

Shakuntala Kumari vs Union Of India Through National ... on 23 April, 2025

Bench: Sujit Narayan Prasad, Gautam Kumar Choudhary

(2025:JHHC:12102-DB)

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (DB) No.09 of 2024

Shakuntala Kumari, D/o Mahavir Gope, W/o Dinesh
Gope, aged about 30 years, R/o Village-Lape Bakspr, P.O.
& P.S.-Karra, District- Khunti, Jharkhand

.... . Appellant
Versus

Union of India through National Investigating Agency,
having its office at N.I.A. Camp office, Quarter No.305,
Sector-II, P.O. Dhurwa, P.S. Dhurwa, District Ranchi,
Jharkhand 834002.

.... . Respondent

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

For the Appellant	: Mr. Balaji Srinivasan, Advocate [Through Virtual Mode]
	Mr. Niranjana Kumar, 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 15.12.2023 passed by the learned A.J.C.-XVI-cum-Special Judge, NIA Ranchi, in Misc. Cr. Application No. 3041 of 2023 (Special (NIA) Case No.02 of 2018) corresponding to R.C. No.02/2018/NIA/DLI dated 19.01.2018, 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 (2025:JHHC:12102-DB) (Amendment) Act, 1908 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 & FACTS

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 (2025:JHHC:12102-DB) Kumar, Chandra Shekhar Kumar, Nand Kishore Mahto and 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 (2025:JHHC:12102-DB) Sections 212, 213, 414/34 of the I.P.C., Section 17(ii) of the Criminal 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 (2025:JHHC:12102-DB) that the absconding accused Dinesh Gope (A-6), supremo of PLFI, continued to channelize levy amount into legitimate means by depositing/transferring into the bank accounts of his wives(A-13), [the appellant herein] 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(A-13) [the appellant herein]), A-14, Sumant Kumar (A-7) and Fuleshwar Gope and accordingly, she was arrested on 30.01.2020. Accordingly, on 23.7.2020, 2nd supplementary charge-sheet was submitted against the other accused persons including the present appellant and she was arrayed as an Accused no.13.

11. Consequently, the above-named appellant had preferred the regular bail application vide Misc. Cr. Application No. 3041 of 2023 before the NIA Special Court, Ranchi for regular bail but the same has been rejected vide order dated 15.12.2023, against which, the present appeal has been filed.

Submission on behalf of appellant:

12. 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 her (2025:JHHC:12102-DB) involvement in the collection of levies 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 the appellant has been made accused in the present case, as she is wife of one of the co-accused, Dinesh Gope (A-6).

But, she does not hold the proceeds of terror or crime and is unaware of any criminal conspiracy hatched by accused, Sumant Kumar and other co- accused persons. Therefore, she ought not to have been made party to the alleged conspiracy.

(iii). 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 funding. Therefore, no offence under Section U.A. (P) Act and Section 17 of the CLA Act is made out against the petitioner. Further, offence under the Indian Penal Code is also not made out against the petitioner because petitioner has not forged a single document and nothing has been recovered from conscious possession of the appellant.

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(iv).The allegation against the appellant is that he was involved in channelizing the extorted money into legitimate means by depositing the same in her individual bank accounts and companies owned by her. In this regard, referring to the judgement rendered by Hon ble Apex Court in the case of Sudesh Kedia Vs. Union of India [Cr. Appeal 314- 315 of 2021] and has been made and submission has been made that payment for money for business purposes does not amount to terror funding.

(v) Further submission has been made that the appellant has a girl child and at the time of arrest the said girl child was only four years old and at present she is living with her maternal grandparents in a very poor situation.

(vi) Taking the ground of incarceration, submission has been made that the appellant is languishing in judicial custody since 30.01.2020 i.e., more than five 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.

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(vii) Learned counsel for the appellant has further referring to the judgment rendered in the case of Asim Vs. NIA [(2022) 1 SCC 695], wherein the judgment rendered in the case of Union of India Vrs. K.A. Najeeb (supra) has been taken note of, has submitted that deprivation of personal liberty without speedy trial is not consistent with Article 21 of the Constitution of India. The Hon ble Apex Court in the case of Manoj Kumar Yadav vs. Union of India [SLP (CrI) No. 9829 of 2021, has reiterated the same view and has granted bail to the accused person(s) charged under sections 13, 16, 17, 21, 21 and 23 of the U.A.P Act on the ground that the appellant has suffered incarceration for a period of four years and in the case at hand, the appellant has remained in custody for more than five years, therefore, it is a fit case where the appellant is to be released on bail. Furthermore, the appellant does not have any criminal antecedent.

(viii) 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 three others have been directed to be released on bail by the co-ordinate bench of this Court vide order (2025:JHHC:12102-DB) 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.

(ix) It has further been submitted that the co- accused persons namely, Jai Prakash Singh Bhuiyan, Chandrashekar Singh, Arun Gope, and Amit Kumar @ Amit Jaiswal @ 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.

(x) 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.

13. Learned counsel for the appellant, on the aforesaid (2025:JHHC:12102-DB) 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, the impugned orders need to be interfered with.

Submission advanced on behalf of the learned counsel for Respondent-N.I.A.

14. 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 (the present appellant) and Hira Devi and others, by using several pragya Kendra through various banking channels and also in the bank accounts of the companies opened in the name of present appellant. Furthermore, the extorted money collected in the form of levy was invested in the company owned by the present appellant.

(ii). It has been submitted that so far trial is (2025:JHHC:12102-DB) concerned, the prosecution witness have already been closed herein and now the case is at the stage of defence and trial in this case is 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. 1026 of 2019 [Sumant Kumar]; and Cr.

Appeal (DB) No. 59 of 2021 [Hira Devi, first wife of accused Dinesh Gope].

(iv) Further vide order dated 21.03.2024 the Coordinate 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 (2025:JHHC:12102-DB) 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 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.

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

Analysis

16. 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.

17. This Court, before proceeding to examine as to whether the appellant has been able to make out a prima facie case for enlarging him on bail, deems it fit and proper to discuss some settled proposition of law and the relevant provisions of Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as Act, 1967).

18. 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 (2025:JHHC:12102-DB) 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.

19. 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.

20. Clause (m) of Section 2 of the 1967 Act defines "terrorist organization". It is defined as an organization listed in the First Schedule. CPI (Maoist) has been listed at Item no. 34 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 which constitutes an offence within the scope of, and as defined in any of the treaties specified in (2025:JHHC:12102-DB) the Second Schedule.

21. Further section 10(a)(i) of Act 1967 provides that where an association is declared unlawful by a notification issued under Section 3 which has become effective under sub-section (3) of that Section, a person, who is continues to be a member of such association shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine therefore, so long as Section 10(a)(i) stands a person who is or continues to be a member of such association shall

be liable to be punished.

22. 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.

23. 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.

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

(2025:JHHC:12102-DB) "23. By virtue of the proviso to sub-section (5), it is the duty of the Court to be satisfied that there are reasonable grounds for believing that the accusation against the accused is prima facie true or otherwise. Our attention was invited to the decisions of this Court, which has had an occasion to deal with similar special provisions in TADA and MCOCA. The principle underlying those decisions may have some bearing while considering the prayer for bail in relation to the offences under the 1967 Act as well. Notably, under the special enactments such as TADA, MCOCA and the Narcotic Drugs and Psychotropic Substances Act, 1985, the Court is required to record its opinion that there are reasonable grounds for believing that the accused is "not guilty" of the alleged offence. There is a degree of difference between the satisfaction to be recorded by the Court that there are reasonable grounds for believing that the accused is "not guilty" of such offence and the satisfaction to be recorded for the purposes of the 1967 Act that there are reasonable grounds for believing that the accusation against such person is "prima facie" true. By its very nature, the expression "prima facie true" would mean that the

materials/evidence collated by the investigating agency in reference to the accusation against the accused concerned in the first information report, must prevail until contradicted and overcome or disproved by other evidence, and on the face of it, shows the complicity of such accused in the commission of the stated offence.

It must be good and sufficient on its face to establish a given fact or the chain of facts constituting the stated offence, unless rebutted or contradicted. In one sense, the degree of satisfaction is lighter when the Court has to opine that the accusation is "prima facie true", as compared to the opinion of the accused "not guilty" of such offence as required under the other special enactments. In any case, the degree of satisfaction to be recorded by the Court for opining that there are (2025:JHHC:12102-DB) 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...."

25. It is, thus, evident from the proposition laid down by the Hon'ble Apex Court in the case of National 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.

26. 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.

27. 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 (2025:JHHC:12102-DB) 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 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 (2025:JHHC:12102-DB) 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."

28. 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 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.

29. 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 (2025:JHHC:12102-DB) 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 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."

30. 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. Najeeb (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 , (2025:JHHC:12102-DB) 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.

31. 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.

32. 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.

33. In the aforesaid background the Hon ble Apex Court has held that the test for rejection of bail is quite plain and Bail (2025:JHHC:12102-DB) must be rejected as a „rule , if after hearing the public prosecutor and after perusing the final report or Case Diary, the Court arrives at a conclusion that there are reasonable grounds for believing that the accusations are prima facie true. It has further been observed that it is only if the test for rejection of bail is not satisfied - that the Courts would proceed to decide the bail application in accordance with the „tripod test' (flight risk, influencing witnesses, tampering with evidence).

34. 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 (2025:JHHC:12102-DB) favour of the oft-quoted phrase - „bail is the rule, jail is the exception - unless circumstances justify otherwise - does not find any place while dealing with bail applications under UAP Act. The „exercise of the general power to grant bail under the UAP Act is severely restrictive in scope. The form of the words used in proviso to Section 43D (5)- „shall not be released in contrast with the form of the words as found in Section 437(1) CrPC - „may be released - suggests the intention of the Legislature to make bail, the exception and jail, the rule.

29. The courts are, therefore, burdened with a sensitive task on hand. In dealing with bail applications under UAP Act, the courts are merely examining if there is justification to reject bail. The „justifications must be searched from the case diary and the final report submitted before the Special Court. The legislature has prescribed a low, „prima facie standard, as a measure of the degree of satisfaction, to be recorded by Court when 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-- ---"

35. In this background, the test for rejection of bail is quite plain. Bail must be rejected as a „rule , if after hearing the public prosecutor and after perusing the final report or Case Diary, the Court arrives at a conclusion that there are reasonable grounds for believing that the accusations are prima facie true. It is only if the test for rejection of bail is not satisfied that the Courts would proceed to decide the bail application in accordance with the „tripod test' (flight risk, influencing witnesses, tampering with evidence). This position is made clear by Sub-section (6) of Section 43D, which lays down that the restrictions, on granting of bail (2025:JHHC:12102-DB) 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.

36. 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:

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

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

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

37. 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.

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38. 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.

39. 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 appellants is prima facie true as compared to the opinion of accused not guilty by taking into consideration the material collected in course of investigation.

40. From perusal of the 2nd supplementary charge-sheet as appended with the memo of appeal, it is evident that the appellant has been charge-sheeted as accused (A-13) 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 2nd supplementary charge-sheet. For ready reference the relevant paragraphs are being quoted herein under: -

"16.4 It is pertinent to mention that the cadres/members/operatives of proscribed organization, PLFI, declared unlawful association by the Jharkhand state, are acquiring huge movable and immovable (2025:JHHC:12102-DB) properties, illegally earned through extortion/levy amount from the road contractors. owners of the stone crushers machines, MNREGA works, businessmen. private transporters, Mine contractors and other contractors who are engaged in development projects in different districts of Jharkhand and the said acquired properties are Proceeds of Terrorism. They collect funds by unleashing terror in the minds of populace of the area and thereby the acts committed by the members of the "terrorist gang" is commission of offence as defined of terrorist act in section 15 (1) (a) (i) of UA (P) Act, 1967 as amended.

16.5: Appreciating the gravity of the offence in the instant crime, the Central Government in exercise of the powers conferred under sub-section 5 of section 6 read with section 8 of the National Investigation Agency Act, 2008, vide MHA, New Delhi CTCR Division Order no. 11011/51/2017/IS-IV dated 16.01.2018, directed National Investigation Agency (NIA) to take up investigation of the case and accordingly the case was re-registered as NIA case No. RC-02/2018/NIA/DLI dated 19.01.2018 under sections 212, 213, 414, 34 of IPC, section 13, 17 & 40 of UA(P) Act and Section 17 of CLA Act.

16.6: During further investigation, it has been established that besides collection of the extorted money in the form of Levy, A-6 is also investing the extorted money in the Companies opened in the name of his wives A-13 and A-14 and also A-7 and A-17) formed as a part of the larger conspiracy plan. Therefore, as per plan of A-6 and on his directions, his associates/ members of PLFI are channelizing levy amount into alleged legal manner. In addition, it has been established the PLFI operatives and the associates conspired together in the name of alleged surrender of A-6, Supremo of PLFI, and huge amount of extorted money were paid through Hawala transaction.

(2025:JHHC:12102-DB) 16.8: The case was kept under further investigation. During the course of further investigation, it surfaced that the absconding accused Dinesh Gope (A-6), supremo 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, A-13 and A-14, and Sumant Kumar (A-7) and the Fuleshwar Gope.

17.5 Role and activities of the accused A-7,A-8,A- 9,A-10, A-11 & A-12:-

It is established that Dinesh Gope is involved in collecting levy directly and through his operatives/cadres from transporters contractors etc. As part of the conspiracy, A-6, through his associates was investing the extorted amount in dubious companies. Further banking channels were also used to legalize the illegally extorted money. Investigation further revealed that Dinesh Gope mobilised various associates /couriers to operate for furtherance of his unlawful activities. Initially, extorted levy amount was being converted through A-1 to A-4 and post arrest of A-1 to A-4, he(A-6) assigned the same task to Sumant Kumar (A-7). As per the conspiracy, A-7 was holding the post of Director in Mix Bhavya Engicon Pvt. Ltd. (A-18), M/s Shir Aadi Shakti Minerals Pvt. Ltd A 19) in partnership with Shakuntala Kumari (A-13), alleged second wife of Dinesh Gope. After getting funds the Dinesh Gope, Sumant Kumar (A-7) either himself or in active association with Arun Gape (A-10) deposited extorted money into the accounts of the above dubious companies. A-6 also ensured that the finds are deposited in the account of Shiv Shaktisamridhhi Infra Pvt Ltd.(A-20), whose director was Hira Devi (A-14) first wife of Dinesh Gope and (2025:JHHC:12102-DB) another Director was Fuleshwar Gope (A-17), Sumant

Kumar(A-7) and Jitender Kumar (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 Nandlal Swarnkar(A-8), Chandra Shekhar Singh (A-9) & Navinbhai Jayantibhai Patel (A-

12) and arranged/held meeting with the political leaders in the different parts of the country.

17.16: Offences established against accused Shakuntala Kumari (A-13), the present appellant:

It is established that A-13 is alleged second Wife of A-6 and is well acquainted with the facts that A-6 is a terrorist and chief of PLFI (People's Liberation Front of India) and collects/raises levy through extortion. A 13 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-7, A-1 & A-10. On the direction of A-6, A-13 formed two Companies namely, A-18 and A-19 with partnership of A-7, and an unregistered Palak Enterprises as a sole Proprietor. Further, A-13 used to directly or indirectly, raise or collect funds, either from legitimate or illegitimate sources or persons namely A-1, A-6, A-7, A-

10 and other associates of A-6, knowing fully well that such funds are likely to be used by PLFI, q terrorist gang, for their nefarious/terrorist activities. A-13 is deeply involved in the larger conspiracy and in the commission of instant crime and was channelizing the extorted amount into legitimate means by depositing the same in her individual bank accounts and Companies owned by her. It has been proved that A-13 had knowingly held the huge amount of levy, collected through extortion by PLFI operatives from commission of any terrorist act (levy, extortion) or acquired through the terrorist fund, and the said levy amount were used for purchasing Land, expensive cars and her personal use. A-13 forged documents in order to hide the real identity (2025:JHHC:12102-DB) of the A-14's son, Nitin Raj and her daughter, Palak Raj, by giving false information to the school authorities, at the time o admission. A-13, on the directions of A-6 and with the association of A-1, A-7, A-10 and A-14, was deeply involved in the larger conspiracy and in the commission of the instant crime by channelizing the extorted amount as per the plan of PLFI. Thereby, Shakuntala Kumari (A-13) committed offences under sections 120B, 471 of the IPC, sections 17, 18, 21 & 22(C) of the UA (P) Act and sec 17 (i), (ii) of the CLA Act, 1908. Accordingly Chargesheet was filed against her (A-

13) on 24.7.2020.

17.6: Revelations of the criminal conspiracy hatched among the accused persons for

channelizing the extorted money of PLFI into legitimate means by depositing in the bank accounts of individuals and dubious companies. 17.6.1: Besides the collection of the extorted money in the form of levy, Dinesh Gope (A-6) invested the extorted money in the dubious companies formed as part of the larger conspiracy plan and on his direction, his associates/members of FLFI channelized

it in the alleged legal manner. It is pertinent to mention here for this purpose, Dinesh Gope forms 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 A-1 to A-5, he (A-6) assigned the same task to another module having the same Modus-operandi, with the association under the leadership the A-7. A-7 was holding the post of director in M/s Bhavya Engicon Pvt. Ltd (A-18) and M/s Shiv Aadi Shakti Minerals Ltd (A-19), with the purpose to disguise the actual intention with the partnership of Shakuntala kumari (A-13), alleged second wife of Dinesh Gope(A-6). A-13 also has been Sole Proprietor of a dubious un-registered Company named Palak Enterprises. Hira Devi (A-14), first wife of A-6 was joint (2025:JHHC:12102-DB) director (another director is Fuleshwar Gope (A-17) of a Company namely, M/S Shiv Shaktisamridhhi Infra Pvt. Ltd (A-20). The companies, mentioned above, have been used for channelizing the funds (levy & extortion) of absconding accused A-6. After getting funds directly from Dinesh Gope (A-6), Sumant Kumar (A-7) either himself or with active association of Arun Gope (A-10), other associates of PLFI, and others, deposited extorted money in the accounts of the above dubious companies and approximately amount to the tune of approx. Ra 2,68,00,000/-(Rupees Two Crores Sixty Eight Lakhs only) were channelized into legitimate means. 17.6.2: Sumant Kumar (A-7) in close association of Jitender Kumar (A-11) hatched the criminal conspiracy in the name of alleged surrender of A-6, self- styled supremo 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, A-7 along with his associates, were directly, deeply, discreetly involved in the larger conspiracy and in the commission of the instant crime and channelized the extorted amount into alleged legitimate means by depositing the same in the bank accounts of family members/close associates as well as companies owned by A-7, A-13, A-14, A-17 or having partnership with them.

17.7.12: During scrutiny of the Axis Bank, Ashok Nagar, Ranchi account number 916020046701699 in the name of M/S Shiv Shaktisamridhhi Infra Pvt. Ltd. (A-20). It is found that Rs. 23,50,000/- had been deposited/transferred from date of account opening Le. August 2016 to April 2018. Out of the said amount, Rs. 11,50,000/- were deposited in cash, Rs. 10,00,000/- were transferred from M/s Calvin Planners and Investors Pvt. Ltd. (they took cash and transferred the money through cheque) & Rs. 2,00,000/- from A-18. From the said account, Rs. 12,60,000/- was paid to Birendra Kumar Dubey for purchasing flat in Kolkata (in (2025:JHHC:12102-DB) name of A-14).

17.12.12: Investigation has established that A-17 has conspired with A-6, A-7, A-14 to form a company, A-20 along with A-14, to form a dubious company A-20, to channelize the levy/extorted funds into legitimate means by raising/depositing funds in the bank account of A-20.

17.17: Offences established against accused Hira Devi @ Anita Devi (A-14):

A-14 is first wife of A-6 and is well acquainted with the facts that A-6 is a terrorist and chief of PLFI (People's Liberation Front of India) and collects/raises levy through extortion. A-14 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-7, A 1, A-10, A- 15, A-16 & A- 17 on the direction of A-6, A-14 had formed a Company namely, M/S Shiv Shaktisamridhhi Infra Pvt. Ltd (A-20), along with partnership of A-18 Further, A-14 used to directly or indirectly, raise or collect funds,

either from legitimate or illegitimate sources or persons namely A-1, A-6, A-7, A-10, A-15, A-16 & A-17 and other associates of A-6, knowing fully well that such funds are likely to be used by PLFI, a terrorist gang, for their nefarious/terrorist activities. A-14 is deeply involved in the larger conspiracy and the commission of instant crime and was channelizing the extorted amount into legitimate means by depositing the same in her individual bank accounts and A-20. It has been proved that A-14 had knowingly held the huge amount of levy, collected through extortion by PLFI, and the said levy amount were used for purchasing flat and her personal use. A-14 has also knowingly hidden her identity for the purpose of fraud and impersonation and opened a bank account in Central Bank of India with a forged Aadhaar Card in the name of Anita Devi for raising/collecting levy amount and channelizing the extorted money. A-14, (2025:JHHC:12102-DB) on the direction of A-6 and with association of A-1, A-7, A-10, A-15 & A-16, was deeply involved in the larger conspiracy and in the commission of the instant crime by channelizing the extorted amount as per the plan of PLFI. She knowingly held the amount derived/collected through extortion/levy by PLFI operatives from commission of any terrorist act (levy, extortion) or acquired through the terrorist fund, and invested it into A-20 and her individual bank accounts, for purchasing Flat and personal use. A-14, on the directions of A-6 and with the association of A-1, A-7, A-10, A-13, A-15, A-16 and A-17, was deeply involved in the larger conspiracy and in the commission of the instant crime and was channelizing the extorted amount as per the plan of PLFI.-----

17.20: Offences established against Fuleshwar Gope, (A-17):

It is established that A-17 being an associate of PLFI, is well acquainted with the facts that A-6 is a terrorist and chief of PLFI and levy through extortion. A-17 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-7, A-14. On the direction of A-6, A-17 had formed a Company namely, M/S Shiv Shaktisamridhhi Infra Pvt. Ltd (A-20), along with partnership of A-14. Further, A-17 criminally conspired to directly or indirectly, raise or collect funds, either from legitimate or illegitimate sources or persons knowing fully well that such funds are likely to be used by PLFI, a terrorist gang, for their nefarious/terrorist activities. A-17, on the direction of A-6, knowingly held the amount derived/collected through extortion/Levy by PLFI and channelized it into the bank account of A-20. A-17, on the directions of A-6 and with the association of A-7 and A-14, was deeply involved in the larger conspiracy and in the commission of the instant crime and was channelizing the extorted amount (2025:JHHC:12102-DB) as per the plan of PLFI. Thereby, Fuleshwar Gope (A-17) committed offences under section 120B of IPC read with sections 17, 18, 21 & 22(C) of the UA (P) Act and sec 17(i), (ii) of the CLA Act, 1908.

17.21 Offences established against M/s Shiv Shaktisamridhhi Infra Pvt. Ltd (A-20):

It is established that on the direction of A-6, chief of PLFI, a terrorist gang and unlawful association proscribed by the State of Jharkhand, A-14 formed a Company namely, M/S Shiv Shaktisamridhhi Infra Pvt. Ltd (A-20) along with A-17. A-20 has been used to directly or indirectly, raise or collect funds, either from legitimate or illegitimate sources or persons. Further, A- 20 has been used for the purpose of channelizing the extortion/levy amount of A-6. In the garb of doing transparent business, A-20 became a frontal company to legitimize levy amounts collected by A-6 as huge amount of money was deposited in the account of A-20 by A-7, A-10, A-14, A-17 and other associates of A-6.

The Axis bank account of A-20 shows that A-14 booked a flat by paying amount of Rs 12,60,000, A-20 was not concerned with any conduct of business work and their bank account has been used only for channelizing the terrorist fund pertaining to A-6 for acquiring the immovable/movable property by using this fund and if left unabated, the profit earned from A-20 could have been further used to purchase properties, arms and ammunitions and explosives to carry out terrorist activities by PLFI. Thereby, M/s Shiv Shaktisamridhhi Infra Pvt Ltd (A-20) committed offences under sections 17, 21 & 22 (C) of the UA (P) Act."

41. Thus, from perusal of the charge-sheet it appears that the present appellant is the second Wife of A- 6 is knowing fully well that A-6 is a terrorist and chief of PLFI (People's Liberation Front of India) and collects/raises (2025:JHHC:12102-DB) levy through extortion. It further appears that on the direction of A-6, A-13 [present appellant] formed two Companies namely, A-18 and A-19 with partnership of A-7, and an unregistered Palak Enterprises as a sole Proprietor. Further, appellant used to directly or indirectly, raise or collect funds, either from legitimate or illegitimate sources or persons namely A-1, A-6, A-7, A-10 and other associates of A-6, knowing fully well that such funds are likely to be used by PLFI, terrorist gang, for their nefarious/terrorist activities.

42. The appellant is alleged to have deeply involved in the larger conspiracy and in the commission of instant crime and was channelizing the extorted amount into legitimate means by depositing the same in her individual bank accounts and Companies owned by her knowing fully well that the huge amount of levy, collected through extortion by PLFI operatives from commission of any terrorist act (levy, extortion) or acquired through the terrorist fund, and the said levy amount, were used for purchasing Land, expensive cars and her personal use.

43. Thus, from aforementioned paragraph of 2nd supplementary charge-sheet it appears that there is prima facie allegation against petitioner that she by making criminal conspiracy invested extortion money collected by (2025:JHHC:12102-DB) PLFI cadre on the direction of the PLFI supremo namely Dinesh Gope (A-6) which was used by the PLFI supremo for anti-National activities challenging the sovereignty and integrity as well as national interest of Government of India.

44. Thus, from aforementioned paragraphs of 2nd supplementary charge-sheet prima-facie it appears that the present appellant was well acquainted with the facts that Dinesh Gope (A-6) is a terrorist and chief of PLFI and collects levy through extortion and the appellant, has criminally

conspired with the members/associates of PLFI, an Unlawful Association and terrorist gang proscribed by the State of Jharkhand, namely, Dinesh Gope (A-6), Sumant Kumar (A-7), Hira Devi (A-14) and further on the directions of Dinesh Gope A-6, A-17, had formed a Company namely, M/S Shiv Shakti Samridhhi Infra Pvt. Ltd (A-20), in partnership with Hira Devi (A- 14). Further appears that the present appellant on the direction of Dinesh Gope (A-6), knowingly held the amount derived/collected through extortion/Levy by PLFI and channelized it into the bank account of M/s Shiv Shakti Samriddhi Intra Pvt. Ltd. (A-20).

45. The learned counsel for the appellant has taken the ground that she is unaware of any criminal conspiracy (2025:JHHC:12102-DB) hatched by accused Sumant Kumar and other co-accused persons, therefore, she cannot be said to be party to the alleged conspiracy. Further whatever transaction has been made that is only for the purpose of business, which does not amount to terror funding.

46. Per contra, the learned counsel for the respondent NIA has submitted that the it has been established during investigation that the appellant is the second wife of accused Dinesh Gope (A-6), the PLFI supremo, the terror amount/levy amount collected by him was channelized by her by using several Pragya Kendra through various banking channels and also bank accounts of the companies opened in the name of present appellant, which is not denied by the appellant.

47. 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.

Issue of Parity

48. Further, the learned counsel for the appellant (2025:JHHC:12102-DB) has taken the ground of parity and submits 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 has been directed to be released on bail by co-ordinate bench of this Court and the case of the appellant stands on better footing.

49. 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.

50. 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.

51. Per contra, the learned counsel for the respondent NIA has submitted that the case of the instant appellant (2025:JHHC:12102-DB) is on different footing in comparison to the other accused persons who have already been granted bail.

52. 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. 1026 of 2019 [Sumant Kumar]; 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.

53. 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.

54. 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 (2025:JHHC:12102-DB) basis of parity has been established. Reference in this regard may be taken from the 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) "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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26. 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 [Siddhrajsinh 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."

55. 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 applying (2025:JHHC:12102-DB) the principle of parity, the Court is required to focus upon the role attached to the accused whose application is under consideration.

56. It has further been held in the said judgment that the principle of parity is to be applied in the matter of bail but equally it has been laid down therein that there cannot be any negative equality, meaning thereby, if a co- accused person has been granted bail without consideration of the factual aspect or on the ground said to be not proper, then, merely because the co-accused person has been directed to be released on bail, the same will not attract the principle of parity on the principle that Article 14 envisages positive equality and not negative equality. 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 (2025:JHHC:12102-DB) 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 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.

57. In the light of aforesaid settled position of law this Court has examined the allegations, as have been alleged against aforesaid 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.

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58. 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, A14 & 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 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 (2025:JHHC:12102-DB) 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".

59. 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.

60. The role of the Chandrashekar Singh (A-9) has been depicted in para 17.19 of the second supplementary chargesheet, which reads as follows "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 (2025:JHHC:12102-DB) of PLFI and screened A-6 from legal punishment and in lieu of screening the A-6, A9 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."

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

62. 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 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 (2025:JHHC:12102-DB) 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 Shakuntala 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.

63. It is evident that the co-accused Arun Gope was involved primarily in channelizing the ill-gotten money through various sources.

64. The co-accused Amit Kumar @ Amit Jaiswal has 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 (2025:JHHC:12102-DB) 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 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"

65. 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.

66. 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 (2025:JHHC:12102-DB) 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.

67. 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 persons in channelizing the extorted money of Dinesh Gope (A-6) into the account of Hira Devi @ Anita Devi (A-14) and other persons.

68. 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.

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69. This Court has already referred hereinabove the allegation against the present appellant is that she is the second Wife of A-6 and is well acquainted with the facts that A-6 is a terrorist and chief of PLFI (People's Liberation Front of India) and collects/raises levy through extortion.

She 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-7, A-1 & A-10.

70. On the direction of A-6, A-13 [the appellant herein] formed two Companies of A-18 and A-19 with partnership of A-7, and an unregistered Palak Enterprises as a sole Proprietor.

71. Further, A-13 used to directly or indirectly, raise or collect funds, either from legitimate or illegitimate sources or persons namely A-1, A-6, A-7, A-10 and other associates of A-6, knowing fully well that such funds are likely to be used by PLFI, a terrorist gang, for their nefarious/terrorist activities.

72. Further, it come during investigation that the present appellant had knowingly held the huge amount of levy, collected through extortion by PLFI operatives from commission of any terrorist act (levy, extortion) or acquired through the terrorist fund, and the said levy (2025:JHHC:12102-DB) amount were used for purchasing Land, expensive cars and her personal use.

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

74. 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.

75. 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 has rejected. For ready reference relevant part of the said order is being quoted as under:

"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."

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76. 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.

77. 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 and now the case is at the stage of defence.

78. 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 she was deeply involved by channelizing the extorted amount as per the plan of PLFI and further taking into consideration the culpability of the present appellant as discussed and referred herein above is different in comparison to other co-accused persons against whom parity has been claimed is of

considered view that the principle of parity will not be applicable herein.

79. 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 (2025:JHHC:12102-DB) view that in the facts and circumstances 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 counter affidavit filed by the respondent-NIA.

80. 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.

81. While, the fact of the instant case is that there is very grave nature of allegation against the present 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.

82. Further, the Hon ble Apex Court in the case of Gurwinder Singh v. State of Punjab, (supra) while (2025:JHHC:12102-DB) taking in to 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..

83. 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 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 (2025:JHHC:12102-DB) 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.

84. 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.

85. 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.

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

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

88. We make it clear that the prima facie findings recorded in this order are only for considering the prayer (2025:JHHC:12102-DB) for bail of the appellant. The reasons are confined to the prayer for bail of the appellant only. 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.)
Alankar/-

A.F.R.