

Sumant Kumar vs The Union Of India Through National ... on 23 April, 2025

Bench: Sujit Narayan Prasad, Gautam Kumar Choudhary

(2025:JHHC:12098-DB)

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (DB) No.597 of 2024

Sumant Kumar, aged about 38 years S/o Sri Bharat
Ram Gope, R/o House No. 319, Village-Birsa Nagar,
Pugu, P.O. Armai, P.S.-Gumla, District- Gumla,
Jharkhand. Appellant

Versus

The Union of India through National Investigating
Agency, represented by the Superintendent of Police,
National Investigating Agency, having its office at N.I.A.
Camp office, Quarter No. E-305, Sector-II, HEC Colony
P.O.&P.S. Dhurwa, District- Ranchi, Jharkhand 834004.

.... Respondent

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Appellant	:Mr. A.K. Kashyap, Sr. Adv.
	:Mr. Sanjeet Nayak, Advocate
For the NIA	:Mr. Amit Kumar Das, Advocate
	: Mr. Saurav Kumar, Advocate

C.A.V. on 27.03.2025 Pronounced on 23/04/2025

Per 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 18.03.2024 passed by the learned A.J.C.-XVI-cum-Special Judge, NIA Ranchi, in Misc. Cr. Application No. 3706 of 2023 (Special (NIA) Case No.02 of 2018) corresponding to R.C. No.02/2018/NIA/DLI, arising out of Bero P.S. Case No.67 of 2016 registered for the offence under Sections 212, 213, 414/34 of the I.P.C., Section 17(ii) of the Criminal Law (Amendment) Act, 1908 (2025:JHHC:12098-DB) and Sections 13, 17 & 40 of the Unlawful Activities (Prevention) Act, whereby and whereunder, the prayer for regular bail of the appellant has been rejected. Prosecution Case and Factual Matrix

2. The brief facts of the prosecution case leading to this Criminal Appeal is that on 10.11.2016, on receiving secret information, the informant namely Mr. Bindeshwari Das, Officer In-charge of Bero P.S. registered an information received regarding the associates of Supremo of PLFI depositing ill-gotten money of crime proceed realized as extortion of levy at SBI, Bero, Ranchi. After having informed his superior authorities and having received their directives, he proceeded for its verification along with other police officials and reserve guards.
3. At about 03.15 PM, he reached along with his team at SBI, Bero, Ranchi, and after surrounding the same waited in ambush. In the meantime, after having seen the police party, 3-4 persons making hue and cry attempted to flee away with bag having articles carrying in their hand, and one of the persons was apprehended from campus of the Bank and three persons were apprehended while boarding Safari Vehicle No. JH01Y 2898. On asking, the persons apprehended disclosed their name as Binod Kumar, Chandra Shekhar Kumar, Nand Kishore Mahto and (2025:JHHC:12098-DB) Mohan Kumar.
4. The Informant conducted search of these persons in presence of independent witnesses and alleged levy/extorted amount of Rs.25,38,000/- was recovered. The accused persons were unable to show any document and one of the co-accused confessed before the Informant that the PLFI Supremo Dinesh Gope had instructed him on mobile phone after the Central Government Policy of demonetization to deposit the amount. It was further confessed by a co-accused that levied, extorted money, was given by PLFI extremist organization for getting it converted white money by depositing in the name of the said petrol pump. Accordingly, all the said articles were seized in presence of independent witnesses and seizure list was prepared.
5. It is alleged that these accused persons were involved in the extortion of levied amount and such ill-gotten money was being converted by hardcore outlawed PLFI extremist people which is dangerous to the national interest and helpful for the extremist organization.
6. Accordingly, a case was registered on the basis of written report made by Sub-Inspector of Bero P.S Mr. Bindeshwari Das, as Bero P.S. Case No.67 of 2016 under Sections 212, 213, 414/34 of the I.P.C., Section 17(ii) of the Criminal (2025:JHHC:12098-DB) Law (Amendment) Act, 1908 and Sections 13, 17 & 40 of the Unlawful Activities (Prevention) Act against accused persons.
7. Later on, considering the gravity of the offence, Ministry of Home Affairs, Government of India vide order dated 16.01.2018 directed National Investigation Agency (NIA), to take over the investigation of the Bero P.S. Case No.67 of 2016.
8. In compliance to the directions of the Ministry of Home Affairs, Government of India, (Order No.F.No.11011/51/2017/IS-IV dated 16.01.2018), re- registered the aforesaid case as NIA Case no. RC- 02/2018/NIA/DLI dated 19.01.2018 under Sections 212,213,414 and 34 of IPC of the Indian Penal Code (I.P.C.), Section 17 of the C.L.A. Act 1908 and under Sections 13,17 and 40 of the Unlawful Activities (Prevention) Act 1967 (UA(P) Act 1967) against the accused persons.

9. After obtaining the administrative approval of the competent authority the case docket and case exhibits were transferred to the NIA by the Investigating agency and accordingly investigation was taken up by the NIA.

10. During the course of further investigation it surfaced that the absconding accused Dinesh Gope (A-6), supremo (2025:JHHC:12098-DB) of PLFI, continued to channelize levy amount into legitimate means by depositing/transferring into the bank accounts of his wives(A-13), and A-14 and associates by using several Pragya Kendra operative through various banking channels and also in the bank accounts of Companies opened in the name of his wives i.e namely Shakuntala (A-13) and Hira (A-14) and Sumant Kumar (A-

7) [the appellant herein]) and Fuleshwar Gope.

11. The present appellant was arrested on 26.04.2019. Accordingly, 1st supplementary charge-sheet was submitted against the other accused persons including the present appellant and he was arrayed as an Accused no.07.

12. Consequently, the above-named appellant had preferred the regular bail application vide Misc. Cr. Application No. 586/2019 and the same was dismissed vide order dated 03.07.2019, thereafter, the present appellant had preferred an appeal being Criminal appeal DB no. 1026/2019 before this Court, which was rejected on 01.03.2021. Consequently, the present Appellant preferred special Leave petition before the Hon ble Supreme Court, vide SLP no.5340/21 and the same was also dismissed by the Hon ble Apex Court.

13. The present appellant had again preferred an (2025:JHHC:12098-DB) application being Misc. Cr. Application No. 3706 of 2023 before the NIA Special Court, Ranchi for grant of regular bail but the same has been rejected vide order dated 18.03.2024, against which, the present appeal has been filed.

Submission advanced on behalf of the learned counsel for the Appellant:

14. Learned counsel for the appellant has assailed the impugned order on the following grounds: -

(i) The appellant has falsely been implicated in the instant case without any valid evidence of his involvement in the alleged crime attracting the ingredients of Section 17 of the U.A.(P) Act and hence, the other penal provision as contained under U.A.(P) Act is not made out.

(ii). Submission has been made that there is no direct evidence against him in spite of that the appellant has been made accused in the present case. Further, except prosecution witness 101 (X-3) and 124(X-4) none of the protected witnesses of first supplementary chargesheet has deposed against the petitioner to establish his proximity towards Dinesh Gope and member of PLFI.

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(iii) As far as M/s Bhavya Engicon Pvt and M/s Shiv Aadi Shakti Minerals Pvt Ltd is concerned both are submitting their income tax return regularly. There is no material on record to suggest that Bhavya Engicon has indulged in any terrorist act as defined under UA(P) Act. Further, Shiv Aadi Shakti Company Ltd was declared an inactive company in 2015 by the registrar of the company, Jharkhand but Shiv Aadi Shakti has been contesting such declaration before the learned National company Law Tribunal and the matter is sub-judice.

(iv).Further, till date no money trail has been established by the NIA to connect the business activities of companies with the appellant and any terrorist act. There is no material on record to suggest that fund allegedly provided by the appellant to Shakuntala Devi(A-13) for her upkeep were derived from terrorist act of Dinesh Gope and it was proceeds of terrorism.

(V). The prosecution has assumed the case to be a case of extortion without any vital piece of evidence or completing the chain of events, so far as the present appellant is concerned, and the alleged extortion has later on been converted to terror (2025:JHHC:12098-DB) funding. Therefore, no offence under section U.A. (P) Act and Section 17 of the CLA Act is made out against the appellant. Further, offence under Indian Penal Code is also not made out against the appellant because appellant has not forged a single document and nothing has been recovered from conscious possession of the appellant.

(vi). The allegation against the appellant is that he was involved in channelizing the extorted amount into legitimate means by depositing the same in individual bank accounts and companies owned by him.

(vii) Taking the ground of long incarceration, submission has been made that the appellant is languishing in judicial custody since 26.04.2019 i.e., about six years and further there is no likelihood of the trial to be concluded in near future, therefore, as per the judgment rendered by the Hon ble Apex Court in the case of Union of India Vrs. K.A. Najeeb, reported in [(2021) 3 SCC 713], the present appeal may be allowed.

(vii) The ground of parity has also been taken and it is submitted that the other co-accused person, namely, Jitendra Kumar and Binod Kumar and (2025:JHHC:12098-DB) three others have been directed to be released on bail by the co-ordinate bench of this Court vide order dated 08.05.2023 and 03.10.2023 passed in Cr. Appeal (DB) No.514 of 2020 and Cr. Appeal (DB) No.201 of 2020 respectively and the case of the appellant stands on better footing.

(viii) It has further been submitted that the co- accused persons namely, Jai Prakash Singh Bhuiyan, Chandrashekar Singh, Arun Gope, and Amit Kumar Jaiswal, have also been directed to be released on bail by the co-ordinate bench of this Court vide order dated 05.01.2024, 19.02.2025, 05.03.2025 and 05.03.2025 passed in Cr. Appeal (DB) No. 14 of 2021, Cr. Appeal (DB) No.520 of 2020, Cr. Appeal (DB) No. 68 of 2024 and Cr. Appeal (DB) No.1778 of 2023 respectively, therefore the instant appeal may be allowed and the present appellant may also enlarged on bail.

(ix) Further, the another co-accused namely Navin Bhai Jayanti Bhai Patel has also been enlarged on bail by the Hon ble Apex Court Vide order dated 03.02.2025 passed in SLP(Crl) 16179 of 2025, as such it is fit case wherein bail may be granted to the present appellant by allowing the present appeal.

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15. Learned counsel for the appellant, on the aforesaid premise, has submitted that the learned 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 orders need to be interfered with.

16. Per contra, Mr. Amit Kumar Das, learned counsel for the respondent-NIA has taken the following grounds by defending the impugned order: -

(i).Submission has been made that during the course of investigation, it has surfaced that the absconding accused, Dinesh Gope (A-6), supremo of PLFI, continued to channelize the levy amount into legitimate means by depositing/transferring into the bank accounts of his wife, namely, Shakuntala Devi and Hira Devi and others, by using several pragra Kendra through various banking channels and also in the bank accounts of the companies opened in the connivance of the present appellant.

Furthermore, the extorted money collected in the form of levy was invested in the company wherein present appellant is a co-director.

(ii). It has been submitted that so far trial is concerned, the prosecution witnesses have already (2025:JHHC:12098-DB) been closed and trial in this case on verge of completion, therefore, if the appellant is released on bail at this stage, there is every likelihood of hamper in trial.

(iii). Further submission has been made that bail of other co-accused persons, who were also involved in channelizing the extorted money, have been rejected by the co-ordinate Bench of this Court in Cr. Appeal (DB) No. 59 of 2021 [Hira Devi, first wife of accused Dinesh Gope].

(iv).Further vide order dated 21.03.2024 the Co- ordinate Bench of this Court had denied the privilege of bail to another-co-accused, namely, Fuleshwar Gope in Cr. Appeal (DB) No. 767 of 2022 and the said order has been affirmed vide order dated 03.02.2025 passed by the Hon ble Supreme Court in Special Leave to Appeal (Crl.) No(s).7703/2024 by which prayer for bail of the said appellant has been rejected.

(V). Submission has been made that the Hon ble Apex Court recently in the case of Gurwinder Singh Vs. State of Punjab & Anr. [2024 SCC OnLine SC 109] has held that for the offence under U.A. (P) Act, „bail will be an exception and jail will be the rule and (2025:JHHC:12098-DB) mere the ground of period of custody is not the ground for bail, therefore, the case laws cited by the appellant in this regard is of no aid to the appellant.

17. Mr. Das, learned counsel for the respondent-NIA based upon the aforesaid ground has submitted that since the nature of allegation levelled against the appellant is very grave and, therefore, the present appeal is also fit to be dismissed.

18. We have heard learned counsel for the parties and considered the finding recorded by learned Court in the impugned order as also the charge-sheet.

19. At the outset before proceeding to examine as to whether the appellant has been able to make out a prima facie case for enlarging him on bail, it needs to refer herein that before filing the instant appeal, the present appellant had preferred the regular bail application vide Misc. Cr. Application No. 586/2019 before the special Judge which was dismissed vide order dated 03.07.2019, thereafter, the present appellant had preferred an appeal being Criminal appeal DB no. 1026/2019 before co- ordinate Bench of this Court, which was also rejected on 01.03.2021. For ready reference the relevant paragraphs of the order dated 01.03.2021 are being quoted as under:

5. Learned counsel for the NIA on the other hand has opposed the prayer and has drawn our attention towards (2025:JHHC:12098-DB) the statements of the two protected witnesses, who have stated that the appellant was also directly involved in collecting the levy for PLFI supremo Dinesh Gope.

Learned counsel has also drawn our attention that during investigation, it was found that the second wife of the PLFI supremo Dinesh Gope was the co-Director along with appellant in the shell companies, through which, the illegal transactions were being made. The statement of the second wife of PLFI Supremo was also recorded and from her statement, it appears that the appellant was the sister's son of Dinesh Gope and he was actively involved in the illegal activities with Dinesh Gope. Even the car of the second wife of Dinesh Gope has been recovered from the premises of the appellant. It has also been pointed out that the appellant had made arrangements of stay of two wives of the Dinesh Gope. In that view of the matter, at this stage, it cannot be said that the accusation against the appellant is prima facie not true.

6. Section 43(D)(5) of the Unlawful Activities (Prevention) Act provides a clear bar for granting bail, in cases where there are reasonable grounds for believing that the accusation against the accused is prima facie true. In the facts of this case, we find that there are ample materials collected by the NIA to show that the accusations against the appellant are prima facie true and accordingly, no case is made out for granting bail to the appellant in view of the express bar in Section 43(D)(5) of the Unlawful Activities (Prevention) Act.

7. Accordingly, we find no illegality in the impugned order dated 03.07.2019 passed by the NIA Court in Misc. Cr. Application No.586 of 2019, rejecting the bail of the appellant"

20. It is evident from the aforesaid order that the co-ordinate Bench of this Court while hearing the said appeal had taken in to consideration that the appellant was co-director along with the second wife of the PLFI supremo Dinesh (2025:JHHC:12098-DB) Gope in the shell companies, through which, the illegal

transactions were being made. The Court had also taken in to consideration the statement of the second wife of PLFI Supremo wherein it has been stated that the appellant was the sister's son of Dinesh Gope and he was actively involved in the illegal activities with Dinesh Gope.

21. Accordingly, the co-ordinate bench while taking in to consideration the import of the Section 43(D)5 of the Act 1967 and further taking in to consideration the specific culpability of the present appellant had rejected prayer for bail.

22. Consequently, the present appellant against the order dated 01.03.2021 had preferred a special Leave petition being SLP no.5340/21 before the Hon'ble Supreme Court.

The said application has also been dismissed on 05.08.2021 by the Hon'ble Supreme Court.

23. Thus, from the aforesaid factual aspect it is evident that earlier the prayer for bail of the appellant has already been adjudicated on merit by the co-ordinate Bench of this Court as well as by the Hon'ble Apex Court.

24. Further, it needs to refer herein that the present appellant had again preferred an application being Misc.

Cr. Application No. 3041 of 2023 before the NIA Special Court, Ranchi for grant of regular bail but the same has (2025:JHHC:12098-DB) been rejected vide order dated 15.12.2023, against which, the present appeal has been filed.

25. From perusal of the order dated 15.12.2023, it is evident that the learned special Judge while taking note of the fact that the present appellant received huge amount of money obtained by Dinesh Gope through levy, to which he invested in the name of shell companies, in which wives of Dinesh Gope, his brother-in-law were the Directors and petitioner himself was working as active Director, has rejected the appellant's prayer for bail.

26. It is evident from aforesaid that although earlier the prayer for bail of the appellant on merit has already been adjudicated by the co-ordinate Bench of this Court but herein since the appellate jurisdiction of this Court which has been stipulated under Section 21(4) of National Investigation Agency Act 2008 (herein referred as Act 2008) has been invoked by the appellant, as such this Court is bound to see the propriety of the impugned order dated 15.12.2023 by which the prayer for bail of the present appellant has been rejected by the special Judge.

27. At this juncture this Court deems it fit and proper to discuss some settled proposition of law and the relevant provisions of Unlawful Activities (Prevention)

Act, 1967 (hereinafter referred to as Act, 1967).

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28. The main objective of the Act 1967 is to make powers available for dealing with activities directed against the integrity and sovereignty of India. As per Preamble, Act 1967 has been enacted to provide for the more effective prevention of certain unlawful activities of individuals and associations and dealing with terrorist activities and for matters connected therewith. Therefore, the aim and object of enactment of UAPA is also to provide for more effective prevention of certain unlawful activities.

29. To achieve the said object and purpose of effective prevention of certain unlawful activities the Parliament in its wisdom has provided that where an association is declared unlawful by a notification issued under Section 3, a person, who is and continues to be a member of such association shall be punishable with imprisonment for a term which may extend to 2 years, and shall also be liable to fine.

30. Clause (m) of Section 2 of the 1967 Act defines "terrorist organization". It is defined as an organization listed in the First Schedule. Chapters III onwards of the 1967 Act incorporate various offences. Chapter IV has the title "punishment for terrorist act". Clause (k) of Section 2 provides that "terrorist act" has the meaning assigned to it under Section 15 and the terrorist act includes an act (2025:JHHC:12098-DB) which constitutes an offence within the scope of, and as defined in any of the treaties specified in the Second Schedule.

31. As per mandate of section 13 of the Act 1967 who takes part in or commits, or advocates, abets, advises or incites the commission of, any unlawful activity, shall be punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

32. As per the provision of Section 15, whoever has acted with intent to threaten or likely to threaten the unity, integrity, security, economic security, or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country would be covered under the definition of "terrorist act". This provision, therefore, stipulates that any activity with an intent to strike terror or likely to strike terror will come under the fold of terrorist act if done to threaten the unity, integrity, security, sovereignty of India or economic security, which has been inserted by way of Act 3 of 2013 with effect from 01.02.2013.

33. Further, Section 17 provides punishment for raising funds for terrorist act which reads as under:

"17. Punishment for raising funds for terrorist act.--Whoever, in India or in a foreign country, directly or indirectly, raises or provides funds or collects funds, (

2025:JHHC:12098-DB) whether from a legitimate or illegitimate source, from any person or persons or attempts to provide to, or raises or collects funds for any person or persons, knowing that such funds are likely to be used, in full or in part by such person or persons or by a terrorist organisation or by a terrorist gang or by an individual terrorist to commit a terrorist act, notwithstanding whether such funds were actually used or not for commission of such act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine. Explanation.--For the purpose of this section,--

(a) participating, organising or directing in any of the acts stated therein shall constitute an offence;

(b) raising funds shall include raising or collecting or providing funds through production or smuggling or circulation of high quality counterfeit Indian currency; and

(c) raising or collecting or providing funds, in any manner for the benefit of, or, to an individual terrorist, terrorist gang or terrorist organisation for the purpose not specifically covered under section 15 shall also be construed as an offence.

34. It is evident from the contents of Section 17 of the Act, 1967 that whoever, in India or in a foreign country, directly or indirectly, raises or provides funds or collects funds, whether from a legitimate or illegitimate source, from any person or persons or attempts to provide to, or raises or collects funds for any person or persons, knowing that such funds are likely to be used, in full or in part by such person or persons or by a terrorist organisation or by a terrorist gang or by an individual terrorist to commit a terrorist act, notwithstanding whether such funds were (2025:JHHC:12098-DB) actually used or not for commission of such act, the same would be covered under the aforesaid provision. Meaning thereby, raising of funds directly or indirectly to commit a terrorist act by a terrorist organization or by terrorist gang or by an individual terrorist, irrespective of the fact whether this was actually used for commission of such act, would be punishable under Section 17

35. Sub-section (c) of Section 17 of the Act, 1967 enlarges the scope of the terrorist act since the same provides that any act for the benefit of an individual terrorist, terrorist gang or terrorist organisation even if not specifically covered under Section 15 shall also be construed as an offence.

36. At this juncture it will be purposeful to discuss the core of Section 43(d)(5) of the Act 1967 which 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.

37. 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 (2025:JHHC:12098-DB) 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 collated 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 the commission of the stated offence. 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 (2025:JHHC:12098-DB) 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 11 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...."

38. It is, thus, evident from the proposition laid down by the Hon'ble Apex Court in the case of National (2025:JHHC:12098-DB) Investigation Agency vs. Zahoor Ahmad Shah Watali (Supra) that 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.

39. Further It is settled proposition of law that at the stage of granting or non-granting of the bail, the Court is merely expected to record a finding on the basis of broad probabilities regarding the involvement of the accused in the commission of the stated offence or otherwise and the elaborate examination or dissection of the evidence is not required to be done at this stage.

40. Further, the Hon'ble Apex Court by setting out propounding the law in the same case of National Investigation Agency v. Zahoor Ahmad Shah Watali (supra), has observed that the elaborate examination or dissection of the evidence is not required to be done at this stage and the Court is merely expected to record a finding on the basis of broad probabilities regarding the involvement of the accused in the commission of the stated offence or otherwise. For ready reference paragraph 24 and 25 of the aforesaid judgment is being quoted herein under:-

"24. A priori, the exercise to be undertaken by the Court at this stage--of giving reasons for grant or non-grant of (2025:JHHC:12098-DB) bail--is markedly different from discussing merits or demerits of the evidence. The elaborate examination or dissection of the evidence is not required to be done at this stage. The Court is merely expected to record a finding on the basis of broad probabilities regarding the involvement of the accused in the commission of the stated offence or otherwise.

25. From the analysis of the impugned judgment, it appears to us that the High Court has ventured into an area of examining the merits and demerits of the evidence. For, it noted that the evidence in the form of statements of witnesses under Section 161 are not admissible. Further, the documents pressed into service by the investigating agency were not admissible in evidence. It also noted that it was unlikely that the document had been recovered from the residence of Ghulam Mohammad Bhatt till 16-8-2017 (para 61 of the impugned judgment). Similarly, the approach of the High Court in completely discarding the statements of the protected witnesses recorded under Section 164 CrPC, on the specious ground that the same was kept in a sealed cover and was not even perused by the Designated Court and also because reference to such statements having been recorded was not found in the charge-sheet already filed against the respondent is, in our opinion, in complete disregard of the duty of the Court to record its opinion that the accusation made against the accused concerned is prima facie true or otherwise. That opinion must be reached by the Court not only in reference to the accusation in the FIR but also in reference to the contents of the case diary and including the charge-sheet (report under Section 173 Cr.P.C.) and other material gathered by the investigating agency during investigation."

41. It is, thus, evident that the exercise to be undertaken by the court at this stage of granting bail of giving reasons for grant or non-grant of bail that is (2025:JHHC:12098-DB) markedly different from discussing merits or demerits of the evidence. The elaborate examination or dissection of the evidence is not required to be done at this stage. Rather, the Court is merely expected to record a finding on the basis of broad probabilities regarding the involvement of the accused in the commission of the stated offence or otherwise.

42. Further it is the duty of the Court to record its opinion that the accusation made against the accused concerned is prima facie true or otherwise and such opinion must be reached by the Court not only in reference to the accusation in the FIR but also in reference to the contents of the case diary and including the charge-sheet (report under Section 173 CrPC) and other material gathered by the investigating agency during investigation. Reference in this regard may be taken from the Judgment as rendered by the Hon ble Apex Court in the case of Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra, reported in (2005) 5 SCC 294. For ready reference, the following paragraph of the aforesaid Judgment is being quoted herein under:-

"46. The duty of the court at this stage is not to weigh the evidence meticulously but to arrive at a finding on the basis of broad probabilities. However, while dealing with a special statute like MCOCA having (2025:JHHC:12098-DB) regard to the provisions contained in sub-section (4) of Section 21 of the Act, the court may have to probe into the matter deeper so as to enable it to arrive at a finding that the materials collected against the accused during the investigation may not justify a judgment of conviction. The findings recorded by the court while granting or refusing bail undoubtedly would be tentative in nature, which may not have any bearing on the merit of the case and the trial court would, thus, be free to decide the case on the basis of evidence adduced at the trial, without in any manner being prejudiced thereby."

43. The Hon ble Apex Court in a very recent judgment rendered in Gurwinder Singh Vs State of Punjab and Another, reported in 2024 SCC OnLine SC 109 while taking into consideration of the judgment as rendered in the National Investigation Agency v. Zahoor Ahmad Shah Watali (supra) and Union of India Vs. K.A. Najeed (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, (2025:JHHC:12098-DB) such accused person shall not be released on bail or on his own bond.

44. 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.

45. 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.

46. 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 (2025:JHHC:12098-DB) 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).

47. 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 (2025:JHHC:12098-DB) 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 scrutinizing 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-- ---"

48. 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 (2025:JHHC:12098-DB) 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.

49. The Hon ble Apex Court in the aforesaid judgment after textual reading of Section 43 D(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 herein 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 summarized in the form of a twin-prong test:

Whether the test for rejection of the bail is satisfied?

Examine if, prima facie, the alleged „accusations make out an offence under Chapter IV or VI of the UAP Act Such examination should be limited to case diary and final report submitted under Section 173 CrPC;

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)?"

50. Further, it is settled proposition of law that at the stage of granting or non-granting of the bail, the Court is merely expected to record a finding on the basis of broad probabilities regarding the involvement of the accused in the commission of the stated offence or otherwise and (2025:JHHC:12098-DB) the elaborate examination or dissection of the evidence is not required to be done at this stage.

51. Further, it is the duty of the Court to record its opinion that the accusation made against the accused concerned is prima facie true or otherwise and such opinion must be reached by the Court

not only in reference to the accusation in the FIR but also in reference to the contents of the charge-sheet and other material gathered by the investigating agency during investigation.

52. This Court, on the basis of the aforesaid position of law and the factual aspect as has been gathered against the appellant, is proceeding to examine as to whether the accusation against the appellant is prima facie true as compared to the opinion of accused not guilty by taking into consideration the material collected in course of investigation.

53. From perusal of the 1st supplementary charge- sheet as appended with the memo of appeal, it is evident that the appellant has been charge-sheeted as accused (A-7) of the instant case. It is further evident from the perusal of charge-sheet that NIA in its investigation has found that accusation against the appellant is mentioned in various paragraphs of the 1st (2025:JHHC:12098-DB) supplementary charge-sheet. For ready reference the relevant paragraphs are being quoted herein under: -

17.8 Investigation into the criminal conspiracy hatched among the accused persons for channelizing the extorted money of PLFI into legitimate means by depositing in the shell companies.

Besides the collection of the extorted/levy amount, Dinesh Gope (A-6) in investing the extorted money in the dubious shell companies, formed as part of the larger (conspiracy) plan and on his directions to his associates/members of PLFI, for channelizing it in the alleged legal manner. It is pertinent to mention here, for this purpose, Dinesh Gope (A-6) formed various modules to operate for furtherance of his unlawful activities. Initially, extorted levy amount was getting converted through A-1 to A-4 and post arrest of A- 1 to A5, he (A-6) assigned the same task to another module having the same Modus Operandi/ intention, with the association/under the leadership of A-7 A-7 was holding the post of Director in Bhavya Engicon Pvt. Ltd, Shiv Aadi Shakti Minerals Pvt. Ltd, with the purpose to disguise his actual intention with the partnership of Shakuntala Kumari, alleged second wife of Dinesh Gope (A-6). After getting funds in cash directly from Dinesh Gope (A-6), Sumant Kumar (A-7) either himself or with active association of Arun Gope (A-10) deposited extorted/levy amount in the accounts of the above dubious shell companies. Sumant Kumar (A-7) with the close association of (A-11) hatched the criminal conspiracy in the name of alleged surrender of Dinesh Gope (A-6), self-styled Chief of PLFI with the association of A-8, A-9 & A-12 and arranged/held meeting with the political leaders. As per the plan of A-6 & PLFI, A-7 along with his associates were directly, deeply involved in the larger conspiracy and in the commission of the instant crime and were channelizing the extorted/levy amount into alleged legitimate means by depositing the same in the accounts (2025:JHHC:12098-DB) of family members/close associates as well as the firms owned by A-7 or having partnership with them. 17.11) Investigation in respect of transfer of extorted money Rs.48 Lakhs transferred from Ranchi to New Delhi by A-7 & A-11 on dated 21.05.2018 and subsequently received on 22.05.2018 through non-banking Channel and further holding by A-8, A-9, A-11 & A-12. Investigation has established that on 21.05.2018, Sumant Kumar and Jitender Kumar were present at Ranchi. He (A-7) sent his employee/driver namely Badal Sani @ Brajesh Soni with direction to deliver a bag containing Rs. 48 lakhs at the shop of Prasann Kumar Jain (Hawala Operator), simultaneously A7&A 11 got in touch with Prasann Kumar

Jain using the mobile phone of A-11 It is established that Prasann Kumar Jain had sent serial number depicted on a ten rupee note as a token of confirmation which was be used by A-7 & A-11 at the time of receipt of transferred money at Panipat. Further, A-7 & A-11 moved to Delhi and subsequently received Rs. 48 Lakhs from Suraj Kumer (Hawala Operator) on showing the pre decided serial number of the ten rupee note at Panipat on 22.05.2018 Further, the same amount was brought to New Delhi by A-7 & A-11 along with A-9 in the vehicle of Hotel Lee-Seasons, Mahipalpur, New Delhi and the above extorted money was further been handed over to Nandlal Swarnkar Nandlal Soni (A-8) and Navinbhai Jayantibhai Patel (A-12) in furtherance of the activities of PLFI as per larger conspiracy and plan of PLFI. Part of the said amount has been recovered at various stages of investigation. After analyzing the CDRs of the above said persons, it has been established that accused A-7, A-8, A-9, A-11 & A-12 were in constant touch with one another to execute the plan of PLFI. 17.14 Deposition of statement u/s 164 CrPC of the independent witnesses to be cited (PW 4. PW 39 PW 56, PW-65, PW-67, PW-68, PW-77, PW-79, PW 100, PW-127) before the Hon'ble Court:

(2025:JHHC:12098-DB) During the course of investigation, independent witnesses cites as PW-4, PW-19, PW 56, PW-63, PW 57, PW-68, PW-77, PW-79 PW-100 and PW-127 deposed in their respective statements u/s 164 CrPC before the Ld. Designated Court at Ranchi, in which it is established that A-6 is Self-styled Chief of terrorist gang PLFI and under his command, his gang members/operatives used to extort levy from contractors/businessmen engaged in development projects etc. A-6 used this levy amount for purchasing the arms and ammunitions and for expansion of his armed cadre of PLFI and raised funds for the terrorist gang. As along with the co-conspirators and with association of A7, A8, A9, A-10, A-11 and A 12 were channelizing the extorted money, collected in the form of extortion/Levy by him and by the operatives of PLFI, which were derived and obtained by PLFI operatives from commission of terrorist acts (levy, extortion) and acquired through the terrorist fund and hatched the criminal conspiracy As part of larger conspiracy, A-6 formed dubious shell companies with', the co-accused/conspirator namely Sumant Kumar (A-

7). As part of larger conspiracy/plan of PLFI as well of A-

6 A-7, have criminally conspired with A-8, A9, A-10, A- 11 & A-12, for channelzing the extorted money into alleged legitimate means/alleged business. 17.17 Role of the accused A-7 A-7 is a close associate of Dinesh Gope A-6 and is well acquainted with the facts that dinesh Gope is a terrorist and chief of PLFI and collects/ raises funds through extortion of Levy. A-7 has also held the post of director in Bhavya Engicon Pvt Ltd and Shiv Aadi Shakti Minerals Pvt Ltd with the partnership of Shakuntala Kumari, alleged second wife of Dinesh Gope A-6. Further Sumant Kumar A-7 used to collect cash funds directly from Dinesh Gope A-6 and got it deposited in the account of the above dubious shell companies. Sumant Kumar A-7 and his associates were deeply involved in the larger conspiracy and in the commission of the (2025:JHHC:12098-DB) instant crime and were channelising the extorted amount through legitimate means by depositing the same in the account of family members / close associates as well as firms owned by him or with the partnership of them. Investigation established that A-7 was closely associated with the absconding Accused Dinesh Gope A-6, PLFI self styled chief. As per the plan of PLFI post arrest of A-1, A-2, A-3 and A-4 and A-7, he

was running dubious shell companies with the partnership of the wives of Dinesh Gope A-6 and his associates. It is on record that A-7 criminally conspired with PLFI Supremo Dinesh Gope A-6, Arun Gope A-10 and others with intent to channelise the extorted amount in shell companies namely M/s Palak Enterprises, Bhavya Engicon Pvt Ltd and Shiv Aadi Shakti Minerals Pvt Ltd."

54. It is apparent from the record that NIA filed first supplementary chargesheet on 21.10.2019 against Vinod Kumar @ Binod Kumar (A-1), Chandrashekhar Kumar (A-2), Nand Kishore Mahto (A-3), Mohan Kumar @ Rajesh Kumar (A-4), Dinesh Gope (A-6), Sumant Kumar @ Pawan Kumar (A-7)(present appellant), Nandlal Swarnkar @ Nandlal Soni (A-8) Chandra Shekhar Singh (A-9), Arun Gope (A-10), Jitendra Kumar (A-11) and Navinbhai Jayantibhai Patel (A-

12).

55. From the aforementioned paragraph it is evident that during investigation it has come that besides collection of levy Dinesh Gope is also investing extorted money in the companies opened in the name of his two wives namely Shakuntla (A 13) and Hira Devi (A 14) and also in the name (2025:JHHC:12098-DB) of other co- accused Fuleshwar Gope (A-17) and present appellant Sumant Kumar (A-7). They formed larger conspiracy plan with members of PLFI and they started channelizing levy amount into alleged legal manner.

56. During investigation it is also brought on record by the NIA that Dinesh Gope (A-6) continued to channelize levy amount into legitimate means by depositing/ transferring into the bank accounts of his wives A-13 and A-14 with the help of Fuleshwar Gope (A17) and appellant Sumant Kumar (A7).

57. It has come in Para 17.11 of the chargesheet that investigation in respect of transfer of extorted money Rs.48 lakhs transferred from Ranchi to New Delhi by A-7 and A- 11 on dated 21/5/2018 and subsequently received on 22.5.2018 through non-banking channel.

58. Offences against Sumant Kumar A-7 is mentioned in para 17.28 of the chargesheet which disclose that Sumant Kumar A-7 was the part of second module which was working for A-6. A-7 alongwith other accused persons hatched conspiracy with an intent to aid / assist in the management of PLFI and to assist the A-6 self-styled chief of PLFI.

59. It has been revealed in the investigation that they were involved directly/ indirectly for channelizing the (2025:JHHC:12098-DB) collected funds from illegitimate source knowing the fact that such funds are likely to be used by the terrorist gang for committing a terrorist act or otherwise knowing dishonestly received/ retained the money/ amount i.e stolen property and voluntarily assisted in concealing or disposing of or making away with amount collected through extortion/ levy by A-6 and through the operatives of PLFI.

60. Thus, from aforesaid prima facie it appears that the appellant conspired and advocated, abetted advised the commission of terrorist act or any act preparatory to the commission of a terrorist act and he channelised and raised the illegal money collected through extortion which was further being legalised through the creation of shell companies registered in the name of family members of

Dinesh Gope A-6. In these shell companies, petitioner was also director and active partner.

61. This Court, after appreciating the aforesaid argument, is of the view that since this Court is to make out a prima-facie view based upon the principle as provided under Section 43D(5) of the U.A.(P) Act, therefore, is of the view that at this stage, rather, for the purpose of making a prima-facie view, the evidence available on record is to be seen, which is available against the appellant.

(2025:JHHC:12098-DB) Issue of Parity

62. Further, the learned counsel for the appellant has taken the ground of parity and submission has been made that the other co-accused person, namely, Jitendra Kumar and Binod Kumar and three others have been directed to be released on bail by co-ordinate bench of this Court vide order dated 08.05.2023 and 03.10.2023 passed in Cr. Appeal (DB) No.514 of 2020 and Cr. Appeal (DB) No.201 of 2020 respectively to be released on bail by co-ordinate bench of this Court and the case of the appellant stands on better footing.

63. It has further been submitted that the co-accused persons namely, Jai Prakash Singh Bhuiyan, Chandrashekar Singh, Arun Gope, and Amit Kumar Jaiswal, have also been directed to be released on bail by the co-ordinate bench of this Court, and further another co-accused namely Navin Bhai Jayanti Bhai Patel has been directed to be released on bail by the Hon ble Apex Court.

64. The learned counsel for the appellant has submitted that since the other co-accused persons have already been granted bail, therefore the present appellant may be enlarged on bail.

65. Per contra, the learned counsel for the respondent NIA has submitted that the case of the instant appellant is (2025:JHHC:12098-DB) on different footing in comparison to the other accused persons who have already been granted bail.

66. It is further submitted that bail of other co-accused persons, who were also involved in channelizing the extorted money, have been rejected by the co-ordinate Bench of this Court in Cr. Appeal (DB) No. 59 of 2021 [Hira Devi, first wife of accused Dinesh Gope]; and Cr. Appeal (DB) No. 767 of 2022 [Fuleshwar Gope], as such the present appellant is not entitled for the bail on the instance of parity.

67. In the backdrop of the aforesaid contention, this Court is now proceeding to examine the issue of parity. The law is well settled that the principle of parity is to be applied if the case of the fact is exactly to be similar then only the principle of parity in the matter of passing order but if there is difference in between the facts, then the principle of parity is not to be applied.

68. It is further settled connotation of law that Court cannot exercise its powers in a capricious manner and has to consider the totality of circumstances before granting bail and by only simple saying that another accused has been granted bail is not sufficient to determine whether a case for the grant of bail on the basis of parity has been established. Reference in this regard may be taken

from the (2025:JHHC:12098-DB) judgment as rendered by the Hon ble Apex Court in Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana, (2021) 6 SCC 230, wherein, it has been held as under:

"25. We are constrained to observe that the orders passed by the High Court granting bail fail to pass muster under the law. They are oblivious to, and innocent of, the nature and gravity of the alleged offences and to the severity of the punishment in the event of conviction. In *Neeru Yadav v. State of U.P.* [*Neeru Yadav v. State of U.P.*, (2014) 16 SCC 508 :], this Court has held that while applying the principle of parity, the High Court cannot exercise its powers in a capricious manner and has to consider the totality of circumstances before granting bail. This Court observed : (SCC p. 515, para 17)

1. "

17. Coming to the case at hand, it is found that when a stand was taken that the second respondent was a history-sheeter, it was imperative on the part of the High Court to scrutinise every aspect and not capriciously record that the second respondent is entitled to be admitted to bail on the ground of parity. It can be stated with absolute certitude that it was not a case of parity and, therefore, the impugned order [*Mitthan Yadav v. State of U.P.*, 2014 SCC OnLine All 16031] clearly exposes the non-application of mind. That apart, as a matter of fact it has been brought on record that the second respondent has been charge-sheeted in respect of number of other heinous offences. The High Court has failed to take note of the same. Therefore, the order has to pave the path of extinction, for its approval by this Court would tantamount to travesty of justice, and accordingly we set it aside.

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6. Another aspect of the case which needs emphasis is the manner in which the High Court has applied the principle of parity. By its two orders both dated 21-12- 2020 [*Pravinbhai Hirabhai Koli v. State of Gujarat*, 2020 SCC OnLine Guj 2986] , [*Khetabhai Parbatbhai Makwana v. State of Gujarat*, 2020 SCC OnLine Guj 2988] , the High Court granted bail to Pravin Koli (A-10) and Kheta Parbat Koli (A-15). Parity was sought with *Sidhdhrajsinh Bhagubha Vaghela* (A-13) to whom bail was granted on 22-10-2020 [*Sidhdhrajsinh Bhagubha Vaghela v. State of Gujarat*, 2020 SCC OnLine Guj 2985] on the ground (as the High Court recorded) that he was "assigned similar role of armed with stick (sic)". Again, bail was granted to Vanraj Koli (A-16) on the ground that he was armed with a wooden stick and on the ground that Pravin (A-10), Kheta (A-15) and *Sidhdhrajsinh* (A-13) who were armed with sticks had been granted bail. The High Court has evidently misunderstood the central aspect of what is meant by parity. Parity while granting bail must focus upon the role of the accused. Merely observing that another accused who was granted bail was armed with a similar weapon is not sufficient to determine whether a case for the grant of bail on the basis of parity has been established. In deciding the aspect of parity, the role attached to the accused, their position in relation to the incident and to the victims is of utmost importance. The High Court has proceeded on the basis of parity on a simplistic assessment as noted above, which again cannot pass muster

under the law."

69. Further, the Hon ble Apex Court in Tarun Kumar Versus Assistant Director Directorate of Enforcement, reported in (2023) SCC OnLine SC 1486 has observed that parity is not the law and while (2025:JHHC:12098-DB) applying the principle of parity, the Court is required to focus upon the role attached to the accused whose application is under consideration. For ready reference, relevant paragraph, i.e., paragraph-18 of the aforesaid judgment reads as under:

"18. The submission of learned Counsel Mr. Luthra to grant bail to the appellant on the ground that the other co- accused who were similarly situated as the appellant, have been granted bail, also cannot be accepted. It may be noted that parity is not the law. While applying the principle of parity, the Court is required to focus upon the role attached to the accused whose application is under consideration. It is not disputed in that the main accused Sh. Kewal Krishan Kumar, Managing Director of SBFL, and KMP of group companies and the other accused Devki Nandan Garg, owner/operator/controller of various shell companies were granted bail on the ground of infirmity and medical grounds. The co-accused Raman Bhuraria, who was the internal auditor of SBFL has been granted bail by the High Court, however the said order of High Court has been challenged by the respondent before this Court by filing being SLP (Crl.) No. 9047 of 2023 and the same is pending under consideration. In the instant case, the High Court in the impugned order while repelling the said submission made on behalf of the appellant, had distinguished the case of Raman Bhuraria and had observed that unlike Raman Bhuraria who was an internal auditor of SBFL (for a brief period statutory auditor of SBFL), the applicant was the Vice President of Purchases and as a Vice President, he was responsible for the day-to-day operations of the company. It was also observed that the appellant's role was made out from the financials, where direct loan funds have been siphoned (2025:JHHC:12098-DB) off to the sister concerns of SBFL, where the appellant was either a shareholder or director. In any case, the order granting bail to Raman Bhuraria being under consideration before the coordinate bench of this Court, it would not be appropriate for us to make any observation with regard to the said order passed by the High Court.

70. In the light of aforesaid settled position of law this Court has examined the allegations, as have been alleged against aforesaid co-accused persons in the charge-sheet and the said allegation has also been referred in the orders of co-ordinate Bench by which the said co-accused namely Jai Prakash Singh Bhuiyan, Chandrashekar Singh, Arun Gope, and Amit Kumar Jaiswal have been granted bail.

71. The role of the Jai Prakash Singh Bhuiyan has been depicted in para 17.18 of the second supplementary chargesheet, which reads as follows:-

17.18: Offences established against accused Jaiprakash Singh Bhuiyan (A-15):

It is established that A-15 being an associate of PLFI, is well acquainted with the facts that A-6 is a terrorist and chief of PLFI and collects/raises levy through extortion. A-15 has criminally conspired with the members/associates of PLFI, an Unlawful Association and terrorist gang proscribed by the State of Jharkhand, namely A-6, A-13, A-14 & A-16. Although A-15 had surrendered earlier before the Jharkhand State Government as a PLFI cadre, but he continued to be an active member of PLFI, a terrorist gang. A-15, on the direction of A-6 used to take care of the school i.e. Vidhya Vihar Public School, Garai, Rania, DisttKhunti, alleged to (2025:JHHC:12098-DB) belonging to A-6. On direction of A-6, A-15 along with A-

16, used to transfer/deposit levy amount received from A-6, in the accounts of A-14 (Allahabad Bank A/c No. 50484783145), Dipak Majumdar (UBI A/c No. 1401010068217), Sandhya Majumdar (Bandhan Bank A/c No. 50170016481037) and Nasir Ahmad Khan (Federal Bank A/c No. 11570200066404) through various banking channels by using Pragya Kendra operatives. Investigation revealed that within a span of 11 months, A-15, along with A-16, had transferred/deposited approx. Rs.15,75,000/- which was derived or obtained from A-6. Therefore, A-15 was instrumental in channelizing the levy amount into legitimate means by depositing/transferring the same in the bank accounts of A-14 and her associates. A-15, with the association of A-6, A-13, A-14 and A-16, was deeply involved in the larger conspiracy and in the commission of the instant crime and was channelizing the extorted amount as per the larger conspiracy of A-6. Thereby, Jaiprakash Bhuiyan (A-15) committed offences under sections 120B of the IPC, Sections 18, 20 & 21 of the UA(P) Act and section 17(i), (ii) of the CLA Act, 1908".

72. It is evident from aforesaid paragraph that the major charge, which has been levelled against the Jai Prakash Singh Bhuiya, is that of being involved in a larger conspiracy along with several other co-accused persons in channelizing the extorted money of Dinesh Gope (A-6) into the account of Hira Devi @ Anita Devi (A-14) and other persons.

73. The role of the Chandrashekar Singh (A-9) has been depicted in para 17.19 of the second supplementary chargesheet, which reads as follows (2025:JHHC:12098-DB) "17.19 Role of A-9:- It is established that A-9 was well acquainted with the facts that Dinesh Gope (A-6) was a terrorist and chief of PLFI (People's Liberation Front of India) and collected/raised funds through extortion/levy. He was further acquainted with the fact that Sumant Kumar (A-7) is close associate of Dinesh Gope (A-6), who collected/raised funds on the behest of Dinesh Gope (A-6) and further channelized the funds through legitimate means. Chandra Shekhar Singh (A-9), as per the directions of A-6 and A-7, used to collect/extort levy from the road contractors and the other businessmen, engaged in developmental projects. Besides collection of money through extortion, accused A-9, along with A-7, had meetings several times with A-6 in the forest near Garai. A-9 with the association of A-7, A-11 and other associates were deeply involved in the larger conspiracy in channelizing the extorted amount as part of conspiracy of PLFI. A-9, extorted money on behalf of PLFI and screened A-6 from legal punishment and in lieu of screening the A-6, A-9 received restitution and knowingly held the amount which was derived or obtained by the operatives of PLFI and Dinesh Gope from commission of terrorist act (levy, extortion) or acquired through the terrorist fund and further channelized the extorted money through legitimate means."

74. It is evident from the aforesaid that the said co-accused Chandrashekar Singh (A-9) has been involved in a larger conspiracy in channelizing the extorted money collected on behalf of PLFI to make it legitimate.

75. The co-accused Arun Gope has been arrayed as A-10 in the First Supplementary Charge-Sheet and his role and activities have been depicted at Para-17.20 of (2025:JHHC:12098-DB) the same which reads as under:

17.20) Role of A-10:- It is established A-10 was well acquainted with the facts that Sumant Kumar (A-7) is a close associate of his brother-in-law (Jija, husband of his elder sister Shakuntala Kumari) namely Dinesh Gope (A-

6) and used to collect funds directly from Dinesh Gope (A-6). A-10, being brother-in-law of the absconding Dinesh Gope criminally conspired with A-6. A-7 and others and used to receive/collect the extorted money from operatives of PLFI including Sumant Kumar (A-7) and further deposited/sent in the accounts of/to Shakuntala Kumari, wife of Dinesh Gope. It has been established that, as per the directions, received telephonically from Sumant Kumar (A7) and Shakuntala Kumari, elder sister of the accused A-10, he used to collect amount less than Rs. 50,000/- (Fifty thousand rupees) from A7, who-is director/partner in the dubious shell companies formed as per direction of A-6 with Shakuntala Kumari, wife of Dinesh Gope (A-6) and used to deposit the collected money in the account of Palak Enterprises at SBBJ branch, Pee Pee Compound, Main Road, Ranchi and the amount between Rs. 50,000/- (Fifty Thousand rupees) to Rs. 1,00,000/- (One Lakh rupees) used to be collected from Sumant Kumar (A-7) and the collected amount was taken by the A-10 to Kolkata where the collected amount was handed over to Shakantala Kumari. The A-10 always remained in touch with Dinesh Gope (A-6) and met him many times in the forest areas of Raniya, Garai and Torpa and took his directions in furtherance of PLFI activities.

76. The aforesaid would therefore indicate that the co-accused Arun Gope was involved primarily in channelizing the ill-gotten money through various sources.

77. The co-accused Amit Kumar @ Amit Jaiswal has (2025:JHHC:12098-DB) been arrayed as A-15 in the Second Supplementary Charge-Sheet and the role and activities attributed to the appellant have been depicted in Para-17.19 of the said charge sheet which reads as under:

"17.19 Offences established against accused Amit Kumar @ Amit Jaiswal @ Amit Kumar Jaiswal (A-16): It is established that A-16 being an associate of PLFI, is well acquainted with the facts that A-6 is a terrorist and chief of PLFI and collects/raise levy through extortion. A16 has criminally conspired with the members/associates of PLFI, an Unlawful Association and terrorist gang prescribed by the State of Jharkhand, namely A-6, A-13 & A-14 & A15. A-16, on the directions of A-6, used to collect/extort levy from the contractors and other businessmen engaged in development projects. On direction of A-6, A16 along with A-15 used to transfer/deposit levy amount, received from A-6, in the accounts of A-14 (Allahabad

Bank A/c No. 50484783145), Dipak Majumdar(UBI A.c No. 1401010068217), Sandhya Majumdar(Bandhan Bank A/c No.50170016481037) and Nasir Ahmad Khan(Federal Bank A/c No. 11570200066404) through various banking channels by using Pragya Kendra Operatives. Investigation has also revealed that within a span of 11 months, A-16 along with A-15 had transferred/deposited approx.. Rs.15,75,000/- which was either derived or obtained from A-6 or levy collected directly from contractors and other businessmen. Therefore, A-16 was instrumental in channelizing the levy amount into legitimate means by depositing/transferring the same in the bank accounts of A-14 and her associates. A-16, with the association of A-6, A-13, A-14 and A-15, was deeply involved in the larger conspiracy and in the commission of the instant crime and was channelizing the extorted amount as per the (2025:JHHC:12098-DB) larger conspiracy of A-6. Thereby, Amit Kumar @ Amit Jaiswal @ Amit Kumar Jaiswal (A-16) committed offences under sections 120B r/w 386 of the IPC, sections 17, 18 & 21 of the UA(P) Act 1967 and sections 17(i), (ii) of the CLA Act, 1908"

78. It is evident from aforesaid paragraph that the co-accused Amit Kumar @ Amit Jaiswal was instrumental in channelizing the ill-gotten money through various sources.

79. So far as co-accused Navinbhai Jayantibhai Patel is concerned, the first supplementary charge sheet was submitted against him and he was arrayed as an accused no. 12 by the NIA. In the said charge-sheet it has been alleged that the said co-accused Navinbhai Jayantibhai Patel was part of 2nd module for channelizing the illegitimate money into legitimate means and was working for Dinesh Gope (i.e. main accused no. 6) despite knowing the fact, the said fund are proceeds of levy collected from Contractors, businessmen etc. and were being used for procurement of explosives, arms and ammunitions and for committing disruptive activities.

80. Further so far, the other co-accused namely Jitendra Kumar is concern the major charge, which has been levelled against him, is that of being involved in a larger conspiracy along with several other co-accused (2025:JHHC:12098-DB) persons in channelizing the extorted money of Dinesh Gope (A-6) into the account of Hira Devi @ Anita Devi (A-

14) and other persons.

81. Further, the allegation against the other accused persons namely Binod Kumar(A-1), Chandra Shekhar Kumar, Nand Kishore Mahto and Rajesh Kumar @ Mohan Kumar is that they are of being involved in criminal conspiracy with the other accused persons more particularly PLFI supremo - Dinesh Gope into channelizing the extorted money into legitimate means. What would further be apparent is that the appellants were acting as conduits in channelizing such ill-gotten money.

82. This Court has already referred hereinabove the allegation against the present appellant that during investigation it has come that present appellant Sumant Kumar (A-7) received huge amount of money obtained by Dinesh Gope through levy, to which he invested in the name of shell companies, in which wives of Dinesh Gope, his brother-in-law were the Directors and appellant

himself was working as active Director. The appellant appears to be very much instrumental behind trail of the money. He used to invest collected levy amount in the bank and further invested the said (2025:JHHC:12098-DB) amount in the shell companies.

83. Further, it appears that the appellant conspired and advocated, abetted advised the commission of terrorist act or any act preparatory to the commission of a terrorist act and he channellised and raised the illegal money collected through extortion which was further being legalised through the creation of shell companies registered in the name of family members of Dinesh Gope A-6. In these shell companies, petitioner was also director and active partner.

84. Thus, it is evident that the culpability of the present appellant is different in comparison to the other accused persons against whom parity has been claimed.

85. Further, this Court has also gone through the order dated 21.03.2024 passed in in Cr. Appeal (DB) No. 767 of 2022 by which the Co-ordinate Bench of this Court had denied the privilege of bail to another-co- accused, namely, Fuleshwar Gope.

86. It needs to refer herein that against the order dated 21.03.2024 an appeal being Special Leave to Appeal (Crl.) No(s).7703/2024 had been preferred before the Hon ble Apex Court but vide order dated 03.02.2025 the said appeal has been rejected. For ready reference relevant part of the said order is being quoted as under:

(2025:JHHC:12098-DB) "3.Since the date of issuance of notice in the present petition, we notice that trial has substantially progressed and is almost nearing completion.

4.Mr. Balaji Srinivasan, learned counsel appearing for the petitioner submits that today co-accused (Accused No.12) stands granted bail by a Coordinate Bench of this Court.

5.In the peculiar facts and circumstances of the instant case relating to the petitioner, we are not inclined to enlarge the petitioner on bail.

6. The present Special Leave Petition is, accordingly, dismissed."

87. Thus, it is evident from the aforesaid order that the Hon ble Apex Court while taking into consideration the progress of trial which is almost nearing completion has dismissed the prayer for bail of the co-accused Fulshear Gope.

88. Further, it needs to refer herein that the learned counsel for the NIA has submitted at Bar that trial of the case is at its fag end and on verge of completion as prosecution evidence have already been closed herein.

89. Thus on the basis of discussion made herein above and this Court, after taking into consideration the fact that this appellant was an active member of the Company by which he was deeply involved by channelizing the extorted amount as per the plan of PLFI and further taking in to consideration the culpability of the present appellant as discussed and referred herein above is different in comparison to other co-accused (2025:JHHC:12098-DB) persons against whom parity has been claimed is of the considered view that the principle of parity will not be applicable herein.

90. So far as the argument regarding reliance having been placed upon the judgment of Union of India vs. K.A. Najeeb (Supra) is concerned, this Court is of the view that in the facts and circumstances of the aforesaid judgment will not be applicable herein since as per prosecution the trial is at the fag end and verge of completion as per the submission made by the respondent-NIA.

91. While in the said case altogether 276 charge- sheeted witnesses were to be examined and on the pin- pointed question by the Hon ble Apex Court, the investigating agency has submitted that there is no question of reducing the number of charge-sheeted witnesses and in view thereof and considering the period of custody, i.e., more than 5 and half years and also taking into consideration the spirit of Article 21 of the Constitution of India the Hon ble Apex Court has not interfered in the order by which the bail was granted to respondent-accused.

92. While, the fact of the instant case is that there is very grave nature of allegation against the present (2025:JHHC:12098-DB) appellant and further, in the instant case trial is on verge of conclusion, thus ratio of the judgment of Union of India vs. K.A. Najeeb (Supra), in the present facts and circumstances of the case will not be applicable herein.

93. Further, the Hon ble Apex Court in the case of Gurwinder Singh v. State of Punjab, (supra) while taking into consideration the ratio of judgment of Union of India vs. K.A. Najeeb (Supra), 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..

94. This Court, merely on the basis of the custody by taking the ground of violation of Article 21 of the Constitution of India, the same since has already been dealt with by the Hon ble Apex Court in the case of (2025:JHHC:12098-DB) Gurwinder Singh (Supra) wherein the Hon ble Apex court has taken into consideration the judgment rendered by the Hon ble Apex Court in the case of K.A.

Najeeb (Supra), is of the view that the parameter which statutorily has been provided under Section 43D(5) is to be taken into consideration for the purpose of consideration of bail, if the allegation as per the material collected in course of investigation is found to be prima- facie untrue then only prayer for bail, can be considered. While, if the allegation has been found to be prima-facie true, the privilege of bail cannot be granted.

95. This Court, on the basis of the facts and coming to the settled position of law as referred hereinabove and the judgment rendered by the Hon'ble Apex Court in the case of Zahoor Ahmad Shah Watali (supra) and of Gurwinder Singh Vs State of Punjab and Another, (supra) is of the view that it cannot be said that the allegation levelled against the appellants is prima facie untrue.

96. This Court, based upon the aforesaid reason, is of the view that the order passed by the learned court while rejecting the prayer for bail of the present appellant suffers from no infirmity.

(2025:JHHC:12098-DB)

97. Accordingly, the instant appeal fails and is dismissed.

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

99. We make it clear that the prima facie findings recorded in this judgment are only for considering the prayer for bail of the appellant. The reasons are confined to the prayer for bail of the appellant. The same will have no bearing on the trial of the case of the appellant and co-accused.

I Agree

(Sujit Narayan Prasad, J.)

(Gautam Kumar Choudhary, J.)

(Gautam Kumar Choudhary, J.)

Birendra/A.F.R.