



2025:CGHC:42032-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 655 of 2025

Dhanesh Ram Dhruv @ Guruji S/o Dewal Singh Dhruv Aged About 52 Years R/o Village Semhara, Rawandiggi, Police Station Mainpur, District Gariyaband (C.G.)

... Appellant

versus

1 - State of Chhattisgarh Through- The Station House Officer, Police Of Police Station Mainpur, District- Gariyaband (C.G.)

2 - National Investigation Agency Through Superintendent Of Police, N.I.A., Raipur Branch, Nawa Raipur, District Raipur, Chhattisgarh. (As Per Honble Court Order Dated 04-04-2025. Party Added)

... Respondents

For Appellant : Mr. Jitendra Shukla, Advocate.
For Respondent/NIA : Mr. B. Gopa Kumar with Mr. Ismail Shaikh, Advocates.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Bibhu Datta Guru, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

20.08.2025

1. This criminal appeal under Section 21(4) of the National Investigation Agency (Amendment) Act, 2019 (for short, 'NIA Act') is directed against the impugned order dated 21.02.2025 passed by the Special/Sessions Judge, Raipur

(C.G.) in Special Sessions Trial No.03/2024, arising out of Crime No.94/2023 registered at Police Station Mainpur, District Gariyaband (C.G.), by which the appellant's application under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking bail for offences under Sections 147, 148, 149, 302, 307, 120-B, 121, 121-A of the Indian Penal Code, 1860 (for short, 'IPC'), Sections 16, 17, 18, 20, 23, 38, 39, 40 of Unlawful Activities (Prevention) Act, Section 4, 5, and 6 of the Explosive Substances Act, 1908 (for short, 'Act of 1908') and Sections 25 and 27 of the Arms Act, 1959 (for short, 'Arms Act') has been rejected finding no merit.

2. The prosecution case, in brief, is that on 17.11.2023, at about 3:40 PM, after conclusion of polling, the deceased, I.T.B.P. Constable Jogendra Kumar, was returning along with the security force. When they reached near Badegobra, an intentional bomb blast was carried out with the intent to kill. As a result of the said bomb blast, Constable Jogendra Kumar sustained grievous injuries and subsequently died. On the basis of the said incident and complaint, the concerned police station registered a criminal case against the accused persons, including the present appellant, for the aforesaid offences.
3. Learned counsel appearing for the appellant has argued

that the appellant is innocent. He is servant and working in the post of Headmaster and having no nexus whatsoever with the alleged offences. He has been falsely implicated in the present crime merely on the basis of suspicion, without any cogent or credible evidence connecting him to the incident in question. He would submit that no incriminating material has been recovered from the possession of the appellant. The articles i.e. one literature(booklet) as well as one paper (pamphlet) with respect to COVID-19 has been recovered from the house of the appellant. Learned counsel further submits that after one year of the incident, the police visited the house of the petitioner and arrested him in the present case. No incriminating documents or material connecting the appellant to any unlawful activities have been recovered. It has been contended that the appellant is the sole breadwinner of his family and his prolonged incarceration is causing irreparable hardship to his family members, who are struggling for survival. The appellant undertake to fully cooperate with the ongoing investigation and the trial proceedings. The appellant is prepared to furnish adequate surety and shall abide by all terms and conditions as may be imposed by this Court. In view of the aforesaid submissions and in the interest of justice, the appellant humbly prays for grant of bail.

4. On the other hand, Mr. B. Gopa Kumar, learned counsel appearing for the NIA/respondent vehemently opposed the prayer for grant of bail and submitted that the evidence which have been collected during the course of investigation against the appellant goes to show his active participation and involvement in the naxal operations. He further submits that the present case arises out of a heinous and grave act of terrorism, namely the IED blast executed on 17.11.2023 by members of the banned terrorist organization CPI (Maoist) targeting security personnel and polling staff returning from election duty, resulting in the death of an ITBP constable. It has been submitted that the appellant has played a significant role in providing logistics, materials, and support for the said terrorist act. During the investigation, it has been established that Dhanesh Ram Dhruw @ Guru Jee/appellant is associated with accused-Maoist Ganesh Uieky, Ramdas and Satyam Gawade. The appellant had actively participated in conspiracy with cadres of the proscribed organization CPT (Maoist). Statements of eight witnesses were recorded under Section 164 of Cr.P.C., in which, they have stated about the involvement of the appellant with the CPI Maoists and also deposed that the appellant has attended the meeting and provided logistic and financial support to the cadres of CPI (Maoists).

Further, supplementary charge-sheet has been submitted against the appellant and other co-accused, who have also been arrested and the bail application of other co-accused persons have been rejected by this Court on 21/07/2025 in CRA No.318/2025. It has been further argued that the NIA Special Court has rightly rejected bail, finding the allegations against the appellant prima facie true and supported by substantial evidence. In light of the seriousness of the offence, gravity of allegations, and statutory embargo under UAPA, no interference is warranted with the impugned order and as such, the criminal appeal filed by the appellant deserves to be rejected.

5. Learned counsel for the respondent/NIA placed reliance upon the judgments rendered by the Hon'ble Supreme Court in the following cases to buttress his submissions:

National Investigation Agency v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1,

Sanjay Chandra v. CBI, (2012) 1 SCC 40,

Afzal Khan @ Babu Murtuzakhan Pathan v. State of Gujarat, (2009) 3 SCC 499

State of U.P. through CBI v. Amarmani Tripathi, (2005) 8 SCC 21,

Gurwinder Singh v. State of Punjab & Another in Criminal Appeal No. 704 of

2024.

Mohammed Nainar v. State of Kerala, 2011

CRLJ 1729.

Thasleem v. State of Kerala, 2016 (1) KLT

721.

6. We have heard the learned counsels appearing for the parties, considered their rival submissions made herein-above and also went through the records with utmost circumspection.
7. At this stage, it would be relevant to quote Section 43D(5) of the Unlawful Activities (Prevention) Act, 1967, which is reproduced below for easy reference:

“43D(5) -Notwithstanding anything contained in the Code (Criminal Procedure Code, 1973), no person accused of an offence punishable under Chapters IV and VI of this Act shall 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."*

8. A bare perusal of Section 43D(5) of the UAPA shows that the provision imposes a specific statutory embargo on the grant of bail to an accused person charged under Chapters IV and VI of the Act, which relate to terrorist activities and terrorist organizations. The section mandates that unless the Court, upon perusal of the case diary or charge-sheet, is satisfied that there are no reasonable grounds to believe that the accusations are prima facie true, bail cannot be granted. Conversely, where there exist reasonable grounds to believe that the accusations are prima facie true, the bar under Section 43D(5) squarely applies, and the Court is prohibited from enlarging such accused on bail. The legislative intent is clear: in cases involving terrorism-related offences, the threshold for bail is significantly heightened in comparison to ordinary criminal cases. The safeguard to prevent misuse of this provision is built into the requirement that the Public Prosecutor must be given an opportunity of being heard. However, the section does not create an absolute bar against bail in every circumstance. Judicial pronouncements, particularly the judgment of the Hon'ble

Supreme Court in **Zahoor Ahmad Shah Watali** (supra) clarify that at the stage of considering bail, the Court must not conduct a roving inquiry into the merits of the prosecution's case but only ascertain whether the accusations are prima facie supported by the materials on record.

9. In the case of **Mohammed Nainar** (supra) the Hon'ble Kerala High Court interpreted and examined the provisions of Section 43D(5) of the UAPA and held that the nature of the charge is a vital factor, and the nature of evidence is also pertinent in considering the question of bail.

10. In the case of **Zahoor Ahmad Shah Watali** (supra), the Hon'ble Supreme Court of India has held that in bail applications under the Unlawful Activities (Prevention) Act, 1967, a different approach is required. The Court also held that:

"When it comes to offences punishable under special enactments, such as the 1967 Act, something more is required to be kept in mind in view of the special provisions contained in Section 43D of the 1967 Act, inserted by Act 35 of 2008 w.e.f. 31st December, 2008."

11. In the case of **Thasleem** (supra), the Hon'ble Kerala High

Court held that under Section 43D(5) of the UAPA, the Court is bound to refuse bail if there are reasonable grounds for believing that the accusation against the accused is prima facie true.

12. In the case of **Sanjay Chandra** (supra), the Hon'ble Supreme Court of India specifically held that the Court has to consider the nature and gravity of the charges and whether there is a reasonable belief that the accused has committed the offence.
13. In the case of **Afzal Khan @ Babu Murtuzakhan Pathan** (supra), the Hon'ble Supreme Court held that in a case involving the security of the State, bail should ordinarily be rejected.
14. In the case of **Amarmani Tripathi** (supra), the Hon'ble Supreme Court laid down the following well-established principles for considering bail:
 - i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
 - ii) The nature and gravity of the charge;
 - iii) The severity of the punishment in the event of conviction;
 - iv) The danger of the accused absconding or fleeing if released on bail;
 - v) The character, behaviour, means, position, and standing of the accused;

- vi) The likelihood of the offence being repeated;
- vii) The reasonable apprehension of witnesses being tampered with; and
- viii) The danger of justice being thwarted by grant of bail.

15. In a recent judgment of the Hon'ble Supreme Court in the case of **Gurwinder Singh** (supra), was of the view that the material on record prima facie indicated the complicity of the accused as a part of the conspiracy, as he was knowingly facilitating the commission of a preparatory act towards the commission of a terrorist act under Section 18 of the UAPA and for this reasons, the Hon'ble Supreme Court rejected the bail application.

16. Upon a careful consideration of the submissions advanced by learned counsel for the parties, perusal of the charge-sheet and material collected during investigation, as well as the nature and gravity of the offences alleged against the appellant, this Court is of the opinion that the prosecution has placed sufficient material on record to prima facie establish the involvement of the appellant in the larger conspiracy to carry out terrorist activities, including the IED blast which resulted in the death of a security personnel. The appellant's association with the proscribed terrorist organization CPI (Maoist), his alleged role in providing logistics and other support essential for

the execution of the offence, along with his participation in conspiracy meetings, has been substantiated through statements of protected witnesses and other documentary evidence.

17. In view of the statutory bar under Section 43-D(5) of the Unlawful Activities (Prevention) Act, 1967, this Court cannot lightly disregard the materials placed on record which, at this stage, establish a prima facie case against the appellant. Mere prolonged detention or socio-economic hardship cannot outweigh the serious and grave nature of allegations involving offences against national security. The Hon'ble Supreme Court has consistently held that when there is reasonable ground to believe that the accusation against the accused is prima facie true under UAPA, the Court shall not grant bail to the appellant.
18. In view of the above, we find that the impugned order passed by the Learned Special Court, Raipur rejecting the bail application reflects a correct appreciation of facts, materials on record, and the law applicable to such cases. This Court finds no infirmity, perversity, or illegality in the said order warranting interference in appellate jurisdiction.
19. Accordingly, this Criminal Appeal stands **dismissed**. However, this Court hopes and trusts that the trial Court shall make an earnest endeavour to conclude the trial

expeditiously preferably within a period of 6 months from the date of receipt of this order in accordance with law, if there is no legal impediment and the appellant is directed to co-operate with the trial.

20. Office is directed to send a certified copy of this order to the trial Court concerned for necessary information and compliance forthwith.

SD/-

(Bibhu Datta Guru)
Judge

SD/-

(Ramesh Sinha)
Chief Justice

Amardeep

Headnote

When an accused faces charges under special statutes for offences against the State, the grant of bail is ordinarily discouraged. Courts are obliged to exercise exceptional caution and a rigorous approach, weighing the seriousness of the allegations, the protection of State interests, and the statutory limitations on bail prescribed by the relevant special laws.