of this order be placed in the connected file.

(GURVINDER SINGH GILL)
JUDGE

05.12.2025

Jyoti-IV

Whether speaking/reasoned	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Whether reportable	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

(RAMESH KUMARI)
JUDGE