



2024:DHC:8752



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

Date of decision: 29th OCTOBER, 2024

IN THE MATTER OF:

+ **W.P.(CRL) 1783/2024 & CRL.M.A. 17322/2024**

INDER PAL SINGH GABA

.....Petitioner

Through: Mr. Arun Khatri and Mr. Sahil
Khurana, Advocates.

versus

NATIONAL INVESTIGATION AGENCY

.....Respondent

Through: Mr. S V Raju, ASG with Ms.
Kanchan, Sr. PP, Ms. Shilpa Singh,
SPP for NIA, Mr. Samrat Goswami,
Advocate and Mr. Rakesh Roshan,
Inspector CLO.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioner has approached this Court challenging the remand Order dated 25.04.2024 and subsequent remand orders dated 30.04.2024 and 03.05.2024 and further declare the arrest of the Petitioner in relation to FIR No. RC-05/2023/NIA/DLI registered by the NIA as illegal and consequently release the Petitioner from custody.

2. It is stated that FIR No.80/2024 dated 23.03.2023 registered at Police Station Special Cell, Delhi for offences under Section 109, 147, 148, 149, 120B, 448, 452, 325 IPC read with Section 13 of the Unlawful Activities (Prevention) Act, 1967, Section 3(1) of the Prevention of Damage to Public Property Act, 1984, Section 2 of the Prevention of Insults to National



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Honours Act, 1971 was registered on the basis of an information received from the Joint Secretary, Ministry of Home Affairs, Government of India enclosing a report submitted by the Assistant Personal and Welfare Officer, High Commission of India, London, United Kingdom. On the report of the High Commission, the FIR was registered which states that on Sunday, 19.03.2023, at about 13:45 hours (GMT), a crowd of 50-60 protestors had assembled in front of the High Commission building. They were carrying yellow flags being used by Khalistani separatists.

3. On seeing the crowd, the Assistant Personal and Welfare Officer, High Commission of India, London, United Kingdom rushed towards the reception and immediately informed the DPG (Diplomatic Protection Group) through SOS phone call about the emerging situation and requested for urgent deployment of adequate police force to prevent any violence. It is stated that one Avatar Singh @ Khanda, who is an Indian national carrying Passport No.F8777260 and one Gurcharan Singh (wearing saffron turban), both of whom were recognized by him since they were frequently seen near the High Commission, were amongst the leaders of the violent mob and were instigating the mob by shouting anti-India and Khalistani slogans.

4. The report states that the Assistant Personal and Welfare Officer, High Commission of India, London, United Kingdom saw one of the protesters was climbing up the balcony where the Indian flag was hoisted. It is stated that one Jasvir Singh from Slough was also helping the rioters in climbing up the balcony. The report states that the Assistant Personal and Welfare Officer, High Commission of India, London, United Kingdom along with Niraj Kumar Singh, Junior Warrant Officer, Air Wing of the High Commission rushed towards the flag post in the balcony. It is stated



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that on reaching the balcony, it was seen that one of the rioters had arrived the balcony and he dishonourably pulled down the Indian National Flag and was trying to pass it down towards the rioters on the sidewalk, who were trying to tear the Indian National Flag. It is stated that some rioters started pulling down the rope of the Indian National flag with full force. It is stated that the flag was retrieved with great difficulty as Mr. Niraj Kumar Singh, Junior Warrant Officer, Air Wing pulled up the rope and the flag was taken inside safely.

5. Meanwhile, a rioter atop the balcony was handed over a yellow Khalistani flag by his fellow protestor from below and he started waving the Khalistani flag. He also tried putting the khalistani flag on the flag post. It is stated that the rioter was informed that it is an unlawful activity as it was directly aimed at secession of the integral part of the sovereign territory of India. However, the rioters were aggressive and violent and hurled abuses. It is stated that the Junior Warrant Officer used all his physical strength to prevent the rioters from causing any further damage to the Indian flag or the High Commission building. It is stated that the rioter who had climbed the balcony and intruded in the building of the High Commission assaulted the Junior Warrant Officer with a metallic flag pole (pipe) that he was carrying with an intent to deter the Junior Warrant Officer from discharging his official duty. It is stated that Mr. Niraj Kumar Singh, Junior Warrant Officer, sustained injuries. The rioters were constantly exhorting and motivating the ones who had reached the balcony while continuing with slogans aimed at establishing Khalistan.

6. In the meanwhile, some protesters started hitting at the window panes and outer glass doors of the High Commission including the main entrance



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gate with metallic rods thereby causing extensive damage to the High Commission's property.

7. It is stated that the rioters were continuously shouting aggressive Khalistani slogans to intimidate and create fear in the minds of the officials of the High Commission. In the meantime, some policemen from metropolitan police arrived on the scene and the Junior Warrant Officer came out from the High Commission building from the reception gate and requested the Police to prevent the ongoing assault on the High Commission. It is stated that the rioters after pulling down the Indian national flag, waving Khalistani flag in its place and vandalizing the High Commission property and causing serious injuries to the Junior Warrant Officer and his colleague, dispersed in some time while continuing with their threats and slogans. It is stated that the Assistant Personal and Welfare Officer, High Commission of India, London along with the Junior Warrant Officer were taken to the hospital.

8. Subsequently, on 22.03.2023, another protest was carried out in front of the High Commission, which according to the Police is an extension of the protest which took place on 19.03.2023.

9. Material on record discloses that the audio-video evidence shows the presence and active involvement of the Petitioner in the protest of 22.03.2023. The Petitioner was seen raising anti-India slogans associating with key organisers of the protest and engaging in activities that were undermining the sovereignty of India.

10. It is pertinent to mention that the Petitioner was not identified in the protest dated 19.03.2023. However, it is stated that he was a part of the protest held on 22.03.2023 which according to the investigating agency is



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part of the larger conspiracy.

11. It is stated that *vide* CTCR Division Order No. 11011/30/2023/NIA dated 12.04.2023 issued by the Ministry of Home Affairs, Government of India under Section 6(8) of the NIA Act, 2008, the Respondent/NIA was directed to take up the investigation and resultantly the FIR being FIR No. RC-05/2023/NIA/DLI dated 13.04.2024 for offences under Section 109, 147, 148, 149, 120B, 448, 452, 325 IPC read with Section 13 of the Unlawful Activities (Prevention) Act, 1967, Section 3(1) of the Prevention of Damage to Public Property Act, 1984, Section 2 of the Prevention of Insults to National Honours Act, 1971 was registered at Police Station NIA, New Delhi.

12. Material on record discloses that a Lookout Circular was issued against the Petitioner on 04.07.2023. It is stated that while entering India from Pakistan, the Petitioner was detained by the Immigration Authorities at the Attari border on 09.12.2023. Material on record discloses that during examination he revealed that he was an active participant in the protest which was held on 22.03.2023, which as stated earlier, as per the prosecution, is part of the larger conspiracy which started from 19.03.2023 and continued till 22.03.2023.

13. Material on record also discloses that the mobile phone of the Petitioner was seized and was sent to CFSL and certain incriminating evidence, videos, photos of protest were recovered which points towards his participation and involvement in the protest which is directed against the country's sovereignty and integrity. The activities of the Petitioner including public display of a vehicle number plate symbolizing Khalistan showing his support for secessionist movement has also been unearthed.



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14. The Petitioner was brought from Amritsar to Delhi and was released on 12.12.2023. The Petitioner was again called for joining investigation by the NIA. The Petitioner's Passport was also seized by the NIA. The Petitioner filed a representation for release of his Passport and also for details of documents containing restrictions imposed on him as he has to go back to London. The Petitioner also filed an application for release of the Passport and withdrawal of the Lookout Circular. The Petitioner was again directed to join investigation on 04.04.2024 and 11.04.2024 and he was later arrested on 25.04.2024.

15. The remand application was submitted by the Investigating Agency and the Petitioner was remanded into custody on 25.04.2024. The Petitioner's remand was extended on 30.04.2024 and 03.05.2024. The Petitioner has approached this Court challenging the remand orders and also his arrest which according to the Petitioner is illegal on the ground that:

- a) The grounds of arrest were not provided to the Petitioner.
- b) The information regarding remand was not given to the Petitioner's lawyer or to the family members.
- c) The Petitioner did not participate in the protest dated 19.03.2023 as his name does not figure as a rioter on the basis of which the entire FIR has been filed.

16. Notice was issued and replies have been filed and the matter was kept for hearing.

17. Learned Counsel appearing for the Petitioner vehemently contends that admittedly the Petitioner was not part of the mob which vandalized the Indian High Commission, London on 19.03.2023. He states that not a single averment is there against the Petitioner in the complaint given by Sh. Kiran



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Kumar Vasant Bhosale, Assistant Personal and Welfare Officer, High Commission of India, London. He, therefore, states that the entire proceedings against the Petitioner in the absence of any averment in the FIR which has been registered on the basis of incident happened on 19.03.2023 must be quashed and consequently, the Remand Orders must also be quashed. He states that the Respondent/NIA's FIR is based on the FIR, No.80/2023 dated 23.03.2023, which is based on the incident dated 19.03.2023, registered on the basis of Tehrir received for the incident that occurred on 19.03.2023. He, therefore, states that the Petitioner has been falsely implicated in the incident in which he was never a participant.

18. Learned Counsel for the Petitioner further contends that the grounds of arrest have not been furnished to the Petitioner and, therefore, non-furnishing of grounds of arrest to the Petitioner is fatal to any Remand Order. He places reliance upon the Judgments passed by the Apex Court in Pankaj Bansal vs. Union of India & Ors., **Special Leave Petition (Crl) Nos.9220-21 of 2021** and Prabir Purkayastha vs. State (NCT of Delhi), **2024 SCC OnLine SC 934**. He states that furnishing the arrest memo alone is not sufficient compliance of supply of grounds of arrest and, therefore, the State has violated Article 22(1) of the Constitution of India. He further contends that the remand application was itself not supplied to the Petitioner and the same was only supplied to the lawyer who was actually not representing the Petitioner. He states that the lawyer, who represented the Petitioner before the remand Judge was not of the Petitioner's choice and, therefore, the supply a copy of the Remand application to the said lawyer cannot be considered to be sufficient compliance of Article 22(1) of the Constitution of India.



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19. Learned Counsel for the Petitioner further states that the maximum punishment under Section 13(1) of the Unlawful Activities (Prevention) Act, 1967 (UAPA) entails the punishment of 07 years and, therefore, the Petitioner ought to have been given a notice under Section 41A Cr.P.C and by not giving a notice under Section 41A Cr.P.C, the Respondent/NIA has violated the mandate of the Judgment passed by the Apex Court in Arnesh Kumar vs. State of Bihar, (2014) 8 SCC 273.

20. Learned Counsel for the Petitioner also contends that a copy of the FIR was not provided to the learned Counsel for the Petitioner who was representing him and the same is fatal.

21. *Per contra*, learned ASG appearing for the Respondent/NIA contends that the question of non-supply of grounds of arrest has been raised by the Petitioner only for the first time before this Court on 26.05.2024 and it is an afterthought of the Petitioner. He states that the said ground has been raised by the Petitioner only after the Judgment passed by the Apex Court in Prabir Purkayastha (supra). He states that a copy of the remand application was served on the learned Counsel for the Petitioner and the remand application contained the grounds of arrest of the Petitioner which was served within the time prescribed under the law. He states that service of notice under Section 41A Cr.P.C does not apply to the offences committed under UAPA. For this proposition, reliance has been placed by the learned ASG on the Judgment passed by the Apex Court in V. Senthil Balaji vs. State represented by Deputy Director and Ors, (2024) 3 SCC 51. He states that the incident of 19.03.2023 and 22.03.2023 are part of the same transaction. He states that originally the mob was to gather at Indian High Commission, London on 22.03.2023 but there was a change in plan and the Indian High Commission,



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London was vandalised on 19.03.2023 followed by another incident which occurred on 22.03.2023. He states that the Petitioner was part of the planning of both the events which took place on 19.03.2023 and 22.03.2023.

22. Learned ASG further submits that there are several incriminating evidence against the Petitioner. He states that the Petitioner has been seen shouting slogans in favour of Khalistan along with other Khalistani supporters on 19.03.2023 and since the Petitioner was instrumental in planning of the incident on 19.03.2023, the Petitioner was very much part of dishonouring the Indian Flag by standing on the Indian Flag and crushing it along with the other supporters. He also states that photographs of the Petitioner along with the main accused Avtar Singh @ Khanda has been found.

23. Learned ASG also contends that non-furnishing of FIR is not fatal especially in cases of serious offences in UAPA etc. Reliance has been placed by him for this proposition upon the Judgment passed by the Apex Court in Youth Bar Association of India vs. Union of India, (2016) 9 SCC 473.

24. Heard learned Counsel appearing for the Parties and perused the material on record.

25. Material on record discloses that the Petitioner was produced before the NIA Special Court on 25.04.2024 within the time prescribed under the law. A copy of the remand application has been served on the learned Counsel appearing for the Petitioner. The contention of the Petitioner that the copy of the remand application has been supplied to the lawyer who was not of the choice of the Petitioner cannot be accepted for the reason that there is a *Vakalatnama* on record duly signed by the Petitioner in favour of



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two advocates i.e., Mr. Rohit Pratap Singh and Mr. Amit Ranjan, Advocates who had appeared for the Petitioner. Therefore, it cannot be contended by the learned Counsel for the Petitioner that the copy of the remand application has been supplied to the lawyer who was not of the choice of the Petitioner. Mr. Satvinder Singh, Advocate was also engaged by the Petitioner but only in Punjab for the purpose of getting a copy of the FIR and it cannot be said that the remand application ought to have been served on Mr. Satvinder Singh, Advocate. Apart from appearing for the Petitioner for getting the copy of the FIR and for some other purpose, Mr. Satvinder Singh, Advocate, has not filed his *Vakalatnama* for the Petitioner in any other cause. On 30.04.2024, the Petitioner was represented by Mr. Arun Khatri, Advocate, before the NIA Special Court and in this Court also on 25.06.2024.

26. The contention raised by the Petitioner that since the maximum punishment under Section 13(1) of UAPA only entails the punishment of 07 years and, therefore, notice under Section 41A Cr.P.C ought to have been served on the Petitioner and the same is in violation of the Judgment of the Apex Court in Arnesh Kumar (supra) cannot be accepted. Section 43B of the UAPA prescribes the procedure of arrest, seizure etc., for offences under the UAPA. Section 43B of the UAPA read as under:

"43B. Procedure of arrest, seizure, etc.—(1)
Any officer arresting a person under section 43A shall, as soon as may be, inform him of the grounds for such arrest.

(2) Every person arrested and article seized under section 43A shall be forwarded without unnecessary delay to the officer-in-charge of the



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nearest police station.

(3) The authority or officer to whom any person or article is forwarded under sub-section (2) shall, with all convenient dispatch, take such measures as may be necessary in accordance with the provisions of the Code."

27. Section 48 of the UAPA provides for effect of Act and Rules, etc., inconsistent with other enactments. Section 48 of the UAPA reads as under:

"48. Effect of Act and rules, etc., inconsistent with other enactments.—The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act."

28. A perusal of the above shows that the Unlawful Activities (Prevention) Act, 1967 (UAPA), therefore, being a special enactment would prevail over the Cr.P.C and therefore, the Judgment of the Apex Court in Arnesh Kumar (supra) cannot be said to be applicable for offences committed under the UAPA and the maxim *Generalia specialibus non derogant* would clearly apply in the present case. The Apex Court in Prabir Purkayastha (supra) and V. Senthil Balaji (supra) has held that PMLA being a special provision, service of notice under Section 41A Cr.P.C does not apply and the same analogy would also apply in UAPA which is also a special provision.

29. The main contention of the learned Counsel for the Petitioner is the non-supply of grounds of arrest to the Petitioner. Section 43B of UAPA mandates that any officer arresting a person under UAPA shall inform him



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of the grounds for arrest. Admittedly, in the present case, only a copy of remand application has been served on the Petitioner and grounds of arrest has not been supplied to the Petitioner. The Petitioner has placed reliance upon the Judgment passed by the Apex Court in Pankaj Bansal (supra) and Prabir Purkayastha (supra) to contend that non-supply of grounds of arrest is violative of Article 22 of the Constitution of India.

30. The Apex Court in Prabir Purkayastha (supra) has observed as under:

"49. It may be reiterated at the cost of repetition that there is a significant difference in the phrase 'reasons for arrest' and 'grounds of arrest'. The 'reasons for arrest' as indicated in the arrest memo are purely formal parameters, viz., to prevent the accused person from committing any further offence; for proper investigation of the offence; to prevent the accused person from causing the evidence of the offence to disappear or tempering with such evidence in any manner; to prevent the arrested person for making inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Investigating Officer. These reasons would commonly apply to any person arrested on charge of a crime whereas the 'grounds of arrest' would be required to contain all such details in hand of the Investigating Officer which necessitated the arrest of the accused. Simultaneously, the grounds of arrest informed in writing must convey to the arrested accused all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the 'grounds of arrest' would invariably be personal to the accused and cannot be equated with the 'reasons of arrest' which are general in nature.



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50. From the detailed analysis made above, there is no hesitation in the mind of the Court to reach to a conclusion that the copy of the remand application in the purported exercise of communication of the grounds of arrest in writing was not provided to the accused appellant or his counsel before passing of the order of remand dated 4th October, 2023 which vitiates the arrest and subsequent remand of the appellant."

31. A perusal of the abovementioned paragraph indicates that the Apex Court has distinguished between the grounds of arrest and the reasons of arrest. The first remand application is being reproduced below:

**IN THE COURT OF HON'BLE NIA SPECIAL COURT AT PATIALA HOUSE
COURT, NEW DELHI**

State (NIA) New Delhi Vs Avtar Singh @ Khanda & Ors

Case NO. RC-05/2023/NIA/DLI

Under Sections under Sections 109,147,148,149,120B,448,452 & 325 of IPC, section 13 of UA (P) Act 1967, section 3(1) of Prevention of damage to Public Property Act 1984 and section 2 of Prevention of Insults to National Honor Act 1971.

Subject: Physical production of arrested accused Inderpal Singh Gaba son of Baldev Singh Gaba R/o Indian address- G 48, Shiv Nagar, Hari Nagar, New Delhi and UK address - 116, Redfern Avenue, Hounslow, UK, TW4 5LZ, and grant ten days (10) police custody of the said accused in NIA Case RC-05/2023/NIA/DLI.

MAY IT PLEASE YOUR HONOUR

That, in compliance to the Govt. of India, Ministry of Home Affairs, CTCR Division order No. 11011/30/2023/NIA dated 12.04.2023, the National Investigation Agency, New Delhi has re-registered a case as RC-05/2023/NIA/DLI dated 13.04.2023, under sections 109,147,148,149,120B,448,452 & 325 of IPC, section 13 of UA (P) Act 1967, section 3(1) of Prevention of damage to Public Property Act 1984 and section 2



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of Prevention of Insults to National Honours Act 1971, arising out of Case FIR No. 80/23 dated 23.03.2023 of PS Special Cell, Delhi Under Sections 109,147,148,149,120B,448,452 & 325 of IPC, section 13 of UA (P) Act 1967, section 3(1) of Prevention of damage to Public Property Act 1984 and section 2 of Prevention of Insults to National Honours Act 1971.

2. That, the case pertains to a violent protest, carried out by a mob of Pro-Khalistani supporters outside the High Commission of India, London on 19.03.2023. The supporters were being led by Avtar Singh @ Khanda and Gurcharan Singh who had instigated the mob of around 50-60 persons, which, besides vandalizing the High Commission's property, also dishonored the Indian National Flag hoisted inside the Commission property. On 22.03.2023, another protest was held at HCI London in continuation to the previous one.

3. That, LOC was opened against suspect Inderpal Singh Gaba (UK National) son of Baldev Singh Gaba R/o Indian address- G 48, Shiv Nagar, Hari Nagar, New Delhi and UK address - 116, Redfern Avenue, Hounslow, UK, TW4 5LZ on 04.07.23 and on 09.12.2023, he was detained by the Immigration Authorities at Attari border while he was coming from London via Pakistan.

4. That, his mobile phone was seized and extracted data of his seized mobile has been scrutinized. During scrutiny of the extracted data of his mobile phone, several incriminating videos/photos related to the protest at HCI, London has surfaced wherein he can be seen raising slogan against India with other Pro-Khalistan elements. Inderpal Singh Gaba with other mob were seen insulting Indian Flags and shouting anti-India Slogan to intimidate, threaten and to strike terror in the minds of officials of the HCI, London.



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5. That, during investigation of the instant case, several audio clips shared on 19.03.2023, have surfaced from the extracted data of the seized mobile phone of one of the WPD UK WhatsApp group member namely Gurjeet Singh, wherein it has been requested to the group members to come to Park Avenue Gurudwara and Indian High Commission for protest (on 19/03/2023) in addition to the already planned protest to be held on Wednesday (22/03/2023). In addition, some common faces of protesters including three FIR named accused persons have been found in the videos of protests dated 19.03.2023 & on 22.03.2023.

6. Investigation has established that the protest dated 22.03.2023 in which Inderpal Singh Gaba participated is an extended part of the violent protest which took place on 19.03.2023. During this protest violent mob ransacked building of HCI London using iron rods etc. They were also shouting anti-India slogans to intimidate, threaten and to strike terror in the minds of officials of the HCI, London. In addition to the injuries caused to the officers of HCI, London, who were discharging their official duties; the violent mob also caused huge damage to the property of HCI, London. The mob also disrespected Indian National Flag by pulling it down.

7. That, accused Inderpal Singh Gaba was questioned in connection with his involvement in the protest held at HCI, London on 19.03.2023 & 22.03.2023, and regarding the identity of the protesters present in the protests, but he is not cooperating in the investigation properly and trying to keep Investigating agency in dodge and evading to give reply of the questions related to the conspiracy of the protest. Hence, questioning of accused Inderpal Singh Gaba under police remand is urgently required to unearth the conspiracy of the protest and identity of the protesters who participated in the protest at HCI, London.



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8. That, as per the evidences mentioned above, both events dated 19/03/2023 and 22/03/2023 are part of same planning and conspiracy and were led and planned by same group of people with clear objective of influencing the crackdown on Waris Punjab De and its leader Amritpal Singh. Suspect Inderpal Singh Gaba has committed offence under section 13 (1) of UA (P) Act 1967, section 34 of IPC, 1860 and section 2 of Prevention of Insults to National Honours Act 1971, hence, suspect Inderpal Singh Gaba (UK National), son of Baldev Singh Gaba R/o Indian address- G 48, Shiv Nagar, Hari Nagar, New Delhi and UK address - 116, Redfern Avenue, Hounslow, UK, TW4 5LZ is arrayed as accused in the instant case on 23.04.2024 and has been arrested in the instant case on 25.04.2024.

9. That, the detailed examination of accused Inderpal Singh Gaba (UK National), son of Baldev Singh Gaba in police custody is essential to unearth his role in the conspiracy and identification of protesters who took part in the violent protest at HCI, London. Therefore it is most humbly requested to kindly grant **ten days (10)** police custody of the above mentioned accused.

PRAYER

It is therefore prayed that In view of the facts and circumstances mentioned above, in order to unearth the deep-rooted conspiracy as hatched in the manner, it is most humbly prayed that the Ld. Court may issue order/s:



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- (i) To kindly grant ten days (10) police custody of arrested accused Inderpal Singh Gaba (UK National), son of Baldev Singh Gaba R/o Indian address- G 48, Shiv Nagar, Hari Nagar, New Delhi and UK address - 116, Redfern Avenue, Hounslow, UK, TW4 5LZ in the instant case.
- (ii) Or pass any other order(s) as your Honour may deem fit in the interest of Justice. It is further prayed that the copy of the order may be provided to the petitioner.

It is further prayed that the copy of the order may be provided to the petitioner.

And, for this, the petitioner shall ever pray.

Forwarded by

Petitioner

(Rakesh Roshan)
Inspector, CIO
NIA Hqrs, Delhi
RC-05/2023/NIA/DLI

32. A perusal of the aforesaid remand application shows that Paragraph Nos.2 to 8 of the said application gives the facts, details of the protest, details of the incident and as to how the Petitioner was questioned regarding his involvement in the protest and offence committed by the Petitioner. Paragraph No.9 of the remand application gives the necessity of detaining the Petitioner in custody which is for his detailed examination to unearth his role in the conspiracy and to identify the protesters who took part in the violent protest at High Commission of India, London. In the opinion of this Court, the aforesaid remand application contains both the reasons and grounds to arrest the Petitioner, thereby satisfying the mandate of Section



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43B of UAPA.

33. It is also necessary at this juncture to understand the facts in the case of Prabir Purkayastha (supra). In the said case, the Police Station Special Cell, Lodhi Colony, New Delhi had carried out extensive raids in connection with FIR No.224/2023 dated 17.08.2023, registered at Police Station Special Cell, Lodhi Colony, New Delhi for offences punishable under Sections 13, 16, 17, 18 and 22C of the UAPA, at the residential and official premises of the Appellant therein who was the Director of M/s PPK Newsclick Studio Pvt. Ltd. During the course of search proceedings, numerous documents and digital devices belonging to the Appellant therein, the company and the other employees of the company were seized and the Appellant therein was arrested in connection with the said FIR. The arrest memo in that case was in a computerised format and did not contain any column regarding the grounds of arrest of the Appellant therein. The Appellant therein was produced before the Ld. Additional Sessions Judge-02, Patiala House Court, New Delhi and a Remand Order was passed. In the said case a copy of the remand application had been sent over whatsapp to the learned Counsel for the Appellant therein which according to the learned ASG did provide a complete picture about the grounds of arrest of the Appellant therein. However, Paragraph No.50 of the said Judgment, which has been quoted above, does show that the Apex Court was of the opinion that the copy of the remand application in the purported exercise of communication of the grounds of arrest in writing was not provided to the Appellant therein or his Counsel which is not in the present case.

34. In the facts of the present case, this Court is of the opinion that the Petitioner herein has not been deprived of the information of the grounds of



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arrest as it was forwarded to his Advocate appointed by him by executing a proper *Vakalatnama* which is on record. The Ld. ASG submits that this ground has been taken by the Petitioner herein only in this Court after the Judgment of Prabir Purkayastha (supra) passed by the Hon'ble Apex Court. This contention cannot be accepted but for the reason that a Judgment of the Apex Court is declaratory in nature and, therefore, the fact that this ground was not taken by the Petitioner earlier does not preclude the Petitioner to raise this argument.

35. The contention of the learned Counsel for the Petitioner that non-furnishing of the FIR would be fatal cannot be accepted because as rightly pointed out by the Ld. ASG that Cr.P.C and UAPA do not mandate a copy of the FIR to be supplied by the Investigating Officer to any other person other than the Complainant. The Apex Court in Youth Bar Association of India (supra) has observed as under:

“11. Having heard the learned counsel for the parties, we think it appropriate to record the requisite conclusions and, thereafter, proceed to issue the directions:

11.1. An accused is entitled to get a copy of the first information report at an earlier stage than as prescribed under Section 207 CrPC.

11.2. An accused who has reasons to suspect that he has been roped in a criminal case and his name may be finding place in a first information report can submit an application through his representative/agent/parokar for grant of a certified copy before the police officer concerned or to the Superintendent of Police on payment of such fee which is payable for obtaining such a copy from the court. On



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such application being made, the copy shall be supplied within twenty-four hours.

11.3. Once the first information report is forwarded by the police station to the Magistrate concerned or any Special Judge, on an application being filed for certified copy on behalf of the accused, the same shall be given by the court concerned within two working days. The aforesaid direction has nothing to do with the statutory mandate inhered under Section 207 CrPC.

11.4. The copies of the FIRs, unless the offence is sensitive in nature, like sexual offences, offences pertaining to insurgency, terrorism and of that category, offences under the Pocso Act and such other offences, should be uploaded on the police website, and if there is no such website, on the official website of the State Government, within twenty-four hours of the registration of the first information report so that the accused or any person connected with the same can download the FIR and file appropriate application before the court as per law for redressal of his grievances. It may be clarified here that in case there is connectivity problems due to geographical location or there is some other unavoidable difficulty, the time can be extended up to forty-eight hours. The said 48 hours can be extended maximum up to 72 hours and it is only relatable to connectivity problems due to geographical location.

11.5. The decision not to upload the copy of the FIR on the website shall not be taken by an officer below the rank of Deputy Superintendent of Police or any person holding equivalent post. In case, the States where the District Magistrate has a role, he may also assume the said authority. A decision taken by the police officer concerned or the District Magistrate shall be duly



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communicated to the jurisdictional Magistrate concerned.

11.6. The word “sensitive” apart from the other aspects which may be thought of being sensitive by the competent authority as stated hereinbefore would also include concept of privacy, regard being had to the nature of the FIR. The examples given with regard to the sensitive cases are absolutely illustrative and are not exhaustive.

11.7. If an FIR is not uploaded, needless to say, it shall not enure per se a ground to obtain the benefit under Section 438 CrPC.

11.8. In case a copy of the FIR is not provided on the ground of sensitive nature of the case, a person grieved by the said action, after disclosing his identity, can submit a representation to the Superintendent of Police or any person holding the equivalent post in the State. The Superintendent of Police shall constitute a committee of three officers which shall deal with the said grievance. As far as the metropolitan cities are concerned, where Commissioner is there, if a representation is submitted to the Commissioner of Police, he shall constitute a committee of three officers. The committee so constituted shall deal with the grievance within three days from the date of receipt of the representation and communicate it to the grieved person.

11.9. The competent authority referred to hereinabove shall constitute the committee, as directed hereinabove, within eight weeks from today.

11.10. In cases wherein decisions have been taken not to give copies of the FIR, regard being had to the sensitive nature of the case, it will be open to the



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accused/his authorised representative/parokar to file an application for grant of certified copy before the Court to which the FIR has been sent and the same shall be provided in quite promptitude by the court concerned not beyond three days of the submission of the application.

11.11. The directions for uploading of FIR in the website of all the States shall be given effect from 15-11-2016.”

(emphasis supplied)

36. The Apex Court in Ram Kishor Arora v. Enforcement Directorate, (2024) 7 SCC 599, while dealing with the submission of the learned Counsel for the Petitioner that merely informing the accused orally about the grounds of arrest and making the accused read the same and obtaining his signature thereon, and not furnishing in writing the grounds of arrest to the accused cannot be in consonance with the provisions of the PMLA, has observed as under:

“21. In view of the above, the expression “as soon as may be” contained in Section 19 PMLA is required to be construed as — “as early as possible without avoidable delay” or “within reasonably convenient” or “reasonably requisite” period of time. Since by way of safeguard a duty is cast upon the officer concerned to forward a copy of the order along with the material in his possession to the adjudicating authority immediately after the arrest of the person, and to take the person arrested to the court concerned within 24 hours of the arrest, in our opinion, the reasonably convenient or reasonably requisite time to inform the arrestee about the grounds of his arrest would be twenty-four hours of the arrest.



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22. In *Vijay Madanlal Choudhary* [*Vijay Madanlal Choudhary v. Union of India*, (2023) 12 SCC 1 : 2022 SCC OnLine SC 929] , it has been categorically held that so long as the person has been informed about the grounds of his arrest, that is sufficient compliance with mandate of Article 22(1) of the Constitution. It is also observed that the arrested person before being produced before the Special Court within twenty-four hours or for that purposes of remand on each occasion, the Court is free to look into the relevant records made available by the authority about the involvement of the arrested person in the offence of money-laundering. Therefore, in our opinion the person arrested, if he is informed or made aware orally about the grounds of arrest at the time of his arrest and is furnished a written communication about the grounds of arrest as soon as may be i.e. as early as possible and within reasonably convenient and requisite time of twenty-four hours of his arrest, that would be sufficient compliance of not only Section 19 PMLA but also of Article 22(1) of the Constitution of India.

23. As discernible from the judgment in *Pankaj Bansal* case [*Pankaj Bansal v. Union of India*, (2024) 7 SCC 576] also noticing the inconsistent practice being followed by the officers arresting the persons under Section 19 PMLA, directed to furnish the grounds of arrest in writing as a matter of course, “henceforth”, meaning thereby from the date of the pronouncement of the judgment. The very use of the word “henceforth” implied that the said requirement of furnishing grounds of arrest in writing to the arrested person as soon as after his arrest was not mandatory or obligatory till the date of the said judgment. The submission of the learned Senior Counsel Mr Singhvi for the appellant that the said judgment was required to be given effect



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retrospectively cannot be accepted when the judgment itself states that it would be necessary “henceforth” that a copy of such written grounds of arrest is furnished to the arrested person as a matter of course and without exception. Hence, non-furnishing of grounds of arrest in writing till the date of pronouncement of judgment in Pankaj Bansal case [Pankaj Bansal v. Union of India, (2024) 7 SCC 576] could neither be held to be illegal nor the action of the officer concerned in not furnishing the same in writing could be faulted with. As such, the action of informing the person arrested about the grounds of his arrest is a sufficient compliance of Section 19 PMLA as also Article 22(1) of the Constitution of India, as held in Vijay Madanlal [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1 : 2022 SCC OnLine SC 929] .

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



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to be violative of the said provision nor of Article 22(1) of the Constitution of India.

The said Judgment applies to the facts of the present case as the Petitioner is charged of an offence under UAPA.

37. In the present case, the Petitioner was arrested on 25.04.2024 and he was produced before the Magistrate on the same day. A copy of the remand application was supplied to the Petitioner which contained both the reasons and grounds to arrest the Petitioner and, therefore, this Court is of the opinion that the constitutional safeguard enshrined under Article 22(1) of the Constitution of India has been followed and the Impugned Remand Orders do not contain any infirmity.

38. Resultantly, the writ petition is dismissed, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

OCTOBER 29, 2024

Hsk/S. Zakir