

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (DB) No. 944 of 2025

Kunwar Ganjhu @ Kuwar Ganjhu, aged 48 years, son of late Rambrat Ganjhu @ Ram Briksh Ganjhu, resident of Village-Hesla Banjhitola, PO and PS: Chandwa, District Latehar. **Appellant**

Versus

National Investigating Agency **Respondent**

CORAM : HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant	: Mr. Nilesh Kumar, Advocate
For the NIA	: Mr. Amit Kumar Das, Advocate

CAV On: 17.11.2025

PRONOUNCED ON:02.12.2025

Per se: Sujit Narayan Prasad, J.

1. The instant appeal preferred under Section 21(4) of the National Investigation Agency Act, 2008 is directed against the order dated 09.07.2025 passed by the learned A.J.C.-XVI- cum- Special Judge-NIA, Ranchi, in Misc. Cr. Application No.1097 of 2025 [Special (NIA) Case No.03 of 2020], corresponding to R.C. Case No.38/2020/NIA/DLI, arising out of Chandwa P.S. Case No.04 of 2020 registered for the offence under Sections 386, 411 and 120B of the I.P.C., Section 17 of the C.L.A. Act and Sections 13, 16, 17, 20, 21 & 23 of the Unlawful Activities (Prevention) Act, whereby and whereunder, the prayer for regular bail of the appellant has been rejected.

Factual Matrix

2. At the outset it requires to refer herein that the appellant had earlier moved before this court for grant of bail vide Criminal Appeal (DB) No.

358 of 2023 which was rejected by this court vide order dated 15.1.2024. Thereafter, against the said order the appellant had moved S.L.P. before the Hon'ble Apex Court vide SLP(Crl.) Diary No. 19073 of 2024 but the same has also been dismissed vide order dated 06.5.2024 passed by the Hon'ble Apex Court.

3. The brief facts of the prosecution case leading to the present Criminal Appeal are on the basis of self-statement of Inspector of Police Madan Kumar Sharma, SHO of Chandwa Police Station, District Latehar wherein it is stated that on 5.1.2020, the informant received secret information that three persons are coming Budhbazar, Chandwa on a motorcycle bearing registration no. JH01CW7773, who are members of Maoist Organization, to collect levy amount from a contractor and they will proceed to deliver the said amount to Maoist Ravindra Ganjhu.

4. On receipt of said information, the informant along with other police officers and armed forces reached near Shiv Mandir, Saroj Nagar, Budhbazar, Chandwa at 17:00 hours for verification of the information. They noticed that three persons are going towards stadium by a motorcycle bearing registration No. JH01CW7773. The informant directed them to stop but they tried to escape, however, they were apprehended by the police party. They disclosed their names as Baijnath Ganjhu (A-1), Rajesh Kumar Ganjhu (A-2) and Kunwar Ganjhu, the petitioner (A-3).

5. On search, one black colour purse, one Aadhar Card belongs to Lalita Devi, one Aadhar Card belongs to Sukhmani Devi (wife of A-3), a cash of Rs. Five lakhs, one Aadhar Card of Rajesh Kumar, one ATM Card, one pass-book of Union Bank of India in the name of Rajesh Ganjhu were

recovered.

6. On search of Baijnath Ganjhu, one pitthu bag was found in his possession which was searched and ten bundles of Rs. 500 currency notes containing 100 notes in each bundle total valued Rs. 5,00,000/-, one black colour trouser, one full sleeve round neck T-Shirt, Samsung Mobile phone of silver colour with mobile no. 6204491927, one purse containing one PAN card and Aadhar Card of Baijnath Ganjhu, a letter written by Maoist Ravindra Ganjhu addressed to Sonu Singh through which levy amount of Rs. Five lakhs was demanded were recovered.

7. The apprehended persons further disclosed that they are henchmen of Maoist Commander Ravinder Ganjhu and under his direction they provide logistic support and information about police movement to Ravindra Ganjhu and the members of Maoist organization and today they had gone to take levy money to the house of Sonu Singh, thereafter, seizure list was prepared.

8. On the basis of above Chandwa P.S. Case No. 04 of 2020 was registered against the aforesaid accused persons. After investigation, the Jharkhand state police had filed chargesheet vide Final Report No.59/2020 on 02.07.2020 under sections 386, 411 and 120B of the IPC, section 17 of the CL(A) Act and sections 13, 16, 17, 20, 21 and 23 of the UA(P), Act against 03 arrested accused (i) Rajesh Ganjhu (A-2), (ii) Baijnath Ganjhu (A-1) and (iii) Kunwar Ganjhu (A-3) and cognizance of the offence was taken on 16.07 2020. Further investigation of the case was continued by the state police against other absconding accused.

9. When the Central Government received information about

registration of Chandwa PS Case No. 04 of 2020 and arrest of three accused persons and seizure of Rs. 5 lakhs in cash from their possession, directed the NIA vide order F. No. 11011/66/2020/NIA dated 29.10.2020 to take over investigation of the said case. Thereafter, NIA re-registered a case bearing RC case no. RC/38/2020/NIA/DLI against five accused persons on 13.11.2020 for the said offences.

10. During pendency of the investigation, the appellant/accused Kunwar Ganjhu (A-1) and his accomplices cum co-accused Baijnath Ganjhu (A-1) and Rajesh Ganjhu (A-2) had filed a bail petition under section 167 of Cr.PC before the NIA Special Court, Ranchi but the same was rejected on 19.07 2021.

11. Being aggrieved by the aforesaid bail dismissal order dated 19.07.2021, the appellant Kunwar Ganjhu (A-3), his accomplice moved to this Court, by way of filing Cr. Appeal (DB) No. 181 of 2021 but the same was rejected by this Hon'ble Court vide order dated 29.11 2022.

12. Consequently, the above-named appellant had preferred the regular bail application vide Misc Criminal Application No. 183 of 2023 before the NIA Special Court, Ranchi but the same has been rejected vide order dated 13.02.2023, against which, again the appeal being Cr. Appeal (DB) 358 of 2023 has been filed but the same was dismissed on 15.01.2024.

13. Thereafter, against the said order the appellant had moved S.L.P. before the Hon'ble Apex Court vide SLP(Crl.) Diary No. 19073 of 2024 but the same has also been dismissed vide order dated 06.5.2024 passed by the Hon'ble Apex Court.

14. Again, an application being Misc. Criminal Application No. 1097 of

2025 has been preferred by the appellant before the Spl. Judge NIA Ranchi, but the same was dismissed on 09.07.2025 against which the present appeal has been preferred.

Submission of the Learned Counsel for the Appellant:

15. Mr. Nilesh Kumar, the learned counsel for the appellant has assailed the impugned order on the following grounds:-

(i) That from perusal of order dated 6.5.2024 of the Hon'ble Apex Court it would be clear that Hon'ble Court has observed "That the petitioner is in custody but trial has not commenced and charges have still not been framed despite submission of charge sheet and the trial court was directed to proceed with the trial expeditiously".

(ii) Though in the present case charge has been framed and there are 160 witnesses cited as charge sheeted witnesses but it appears from the impugned order dated 9.7.2025 that none of the witnesses has been examined so far.

(iii) It appears from the order itself that the petitioner is in custody since 6.1.2020.

(iv) It is a settled law that the constitutional rights given under article 21 will prevail over the statutory embargo provided under section 43(d)(5) of the Unlawful Activities (Prevention) Act, 1967.

(v) The petitioner is innocent and only on suspicion he has been apprehended in the present case. No legal material has been collected against the petitioner to connect him with the present case.

(vi) As per the allegation itself this petitioner has been made accused mainly on the ground that his brother Ravindar Ganjhu is a known extremist

and this appellant provides all logistic support to him.

(vii) All these grounds have been argued before the learned trial court and learned trial court has rejected the bail application of this appellant vide order dated 9.7.2025 passed vide Miscellaneous Criminal Application No. 1097 of 2025.

16. Learned counsel for the appellant, on the aforesaid premise, has submitted that the learned trial Court ought to have considered that aspect of the matter, while considering the prayer for regular bail, but having not been considered, therefore, the impugned order needs to be interfered with.

Submission of the Learned Counsel for the NIA

17. While, on the other hand, learned counsel appearing for the NIA has defended the impugned order on the following grounds: -

(i) The investigation revealed that the appellant/accused Kunwar Ganjhu (A-3) is the elder brother of absconding Maoist commander Ravindra Ganjhu (A-4) and is a courier, over-ground worker (OGW), and logistic handler for the banned CPI (Maoist). He has been actively supporting his brother's Dasta by collecting funds, relaying Maoist letters, and performing surveillance and communication duties for the outfit.

(ii) On 02.01.2020 and again on 05.01.2020, appellant/accused (A-3) Kunwar Ganjhu accompanied co-accused A-1 and A-2 to collect levy money of Rs. 5,00,000 from Sonu Singh (A-5) at his residence, following instructions issued through a Maoist letter from A-4. After receiving the extortion amount and clothing material, accused were intercepted enroute to deliver the proceeds back to A-4 in Beerjangha forest.

(iii) The cash was physically recovered from the trio including the

appellant/accused Kunwar Ganjhu (A - 3) his constructive possession and participation is established through:

- (a) Scene reconstruction memo dated 19.01.2021, in which the appellant/accused Kunwar Ganjhu (A-3) pointed out the route and location.
- (b) Call Detail Record (CDR) analysis, evidencing frequent communication with A-1 and A – 2.
- (c) Photo Identification Proceedings, Sonu Singh (A - 5) positively identified the appellant/accused Kunwar Ganjhu (A - 3) as one of the recipients of the extortion amount and Maoist courier.
- (iv) Further investigation has established that the appellant/accused Kunwar Ganjhu (A-3) procured 10 decimals of land at Kundu, Lohardaga, with funds arranged by Ravindra Ganjhu (A - 4) and derived from terrorist activities. The said property was attached as terrorist property under section 25 UA (P) Act and the attachment confirmed by the NIHA on 07.07.2021.
- (v) In addition to the above, historical evidence links the appellant/accused Kunwar Ganjhu (A-3) to earlier deliveries of extortion funds to A-4 in 2012 and 2014, and to providing material support in the form of sports kits for Maoist-backed teams, as noted in protected witness testimonies and the 1st Supplementary Charge Sheet.
- (vi) the appellant/accused Kunwar Ganghu (A-3) already stands charge sheeted in two Chandwa P.S. cases; FIR No. 140/2018 (arson/extortion) and FIR No. 34/2019 (obstructing a public servant), illustrating a pattern of extortion-linked violence.
- (vii) The protected witnesses have established that the appellant/accused

Kunwar Ganjhu (A-3) was sighted with co-accused A-4 and Sonu Singh (A-5) in Beerjangha forest between 19-22 November, 2019 while logistical preparations were made for the Lukuiya More ambush that killed four policemen.

(viii) Based on oral, documentary, electronic and forensic evidence, the NIA filed the 1st Supplementary Charge Sheet on 05.10.2023 under sections 120B, 123, and 411 of the IPC, sections 17, 18, 20, 21, 38, 39 and 40 of the UA(P) Act, 1967, among others, against the appellant/accused Kunwar Ganjhu (A-3), clearly describing his role as of CPI courier, messenger and supporter (Maoist).

(ix) It is stated that charges have been framed against the appellant and presently, the prosecution has been adducing evidence in the instant trial and is fully committed to timely conclusion of the trial. Currently, evidence of 08 (Eight) prosecution witnesses has been adduced on record before the Ld. Special Court.

(x) It is submitted that at this stage, if the appellant/accused is allowed to be released on bail, then he will get all opportunities to tamper with the evidence as well as influence the witnesses.

(xi) On earlier occasion the prayer for grant of bail of the present appellant had already been rejected by this Court, on merit, vide order dated 15.01.2024 in Criminal Appeal (DB) No. 358 of 2023 and thereafter, against the said order, the appellant preferred SLP being the Hon'ble Supreme Court being Special Leave Petition (Crl. Appeal) Diary No.19073/2024) which was dismissed vide order dated 06/05/2024. Accordingly by referring the aforesaid fact the learned counsel for NIA has submitted that since on

earlier occasion the prayer of the appellant has already been rejected after due appreciation on merit and the said order has not been interfered by the Hon'ble Apex Court, and further there is no change of circumstances in fact or law, therefore the present appeal is not required any interference by this Court.

18. Learned counsel for the NIA, therefore, has submitted on the aforesaid premise that no fresh ground, on facts as well as on law, has been agitated herein by renewing the prayer for grant of bail, hence, the instant appeal is also fit to be dismissed.

Analysis:

19. We have heard learned counsel for the parties, perused the material available on record as also the finding recorded by the learned trial court in the impugned order.

20. This Court, before proceeding to examine as to whether the appellant has been able to make out a *prima facie* case for enlarging him on bail, deems it fit and proper that the requirement as stipulated under Section 43D(5) of the - Unlawful Activities (Prevention) Act, 1967 is required to be considered herein.

21. Section 43(d)(5) mandates that the person shall not be released on bail if the court is of the opinion that there are reasonable grounds for believing that the accusations made are *prima facie* true apart from the other offences the appellant is accused of committing offences under Sections 17, 18 and 21 of the UA(P) Act, 1967.

22. The requirement as stipulated under Section 43D(5) of the UA(P) Act,

1967 in the matter of grant of regular bail fell for consideration before the Hon'ble Apex Court in the case of *National Investigation Agency v. Zahoor Ahmad Shah Watali [(2019) 5 SCC 1]* wherein at paragraph 23 it has been held by interpreting the expression “prima facie true” as stipulated under Section 43D(5) of the Act, 1967 which would mean that the materials/evidence collected by the investigation 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 commission of the stated offence.

23. It has further been observed that 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. 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. For ready reference, paragraph 23 of the aforesaid judgment is required to be quoted herein which reads hereunder as :-

“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....”

24. It is, thus, evident from the proposition laid down by the Hon'ble Apex Court in the case of ***National Investigation Agency v. Zahoor Ahmad Shah Watali*** (supra) that while considering the ground of delay under Section 43D(5) it is the bounden duty of the Court to apply its mind to examine the entire materials on record for the purpose of satisfying itself, whether a *prima facie* case is made out against the accused or not.

25. This Court, on the basis of the aforesaid position of law as has been settled by the Hon'ble Apex Court is proceeding to examine as to whether the accusation is *prima facie* true as compared to the opinion of accused not guilty by taking into consideration the material collected in course of investigation by the NIA.

26. This Court had directed the NIA to file counter affidavit, as would appear from the order dated 12.09.2025 and in pursuance thereof the counter affidavit has been filed.

27. Before entering into the merit of the case, it would be apt to refer

herein that the prayer for bail was made before the learned trial court by preferring Misc. Criminal Application No. 183 of 2023 but the same had been rejected vide order dated 13.02.2023 against which appeal was preferred being Cr. Appeal (DB) No. 358 of 2023 which has also been dismissed vide order dated 15.01.2024. Thereafter, the appellant preferred Special Leave Petition before the Hon'ble Apex Court vide SLP (Crl.) Diary No. 19073 of 2024, which was dismissed vide order dated 06.05.2024.

28. Thereafter, the present appellant again preferred Misc. Cr. Application No. 1097 of 2025 which has been dismissed vide order dated 09.07.2025, against which the present appeal has been preferred.

29. Thus, from the aforesaid, it is evident that this Court while rejecting the prayer for bail of the present appellant vide order dated 15.1.2024 has already expressed its view on merit of the case by taking into consideration the settled proposition of law. For ready reference, the relevant paragraph(s) of the said order is being referred as under:

“ 34. It is evident from the counter affidavit based upon the material collected in course of investigation as in the charge-sheet that the appellant is named accused of this case and from FIR, it is evident that appellant along with his associates were apprehended from the place of occurrence, then in presence of independent witnesses, all the apprehended accused persons were searched one by one. On search of Baijnath Ganjhu, ten bundle of 500 notes containing 100 notes in each bundle total 1000/- note valued Rs.5 lakhs cash was seized and from the back of the shirt, one hand written letter by Naxalite Ravindra Ganjhu (A-4) addressed to Sonu Singh was found, wherein, Rs.5 lakh which was levy amount, has been demanded.

35. On recovery of Rs.5 lakhs cash and a letter to Sonu Singh(A-5) by Ravindra Ganjhu (A-4), all the three persons failed to provide reasonable explanation, rather, they disclosed that they belong to

close aid of CPI (M) commander Ravindra Ganjhu(A-4) and on the direction of Ravindra Ganjhu, they used to provide logistic support in the shape of providing articles, supply letters to other people and they also inform Ravindra Ganjhu about police movement.

36. The present appellant confessed his guilt and admitted that he is brother of Ravindra Ganjhu (A-4) who called them and handed over letter and told to hand over letter to Sonu Singh (A-5). He also told them that Sonu Singh will give Rs.5 lakh after taking letter and they all after taking money come to Birjanga forest and hand over to him. Accordingly, they proceeded to Sonu Singh as per direction of Ravindra Ganjhu to Chandwa. Accordingly, they handed over letter to Sonu Singh who immediately gave Rs.5 lakhs to them and also returned the letter. They were going to hand over money to Ravindra Ganjhu meanwhile they were caught red handed.

37. Appellant Kunwar Ganjhu (A-3) in his voluntary disclosure, statement recorded on 18.1.2021, in presence of two independent witnesses admitted that in 2013-2014 he purchased ten decimals of land in Kundo village, Kudu Panchayat for a sum of Rs.2,50,000/- and out of Rs.2,50,000/- his brother Ravindra Ganjhu (A-4) arranged Rs.50000/- which were collected from one contractor as levy.

38. It appears from the record that the appellant/ accused had threatened a contractor for getting work, taking name of his brother Ravindra Ganjhu (A-4), a top cadre of CPI Maoist and he got 2/2.50 lakh profit from the said work.

39. It has come on record that the appellant during his disclosure statement revealed that he used to meet his brother Ravindra Ganjhu A-4 in the forest upon receiving message from the letter. On 20/11/2019, appellant along with accused Bajinath Ganjhu A-1 and Sunil Ganjhu, met accused Ravindra Ganjhu and discussed about bail matter of Lalita Devi. In his presence accused Ravindra Ganjhu A-4 asked one person about Mrityunjay Kumar Singh @ Sonu Singh A-5 and gave one letter to that person with direction to hand it over to Mrityunjay Kumar Singh.

40. It is evident from the prosecution version that all 03 accused were intercepted by police and subsequently arrested together with cash amounting to Rs. 5 lakhs and one letter of CPI(Maoist) cadre Ravindra Ganjhu (A-4) addressed to Sonu Singh (A-5), which indicates that, the appellant/accused Kunwar Ganjhu (A-3) and his associates had absolute knowledge about the offence and they had

committed the offence, conjointly.

41. During investigation, it has revealed that a mobile number 6200870200 was being used by the accused Kunwar Ganjhu (A-3) till his arrest and call detail record (CDR) analysis of the said mobile number revealed that he was in frequent contact with co-accused persons, namely, Baijnath Ganjhu (A-1), Rajesh Ganjhu (A-2) and the contact number of accused Kunwar Ganjhu (A-3) was found in the saved contact list of the mobile phone of accused Baijnath Ganjhu (A-1) which was seized in the instant case.

42. It appears that during investigation, it has come on record that the appellant/accused Kunwar Ganjhu (A-3) is an over-Ground Worker/courier of CPI (Maoist), a proscribed terrorist organisation and he is actively involved in collection of levies, extortion of different amounts from the contractors, in the name of his brother Ravindra Ganjhu (A-4), who is a top cadre of proscribed extremist organisation CPI (Maoist) and accused of many terrorist related cases of murder, attempt to murder, extortion, robbery etc.

43. Thus, it appears from record that the appellant/ accused Kunwar Ganjhu (A-3) had a clear knowledge that, CPI (Maoist) is a proscribed terrorist organization and involved in many terrorist acts across the State. Despite having such knowledge, he continued to help the said terrorist organization and he acted in blatant contravention of laws and impair the safety and security of citizens and the State.

44. It has come on record that the appellant/accused Kunwar Ganjhu (A-3) is also an accused in two more criminal cases of extortion and causing hurt or threatening to a public servant, registered at PS Chandwa, District-Latehar, Jharkhand vide FIR No.140/18 dated 04.11.2018 under sections 147, 148, 149, 341, 342, 386, 487, 427,435, 436 of IPC, sections 10, 13 of UA (P) Act, section 17 (i) and 17 (ii) of the CLA Act and FIR No. 34/19 dated 06.04.2019 under sections 341, 323,353, 34 of IPC.

45. The facts disclosed by the appellant were duly corroborated during course of investigation by way of statement of witnesses and thereby, prima facie the allegation as made against the accused/ petitioner appears to be true.

46. Thus, from perusal of the various annexures and paragraphs of the charge sheet, prima facie appears that the appellant (A-3) has associated himself with terrorist organisation CPI (Moist) knowingly and aided the said organisation voluntarily and further he has

provided logistics support to terrorist organisation CPI (Moiist), took part in meeting with its cadres and has collected or received funds from Sonu Singh (A-5) and others for terrorist organisation CPI (Maoist) knowing that such funds would be used for terrorism.

47. Thus, it is evident that the appellant connected with CPI Mandet and actively participating and aiding to the banned organisation. Recently, the Hon'ble Apex Court has also held in the case of Arup Bhuyan Vrs. State of Assam & Anr., reported in (2023) 8 SCC 745 that being a member of the banned organization is also an offence under the UA(P) Act.

50. While, on the other hand, Mr. Amit Kumar Das, learned counsel appearing for the Respondent-N.I.A. has seriously disputed the aforesaid fact apart from the merit that against the present appellant, altogether two criminal cases are pending and his involvement is direct in commission of offence having closed associates of four people of the CPI (Maoist).

*60. Accordingly, , This Court, on the basis of the facts as referred hereinabove and coming to the provision of Section 43D(5) of the Act, 1967 as also the judgment rendered by the Hon'ble Apex Court in the case of **Zahoor Ahmad Shah Watali (supra)** is of the view that it cannot be said that the allegation levelled against the appellants is prima facie untrue.*

61. In view of the foregoing discussions, we find no illegality in the impugned order dated 13.02.2023 passed in Misc. Cr. Application No.183 of 2023 by AJC-XVI-cum-Spl. Judge, NIA, Ranchi, rejecting the bail application of the appellant and as such, the order impugned requires no interference by this Court.

62 In the result, we find no merit in instant appeal, hence, the same is accordingly, dismissed.

63. Pending Interlocutory Application(s), if any, also stands dismissed.”

30. Now coming to the contention made by the learned counsel for the appellant, wherefrom it appears that no fresh ground has been raised except the ground of custody since the appellant is languishing in judicial custody

since 06.01.2020 and further contention has been raised about probable delay in conclusion of trial.

31. At this juncture, it would be appropriate to refer herein that only the long incarceration is not the ground to be looked into for enlarging the accused on bail rather the accusation so made against the accused persons as also societal impact is also to be taken care of.

32. The Hon'ble Apex Court in a judgment rendered in *Gurwinder Singh Vs State of Punjab and Another* reported in *2024 SCC OnLine SC 109* while taking into consideration the judgment as rendered in *National Investigation Agency v. Zahoor Ahmad Shah Watali*(supra) has observed that, the proviso to Sub-section (5) of Section 43D puts a complete embargo on the powers of the Special Court to release an accused on bail and 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.

33. The Hon'ble Apex Court further observed that 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 UAP Act and the 'exercise'

of the general power to grant bail under the UAP Act is severely restrictive in scope.

34. In the aforesaid context it has further been observed by the Hon'ble Supreme Court that the Courts are, therefore, burdened with a sensitive task on hand and in dealing with bail applications under UAP Act, the courts are merely examining if there is justification to reject bail and the 'justifications' must be searched from the case diary and the final report submitted before the Special Court.

35. In the aforesaid background the Hon'ble Apex Court has held that the test for rejection of bail is quite plain and Bail must be rejected as a 'rule', if after hearing the public prosecutor and after perusing the final report or Case Diary, the Court arrives at a conclusion that there are reasonable grounds for believing that the accusations are *prima facie* true. It has further been observed that it is only if the test for rejection of bail is not satisfied - that the Courts would proceed to decide the bail application in accordance with the **'tripod test' (flight risk, influencing witnesses, tampering with evidence)**.

36. For ready reference following paragraphs of the aforesaid Judgment are being quoted herein under:

"27. A bare reading of Sub-section (5) of Section 43D 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 43D 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 43D(5) of the UAP Act. In that sense, the language of bail limitation adopted therein remains unique to the UAP Act.*

28. 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 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 proviso to Section 43D (5)- ‘shall not be released’ in contrast with the form of the words as found in Section 437(1) CrPC - ‘may be released’ - suggests the intention of the Legislature to make bail, the exception and jail, the rule.

29. The courts are, therefore, burdened with a sensitive task on hand. In dealing with bail applications under UAP Act, the courts are merely examining if there is justification to reject bail. The ‘justifications’ must be searched from the case diary and the final report submitted before the Special Court. The legislature has prescribed a low, ‘prima facie’ standard, as a measure of the degree of satisfaction, to be recorded by Court when scrutinising the justifications [materials on record]. This standard can be contrasted with the standard of ‘strong suspicion’, which is used by Courts while hearing applications for ‘discharge--”

37. In this background, the test for rejection of bail is quite plain. Bail must be rejected as a ‘rule’, if after hearing the public prosecutor and after perusing the final report or Case Diary, the Court arrives at a conclusion that there are reasonable grounds for believing that the accusations are prima facie true. It is only if the test for rejection of bail is not satisfied that the

Courts would proceed to decide the bail application in accordance with the **‘tripod test’ (flight risk, influencing witnesses, tampering with evidence)**. This position is made clear by Sub-section (6) of Section 43D, which lays down that the restrictions, on granting of bail specified in Sub-section (5), are in addition to the restrictions under the Code of Criminal Procedure or any other law for the time being in force on grant of bail.

38. The Hon’ble Apex Court in the aforesaid judgment after textual reading of Section 43D(5) UAP Act, has formulated the guideline which was summarized in the form of a **twin-prong test**. For ready reference the relevant paragraph is being quoted as under:

“31. On a textual reading of Section 43 D(5) UAP Act, the inquiry that a bail court must undertake while deciding bail applications under the UAP Act can be summarised in the form of a twin-prong test:

1) Whether the test for rejection of the bail is satisfied?

1.1 Examine if, prima facie, the alleged ‘accusations’ make out an offence under Chapter IV or VI of the UAP Act

1.2 Such examination should be limited to case diary and final report submitted under Section 173 CrPC;

2) Whether the accused deserves to be enlarged on bail in light of the general principles relating to grant of bail under Section 439 CrPC (‘tripod test’)?”

39. In the backdrop of the aforesaid settled proposition of law, this Court is now adverting to the order dated 09.07.2025 passed by the learned trial court in Misc. Criminal Application No.1097 of 2025 which is under challenge herein.

40. The appellant earlier prayed for bail before the learned trial court by preferring Misc. Criminal Application No. 183 of 2023 but the same had been rejected vide order dated 13.02.2023 against which appeal was preferred being Cr. Appeal (DB) No. 358 of 2023 which has also been dismissed vide order dated 15.01.2024. Thereafter, the appellant preferred Special Leave Petition before the Hon'ble Apex Court vide SLP (Crl.) Diary No. 19073 of 2024, which was dismissed vide order dated 06.05.2024.

41. Thereafter, the present appellant again preferred Misc. Cr. Application No. 1097 of 2025 which has been dismissed vide order dated 09.07.2025, against which the present appeal has been preferred.

42. The learned trial court in the said order has taken into consideration that prayer for bail of the appellant had already been rejected up to the Hon'ble Apex Court. The learned trial court has observed in the order impugned herein that a *prima facie* case is being made out against the appellant on the basis of evidence collected by the NIA during investigation.

43. It has been taken note therein that the appellant is a courier/informer/over ground worker of CPI (Maoist) since long. He used to meet his Maoist brother Ravinder Ganjhu A-4. He collected funds from contractors by giving threats on behalf of his brother and extorted money from contractors by putting them in fear of death and he provides logistics support to his brother. On earlier occasions also the appellant received funds from Sonu Singh in 2012 and 2014 at the behest of his brother. He is accused in two more cases of extortion. He is a habitual offender of extortion

and he procured property with the proceeds of terrorism. He has taken active part in the criminal conspiracy.

44. Hence, the learned trial court taking into consideration the seriousness of the crime and role played by the petitioner, has rejected the prayer for bail of the present appellant vide order dated 9.7.2025 passed in Misc. Criminal Application No. 1097 of 2025 against which the present appeal has been preferred for grant of regular bail.

45. Thus, from the aforesaid factual aspect it is evident that earlier this Court has already considered the prayer for bail of the appellant, on merit, vide order dated 15.01.2024 and the said order has already been upheld by the Hon'ble Apex Court. However, the Hon'ble Apex Court while rejecting the prayer for bail of the petitioner has directed to the prosecution to expedite the trial.

46. Herein, the learned counsel for the respondent NIA has submitted at Bar that the trial in the instant case is in progress and charges have already been framed against the present appellant and further three prosecution witnesses have already been examined and most probably trial will be concluded as earlier as possible.

47. In the light of the aforesaid submission of the learned counsel for the NIA this Court is of the view that since in the instant case trial is in progress, three prosecution witnesses have already been examined, and further, this Court has already expressed its view on merit in earlier appeal which has been filed by the appellant with prayer for bail and since no fresh ground is available for the

appellant, therefore, it is considered view of this Court that it is not required for this Court to reiterate its view on merit.

48. It requires to refer herein that the Hon'ble Apex Court in the case of ***Gurwinder Singh v. State of Punjab***(supra) taking into consideration the ratio of judgment of ***Union of India vs. K.A. Najeeb, (2021) 3 SCC 713*** has observed that mere delay in trial pertaining to grave offences as one involved in the instant case cannot be used as a ground to grant bail, for ready reference the relevant paragraph is being quoted as under:

*“46. As already discussed, the material available on record indicates the involvement of the appellant in furtherance of terrorist activities backed by members of banned terrorist organisation involving exchange of large quantum of money through different channels which needs to be deciphered and therefore in such a scenario if the appellant is released on bail there is every likelihood that he will influence the key witnesses of the case which might hamper the process of justice. **Therefore, mere delay in trial pertaining to grave offences as one involved in the instant case cannot be used as a ground to grant bail. Hence, the aforesaid argument on behalf of the appellant cannot be accepted.**”*

49. Thus, on the basis of the aforesaid settled position of law it is evident that mere delay in trial pertaining to grave offences, as one involved in the instant case, cannot be used as a ground to grant bail.

50. Thus, taking into consideration that this Court has earlier expressed its view, on merit, with regard to the prayer for grant of bail of the present appellant as also there is no change in circumstances as no fresh ground has been agitated herein as also taking into consideration the submission advanced on behalf of the respondent-NIA that the trial is going on and some of the witnesses have already been examined, this Court is of the view that the order impugned dated 09.07.2025 passed in Misc. Criminal Application No. 1097 of 2025 requires no interference.

42. Accordingly, the instant appeal fails and is dismissed.
43. Pending interlocutory application(s), if any, also stands disposed of.

I Agree

(Sujit Narayan Prasad, J.)

(Pradeep Kumar Srivastava, J.)

(Pradeep Kumar Srivastava, J.)

KNR/--
A.F.R.