

Md. Mahmud Alam @ Mahmud @ Nepali vs State Of Jharkhand on 4 April, 2025

Author: Sujit Narayan Prasad

Bench: Sujit Narayan Prasad

2025:JHHC:10447-DB

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (DB) No.940 of 2024

Md. Mahmud Alam @ Mahmud @ Nepali, aged about 33 years, Son
of Md. Siddque, at present Resident of Fatima Nagar, Near
Sadbhavna Maidan, Dhipatoli, P.O. & P.S. Pundag, District-Ranchi,
permanent residence of-Rai Bazar, P.O. & P.S.-Khelari, District-
Ranchi, Jharkhand

.... Appellant

Versus

State of Jharkhand Respondent

With

Cr. Appeal (DB) No.937 of 2024

Firoz Khan, aged about 46 years, Son of Hakim Khan, resident of
Village-Azad Nagar, Bazar tarn, PO-Khelari, PS-Mackluskiganj, Dist-
Ranchi.

.... Appellant

Versus

The State of Jharkhand (Through ATS) Respondent

With

Cr. Appeal (DB) No.938 of 2024

Mohammad Zahir Ansari @ Zahir Ansari, aged about 56 years, Son
of Ismail Ansari @ Ismail, resident of Muslim Mohalla, Mahavir
Nagar, PO-Khelari, PS-Mackluskiganj, Dist-Ranchi.

.... Appellant

Versus

The State of Jharkhand (Through ATS) Respondent

With

Cr. Appeal (DB) No.941 of 2024

Minku Khan @ Shahriyar, aged about 33 years, Son of Haider Ali
Khan, resident of Rochap, PO+PS Patraru, Dist-Ramgarh.

.....
Appellant
Versus
The State of Jharkhand (Through ATS)
.....
Respondent
With
Cr. Appeal (DB) No.942 of 2024

Ezaj Ansari , aged about 41 years, Son of Shahid Ansari, resident of
G-Type Colony Madarsa, PO+PS Khelari, Dist-Ranchi.
.....
Appellant
Versus
The State of Jharkhand (Through ATS)
.....
Respondent

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

For the Appellants : Mr. Birendra Kumar, Advocate
Mr. Raj Kishore Sahu, Advocate
[In Cr. Appeal(DB) No.940/2024]
: Mr. Jitendra Shankar Singh, Adv.
Mr. Abhishek Prasad, Advocate
[In Cr. Appeal(DB) Nos.937, 938, 941, 942 of 2024]

For the State : Mrs. Anuradha Sahay, APP
[In Cr. Appeal(DB) No.940/2024]
: Mr. Gautam Rakesh, APP
[In Cr. Appeal(DB) No.937/2024]
: Mr. Rakesh Ranjan, APP
[In Cr. Appeal(DB) Nos.938 & 941 of 2024]
: Mr. Rajneesh Vardhan, APP
[In Cr. Appeal(DB) No.942/2024]

CAV on 25.02.2025

Pronounced on 04/04/2025

Per Sujit Narayan Prasad, J.

Prayer

1. All the appeals preferred on behalf of the appellants under Section 21(4) of the National Investigation Agency Act, 2008 for 2025:JHHC:10447-DB setting aside the order dated 11.03.2024 passed in Misc. Cr. Application No.801 of 2024 [In Cr. Appeal No. 940 of 2024], order dated 07.03.2024 passed in Misc. Cr. Application No.706 of 2024 [In Cr. Appeal (DB) No.937 of 2024], order dated 07.03.2024 passed in Misc. Cr. Application No.708 of 2024 [In Cr. Appeal (DB) No.938

of 2024], order dated 21.03.2024 passed in Misc. Cr. Application No.887 of 2024 [In Cr. Appeal (DB) No.941 of 2024] and order dated 21.03.2024 passed in Misc. Cr. Application No.882 of 2024 [In Cr. Appeal (DB) No.942 of 2024] by the learned A.J.C. XVIII-cum-Spl. Judge, ATS, Ranchi, in connection with ATS Court Case No.01 of 2024, arising out of ATS P.S. Case No.10 of 2023, whereby and whereunder, the appellants' prayer for regular bail have been rejected.

2. Since all these appeals arise out of the common P.S. Case being ATS P.S. Case No.10 of 2023, as such, with the consent of learned counsel for the parties, these cases are being taken up together and are being disposed of by this common order. Prosecution case

3. The brief facts of the prosecution case as per the F.I.R. leading to these Criminal Appeals is that on 20.07.2023, at 15:00 hours, the S.P., ATS, Jharkhand, Ranchi has received a secret information that the criminals of Aman Srivastava gang had extorted a huge amount of extortion money from the coal 2025:JHHC:10447-DB businessmen and contractors by threatening to kill them and they are coming to Ranchi through Bhurkunda-Patratu Road. A raiding team was formed on this information and reached the Ranchi Patratu Ring Road and checked the vehicles coming from Patratu side. Meanwhile, a white Scorpio vehicle was coming at a very speed from Patratu -Pithoria side which was stopped by the raiding team and two persons travelling in the vehicle got very scared after seeing the police party and on being asked, they told their name as Ezaj (appellant in Cr. Appeal (DB) No.942 of 2024) and Minku Khan(appellant in Cr. Appeal (DB) No.941 of 2024) and it was stated that they were working for Aman Srivastava gang and has already been sent to jail in different cases related to Aman Srivastava Gang.

4. On search, two mobile phones were recovered from the possession of Ezaj Ansari and Minku Khan, apart from that, a white colour bag containing a sum of Rs. 49,83,000/- was recovered from beneath the rear seat of the said vehicle. On enquiry, the accused persons have stated that the said amount was handed over to them by Surendra Bhuiyan, an associate of Ravi Sardar, and the money has to hand over to Jahir Ansari (appellant in Cr. Appeal (DB) No.938 of 2024), Firoj Khan (appellant in Cr. Appeal (DB) No.937 of 2024) and Mahmud Alam@ Nepali (appellant in Cr. Appeal (DB) No.941 of 2024) near Alam Hospital, and the said money was collected as 2025:JHHC:10447-DB Rangdari by Aman Srivastava gang from different traders.

5. Hence, the FIR being ATS P.S. Case No.10 of 2023 dated 20.07.2023 has been instituted against the 8 named accused persons including all these appellants for the alleged offence under Sections 385/386/34 of the Indian Penal Code, and also for the offence under Sections 16/17/ 20/ 21 of UA (P) Act, 1967 for taking appropriate legal action. Accordingly, Ezaj (appellant in Cr. Appeal (DB) No.942 of 2024) and Minku Khan (appellant in Cr. Appeal (DB) No.941 of 2024) were arrested.

6. After institution of said FIR, the police took up the investigation and consequently other co-accused/appellants namely Jahir Ansari (appellant in Cr. Appeal (DB) No.938 of 2024), Firoj Khan (appellant in Cr. Appeal (DB) No.937 of 2024) surrendered on 29.08.2023 and 21.09.2023 respectively. The other accused namely Mahmud Alam@ Nepali (appellant in Cr. Appeal (DB) No.941 of 2024) were remanded in the instant case on, 20.12.2023.

7. Police after investigation submitted the charge-sheet vide Final Form No. 01 of 2024 dated 07.01.2024 against these appellants for offence under Sections 385/386/34 of the Indian Penal Code, and also for the offence under Sections 16/17/20/21 of UA (P) Act, 1967.

8. However, due to want of the requisite sanction as per the mandate of UAP Act 1967, the court concerned has taken the 2025:JHHC:10447-DB cognizance of the offence under section 385/386/34 of the Indian Penal Code only.

9. Thereafter aforesaid appellants had preferred Misc. Cr.

Application No.801 of 2024 [In Cr. Appeal No. 940 of 2024], Misc. Cr. Application No.706 of 2024 [In Cr. Appeal (DB) No.937 of 2024], Misc. Cr. Application No.708 of 2024 [In Cr. Appeal (DB) No.938 of 2024], Misc. Cr. Application No.887 of 2024 [In Cr. Appeal (DB) No.941 of 2024] and Misc. Cr. Application No.882 of 2024 [In Cr. Appeal (DB) No.942 of 2024] for bail before the learned A.J.C. XVIII-cum-Spl. Judge, ATS, Ranchi, in connection with ATS Court Case No.01 of 2024 arising out of ATS P.S. Case No.10 of 2023 but the same have been rejected, hence the present appeal have been preferred.

10. It needs to refer herein the requisite sanction for the offence with respect to offence under section 16,17,20,21 of the Act, 1967 has been accorded on 24.04.2024 by the competent authority i.e. Deputy Commissioner Ranchi, vide memo no. 2394 dated 29.04.2024 and the said letter of sanction has also been appended with the supplementary affidavit.

11. Thereafter, the cognizance of the offences under sections 16/17/20/21 of Unlawful Activities (Prevention) Act, 1967 has also been taken by the Trial Court and accordingly, the matter has been fixed for addition of charge which would be evident from the order dated 08.05.2024 passed by A.J.C. XVIII cum 2025:JHHC:10447-DB Spl. Judge ATS, Ranchi in ATS Court Case No.01/2024. The order dated 08.05.2024 has been appended with the supplementary affidavit.

Submission of the learned counsel for the appellants

12. It has been contended by the learned counsel for the appellants that they have falsely been implicated in the present case.

13. It has also been submitted that the charge has already been framed against the appellants. Further, it has been submitted that nothing specific has come against the appellants to show the culpability said to have been committed by them.

14. From bare perusal of the FIR, it has come that no ingredients of Section 385 and 386 of the IPC are made out against the appellants. Further, in the entire FIR, no where it has been come that who has demanded the extortion money. The entire allegations as have been alleged in the FIR, are totally false and fabricated.

15. The further submission is that the appellants have never ever been associated with any terrorist gang or organization nor have ever committed any terrorist activities and only on the basis of confessional statement, they have been implicated.

16. It has been submitted that the appellants have remained in custody about 1 ½ year and implicated in the present case due to some ulterior motive.

2025:JHHC:10447-DB

17. The Learned Court has failed to appreciate that the case was only supported by highly interested official witnesses and none of the independent witnesses have supported the case.

18. No ingredient of the offence said to be committed under the UA(P) Act is being attracted if the entire case diary will be taken into consideration.

19. Learned counsel for the appellants, on the aforesaid premise, have 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. Submission of the learned counsel for the Respondent-State.

20. While on the other hand, learned Addl. Public Prosecutors appearing for the Respondent-State, have vehemently opposed the prayer for bail by defending the orders passed by the learned court.

21. It has been contended that it is incorrect on the part of the appellants that the implication is not there as per the disclosure made by the co-accused persons.

22. It has further been contended that the money collected through extortion from different persons has been recovered from the vehicle kept under the back seat in which the co-accused were travelling and the said fact has been confessed by the co-accused.

2025:JHHC:10447-DB

23. The material has been surfaced in course of investigation, as would be evident from the various paragraphs of the case diary that the money was extorted for the purpose of utilizing in the terrorist activities.

24. As per the material come in course of investigation, the appellants are members of Aman Srivastava Gang operating for collecting of ransom/levy from different business people etc. of the locality.

25. By responding to the argument on the issue of custody, it has been submitted that the question of applicability of Article 21 of the Constitution of India cannot be disputed but the balance is to be maintained in maintaining law and order situation and if the present appellants are found to be active member of Aman Srivastava gang, then merely because they remained in custody

approximately for one and half year, that cannot be a ground to release them on bail.

26. Further, the proviso as stipulated under Section 43D(5) of UA(P) Act put a complete embargo against release of the accused persons, if prima facie case is made out and allegation against the appellant is serious in nature.

27. In this case, there is prima facie case made out against the appellants and chargesheet has been submitted in which cognizance has been taken, hence, considering the 2025:JHHC:10447-DB seriousness of crime, it is not fit case to enlarge the appellants on bail.

28. Learned State Counsel, based upon the aforesaid grounds, has submitted that it is, therefore, not a fit case where the interference is to be shown with the impugned orders. Analysis

29. We have heard the learned counsel for the parties and gone across the finding recorded by the learned court while considering the prayer for regular bail.

30. This Court, before proceeding to examine as to whether the appellants have been able to make out a prima facie case for enlarging them on bail, deems it fit and proper to discuss some settled proposition of law and the relevant provisions of Unlawful Activities (Prevention) Act, 1967(herein referred as Act 1967) which is required to be considered herein.

31. 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.

2025:JHHC:10447-DB

32. 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.

33. 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 the Second Schedule.

34. 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 2025:JHHC:10447-DB is or continues to be a member of such association shall be liable to be punished.

35. 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.

36. The "terrorist act" has been defined under Section 2(k) has the meaning assigned to it in Section 15. Section 15 contains the activities which will be treated to be a "terrorist act". Section 15 reads as under :

"15. Terrorist act.--4(1) Whoever does any act 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,--

(a) by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisonous or noxious gases or other chemicals or by any other substances (whether biological radioactive, nuclear or otherwise) of a hazardous nature or by any other means of whatever nature to cause or likely to cause--

(i) death of, or injuries to, any person or persons; or

(ii) loss of, or damage to, or destruction of, property; or

(iii) disruption of any supplies or services essential to the life of the community in India or in any foreign country; or (iiia) damage to, the monetary stability of India by way of production or smuggling or circulation of high quality counterfeit Indian paper currency, coin or of any other material; or] 2025:JHHC:10447-DB

(iv) damage or destruction of any property in India or in a foreign country used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies; or

(b) overawes by means of criminal force or the show of criminal force or attempts to do so or causes death of any public functionary or attempts to cause death of any public functionary; or

(c) detains, kidnaps or abducts any person and threatens to kill or injure such person or does any other act in order to compel the Government of India, any State Government or the Government of a foreign country or an international or inter-governmental organisation or any other person to do or abstain from doing any act; or commits a terrorist act. [Explanation.--For the purpose of this sub-section,--

(a) "public functionary" means the constitutional authorities or any other functionary notified in the Official Gazette by the Central Government as public functionary;

(b) "high quality counterfeit Indian currency" means the counterfeit currency as may be declared after examination by an authorised or notified forensic authority that such currency imitates or compromises with the key security features as specified in the Third Schedule.] (2) The terrorist act includes an act which constitutes an offence within the scope of, and as defined in any of the treaties specified in the Second Schedule.

37. 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 2025:JHHC:10447-DB 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.

38. 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, 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.

39. It is evident from the contents of Section 17 of the Act, 1967 that whoever, in India or in a foreign country, directly or 2025:JHHC:10447-DB 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 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.

40. 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.

41. At this juncture, it will be purposeful to discuss the core of Section 43D(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 2025:JHHC:10447-DB appellant is accused of committing offences under Sections 17, 18 and 21 of the UA(P) Act, 1967.

42. The reason of making reference of the provision of Section 43D(5) of the Act that in course of investigation, the investigating agency has discovered the material against the appellant attracting the offence under various Sections of UA(P) Act. Since, this Court is considering the issue of bail based upon now also under the various sections of UA(P) Act and hence, the parameter which has been put under the provision of Section 43D(5) of the Act is also required to be considered.

43. 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 Vrs. Zahoor Ahmad Shah Watali, reported in [(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 2025:JHHC:10447-DB been observed that it must be good and sufficient on its face to establish a given fact or the chain of facts constituting the stated offence, unless rebutted or contradicted. The degree of satisfaction is lighter when the Court

has to opine that the accusation is "prima facie true", as compared to the opinion of the accused "not guilty" of such offence as required under the other special enactments. For ready reference, paragraph 23 of the aforesaid judgment is required to be quoted herein which reads hereunder as :-

"23. By virtue of the proviso to sub-section (5), it is the duty of the Court to be satisfied that there are reasonable grounds for believing that the accusation against the accused is prima facie true or otherwise. Our attention was invited to the decisions of this Court, which has had an occasion to deal with similar special provisions in TADA and MCOCA. The principle underlying those decisions may have some bearing while considering the prayer for bail in relation to the offences under the 1967 Act as well. Notably, under the special enactments such as TADA, MCOCA and the Narcotic Drugs and Psychotropic Substances Act, 1985, the Court is required to record its opinion that there are reasonable grounds for believing that the accused is "not guilty" of the alleged offence. There is a degree of difference between the satisfaction to be recorded by the Court that there are reasonable grounds for believing that the accused is "not guilty" of such offence and the satisfaction to be recorded for the purposes of the 1967 Act that there are reasonable 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 2025:JHHC:10447-DB 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...."

44. It is, thus, evident from the proposition laid down by the Hon'ble Apex Court in the case of National Investigation Agency v. Zahoor Ahmad Shah Watali (Supra) that 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.

45. 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 2025:JHHC:10447-DB or dissection of the evidence is not required to be done at this stage.

46. 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 Vrs. 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 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 2025:JHHC:10447-DB 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."

47. 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 in to 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, such accused person shall not be released on bail or on his own bond.

48. 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 2025:JHHC:10447-DB 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.

49. 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.

50. 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).

51. 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 2025:JHHC:10447-DB release an accused on bail. It lays down that if the Court, 'on perusal of the case diary or the report made under Section 173 of the Code of Criminal Procedure', is of the opinion that there are reasonable grounds for believing that the accusation, against such person, as regards commission of offence or offences under Chapter IV and/or Chapter VI of the UAP Act is prima facie true, such accused person shall not be released on bail or on his own bond. It is interesting to note that there is no analogous provision traceable in any other statute to the one found in Section 43D(5) of the UAP Act. In that sense, the language of bail limitation adopted therein remains unique to the UAP Act.

28. The conventional idea in bail jurisprudence vis-

à-vis ordinary penal offences that the discretion of Courts must tilt in favour of the oft-quoted phrase - 'bail is the rule, jail is the exception' - unless circumstances justify otherwise - does not find any place while dealing with bail applications under UAP Act. The 'exercise' of the general power to grant bail under the UAP Act is severely restrictive in scope. The form of the words used in proviso to Section 43D (5)- 'shall not be released' in contrast with the form of the words as found in Section 437(1) CrPC - 'may be released' - suggests the intention of the Legislature to make bail, the exception and jail, the rule.

29. The courts are, therefore, burdened with a sensitive task on hand. In dealing with bail applications under UAP Act, the courts are merely examining if there is justification to reject bail. The 'justifications' must be searched from the case diary and the final report submitted before the Special 2025:JHHC:10447-DB Court. The legislature has prescribed a low, 'prima facie' standard, as a measure of the degree of satisfaction, to be recorded by Court when scrutinising the justifications [materials on record]. This standard can be contrasted with the standard of 'strong suspicion', which is used by Courts while hearing applications for 'discharge--"

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

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

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

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

53. 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 2025:JHHC:10447-DB or dissection of the evidence is not required to be done at this stage.

54. 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.

55. This Court, on the basis of the aforesaid position of law and the factual aspect as has been gathered against the appellants 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.

56. Counter affidavit has been filed by the respondent state. It is evident from the counter affidavit that the appellants have been charge-sheeted accused of the instant case.

57. It is evident from record that instant matter relates to a multidimensional organised crime by gang of Aman Srivastava, and FIR was instituted under Sections 385/386/34 of the Indian Penal Code, and also for the offence under Sections 16/17/20/21 of UA (P) Act, 1967 and after investigation charge-sheet dated 07.01.2024 has been submitted against these appellants 2025:JHHC:10447-DB for offence under Sections 385/386/34 of the Indian Penal Code, and also for the offence under Sections 16/17/20/21 of UA (P) Act, 1967.

58. Admittedly herein due to want of the requisite sanction as per the mandate of UAP Act 1967, initially the court concerned has taken the cognizance of the offence under section 385/386/34 of the Indian Penal Code only and thereafter the aforesaid appellants have preferred their prayer for bail before the special Judge but even then, the same has been rejected.

59. Thereafter, requisite sanction for the offence with respect to offence under section 16,17,20,21 of the Act, 1967 has been accorded on 24.04.2024 by the competent authority i.e. Deputy Commissioner Ranchi, vide memo no. 2394 dated 29.04.2024 and accordingly, the cognizance of the offences under sections 16/17/20/21 of Unlawful Activities (Prevention) Act, 1967 has also been taken by the learned Trial Court and consequently, the matter has been fixed for addition of charge which would be evident from the order dated 08.05.2024 passed by A.J.C. XVIII cum Spl. Judge ATS, Ranchi in ATS Court Case No.01/2024.

60. Now, we are adverting to various paragraphs of the case diary in order to find out the culpability of these appellants in the alleged crime.

61. It is evident from record that the name of the appellants Mahmud Alam @ Nepali, Firoz Khan and Mohammad Zahir 2025:JHHC:10447-DB Ansari @ Zahir Ansari has come in the confessional statement of Ezaj Ansari and Minku Khan, wherein, they have stated that the extorted money which had been recovered from them was to hand over to aforesaid appellants near Alam Hospital, and the said money was collected as Rangdari by Aman Srivastava gang from different traders.

62. It is evident from various paragraph of the case diary that these appellants are member of a notorious gang of the area, which is operating for collection of ransom/levy from different traders etc. of the locality. Further, co-accused Ezaj Ansari and Minku Khan (appellant herein) were going to handover the money collected as ransom to the appellants, namely, Mahmud Alam @ Nepali, Firoz Khan and Mohammad Zahir Ansari @ Zahir Ansari and this fact was surfaced during investigation based on the statements of the co-accused. This fact is prima facie sufficient to show the complicity of these appellants in the crime of serious nature.

63. In para-2 of the case diary, the seizure-list is referred which fully supported the prosecution case and further, the name of the appellants, namely, Ezaj Ansari and Minku Khan is mentioned in the seizure-list having the possession of the white Scorpio Car from which the cash amount of Rs. 49,83,000/- was recovered.

64. Further, at paragraphs-9,10,11, 12 and 115 of the case diary 2025:JHHC:10447-DB wherein the statement of witnesses has been referred as also paragraphs-23 and 25 of the case diary, the statement of the witness of seizure recorded, by which, the case of the prosecution has fully been corroborated.

65. The appellants, namely, Minku Khan and the co-accused Ezaj Ansari have confessed their involvement in the instant case in their statements mentioned at Paragraphs-16 and 17 of the case diary. The alleged ransom money, i.e., Rs.49,83,000/- was also recovered from a vehicle through which these accused/appellants were traveling.

66. Further, at paragraph-109 of the case diary, the connectivity chart of mobile numbers of accused persons were recorded which shows that they were connected to each other to carry out the conspiracy and alleged offence.

67. Thus, from the aforesaid fact prima facie, it is evident that these appellants are associates of Aman Srivastava gang who are involved in various criminal cases.

68. Thus, it appears that there is sufficient prima facie evidence which indicates the complicity of the appellants to the organized crime syndicate which suggests that the appellants were facilitating the alleged crime.

69. Further, in the counter affidavit, it has been mentioned that if the relief as prayed by the appellants is granted, there is every chance of disruption of evidence, because supplementary 2025:JHHC:10447-DB investigation is still going on.

70. Learned counsel for the appellants has taken the ground of custody of the appellants as they have been languishing in the custody from one and half year approximately.

71. While, on the other hand, learned counsel appearing for the respondent-State has seriously disputed the aforesaid fact apart from the merit that the present appellants are having close association with the Aman Srivastava Gang.

72. Considering the above facts and circumstances and after going through the evidence of the prosecution witnesses, case diary, and other documentary evidence, it is evident that there is direct and serious allegation against the appellants which shows the nexus with the member of Aman Srivastava Gang.

73. In the context of aforesaid, this Court, is of view that there is no quarrel about the settled position of law that Article 21 of the Constitution of India provides for protecting the fundamental right of liberty but that is to be assessed by carving out the balance in enforcing the law and order.

74. It has been contended on behalf of the learned counsel for the appellants that the instant case was only supported by highly interested official witnesses(police) and none of the independent witnesses have supported the case.

75. In the aforesaid context, it needs to refer herein that the Hon'ble Apex Court in *Girja Prasad vs. State of M.P.*, [(2007) 2025:JHHC:10447-DB 7 SCC 625], has held that the presumption that every person acts honestly applies as much in favour of a Police Official as any other person. No infirmity attaches to the testimony of Police Officials merely because they belong to Police Force. There is no rule of law which lays down that no conviction can be recorded on the testimony of Police Officials even if such evidence is otherwise reliable and trustworthy. The rule of prudence may require more careful scrutiny of their evidence. But, if the Court is convinced that what was stated by a witness has a ring of truth, conviction can be based on such evidence.

76. Thus, in the light of the aforesaid settled proposition of law the contention of the learned counsel is that the case of prosecution is doubtful because the instant case is only supported by highly interested official witnesses and none of the independent witnesses have supported the case, is not tenable herein.

77. Accordingly, this Court, on the basis of the aforesaid facts as referred hereinabove as also the judgment rendered by the Hon'ble Apex Court, is of the view that it cannot be said that the allegation levelled against the appellants is prima facie untrue.

2025:JHHC:10447-DB

78. In view of the foregoing discussions, we find no illegality in the impugned orders passed by A.J.C. XVIII-cum-Spl. Judge, ATS, Ranchi, in connection with ATS Court Case No.01 of 2024 arising out of ATS P.S. Case No.10 of 2023, whereby and whereunder, the bail petitions of the appellants were rejected and as such, the orders impugned require no interference by this Court.

79. In the result, we find no merit in instant appeals, hence, the same are, hereby, dismissed.

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

81. It is made clear that any observation made herein will not prejudice the case of the appellants in course of trial and view as expressed by this Court is only limited to the instant appeals.

(Sujit Narayan Prasad, J.) I Agree (Pradeep Kumar Srivastava, J.) (Pradeep Kumar Srivastava, J.) Rohit/-A.F.R.