

**IN THE HIGH COURT OF JHARKHAND AT RANCHI  
Criminal Appeal (DB) No.1508 of 2025**

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Kundan Kumar aged about 26 years s/o- Hari Giri, resident of Village- H1, Kusai Colony, Doranda, Near Bijli Office, P.O. & P.S. Doranda, District Ranchi.

.... ... **Appellant**

Versus

National Investigation Agency, New Delhi, N.I.A. Building, Opp. Dyal Singh College Road, C.G.O. Complex, Pragati Vihar, New Delhi, P.O. & P.S.-New Delhi, District-New Delhi, PIN-110003.

.... ... **Respondent**

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

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For the Appellant : Mr. Abhinay Kumar, Advocate  
For the Respondent : Mr. Amit Kumar Das, Advocate  
Mr. Vineet Sinha, Advocate

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**C.A.V. on 20.02.2026**

**Pronounced on 11/03/2026**

***Per Sujit Narayan Prasad, J.***

**Prayer:**

1. The instant appeal preferred under Section 21(1) of the National Investigation Agency Act, 2008 is directed against the order dated 20.09.2025 passed in Misc. Cr. Application No. 1738 of 2025 by learned Additional Judicial Commissioner-XVI-cum-Special Judge, NIA, Ranchi whereby and whereunder the prayer for bail in connection with Special (NIA) Case No. 01 of 2021, RC Case No.-01/2021/NIA/RNC arising out of Balumath P.S. Case No. 234 of 2020 registered under Sections 147, 148, 149, 353, 504, 506, 307, 427, 435, 386, 387, 120B, 121A and 216 of the Indian Penal Code; Section 25(1)(b), 26, 27 and 35 of the Arms Act; Section 3 and 4 of Explosive Substance Act; Section 10, 13, 16(1)(b), 20 and

23 of UA(P) Act and Section 17 of CLA Act, 1908, has been rejected.

**Factual Matrix**

**2.** The brief facts of the case, as per the prosecution version, which required to be enumerated reads hereunder as:-

**3.** The prosecution case is based on the information received by Balumath police station that at about 19 hours on 18.12.2020, some unknown persons were burning vehicles by firing indiscriminately near check post no.1 near Tetariakhand colliery. Assailants fired on the police party that had rushed to the spot. Accused persons had burnt four trucks one motorcycle and injured four civilians. The remnants of the burnt vehicles, fragments of a cane bomb with wire, a white colour empty gallon of approx. 02 liters, spent cartridges and three hand written pamphlets containing threats to the transporters and coal companies, involved in the mining area signed by one Pradip Ganjhu (A-3) were found from the spot. Upon further inquiry it was revealed that gangster Sujit Sinha(A-1) and Aman Sahu @Aman Sao(A-2) had conspired with accused Pradeep Ganjhu (A-3) and his associates namely Santosh Ganjhu, Bihari Ganjhu, Sakendra Ganjhu, Pramod Ganjhu and others to collect extortion from CCL transporters, contractors, holders and disruption of government works.

**4.** Accordingly, Balumath P.S. Case No. 234/2020 dated 19.12.2020 was registered u/s 147, 148, 149, 353, 504, 506, 307, 427, 435, 386, 387 and 120B of IPC section 27 of Arms Act, Section 3/4 of the Explosive Substance Act and under Section 10, 13, 16(1)(b), 20 and 23 of UA(P) Act.

**5.** The ministry of Home Affairs (MHA) Government of India in view of the gravity of the offence and its cross border and international ramification issued orders in exercise of the powers vested under Section 6(5) read with section 8 of the NIA Act 2008, directed the NIA to take up the investigation of the aforesaid case. On the direction of the Ministry of Home Affairs, NIA re-registered case no 01/2021/NIA-RNC dated 04.03.2021 under section 147, 148, 149, 353, 504, 506, 307, 427, 435, 386, 387, 120B,, 121A, 216 of IPC Section 25(1)(b), 26, 27 and 35 of Arms Act section 3 & 4 of Explosive Substance Act section 17 CLA Act and section 10, 13, 16(1), (b), 20 and 23 UA(P) Act.

**6.** After investigation NIA submitted 2nd supplementary charge-sheet against Pankaj Karmali @ Khetia (A-23), Vikash Anand Ojha @ Abhishek (A-26), Akash Kumar Roy @ Monu Roy (A-27) and the present appellant Kundan Kumar (A-28).

**7.** The appellant has been apprehended and taken into custody on 19.07.2021, i.e., after taking over the investigation by the NIA and, as such, prayer for bail was

made before Special Judge NIA Ranchi by filing Misc. Cr. Application No. 2362 of 2024 but the same has been rejected vide order dated 28.01.2023 against which the Cr. Appeal (DB) No.298 of 2023 was preferred before this Court, which was dismissed on merit vide order dated 30.06.2023.

**8.** Subsequently, the appellant again preferred Criminal Appeal (D.B.) No. 226 of 2025 which was dismissed as not pressed and disposed of vide order dated 25.03.2025 by this Court. Thereafter again prayer for bail was made before the Special Judge NIA, Ranchi by filing Misc. Cr. Application No 1702 of 2025, which has been dismissed as withdrawn on 26.08.2025.

**9.** Further, the appellant again preferred Criminal Appeal (D.B.) (Filing) No. 16283 of 2025 and the same was withdrawn on the ground of maintainability vide order dated 06/08/2025 passed by co-ordinate Bench of this Court.

**10.** Thereafter, again Misc. Cr. Application No. 1738 of 2025 has been filed by the appellant before the learned Special Judge, NIA Ranchi which has been dismissed vide order dated 20.09.2025, against which the present appeal has been preferred.

**Submission on behalf of appellant:**

**11.** Learned counsel appearing for the appellant, has submitted that the impugned order is fit to be quashed and

set aside on the ground that no incriminating material has been found to substantiate the involvement of the appellant in the instant case.

**12.** It has been contended that nothing has been surfaced in course of investigation by which it can be said that the appellant had provided harbor to Shahrukh Ansari and Vikas Anand Ojha.

**13.** The appellant is neither named in the FIR nor any incriminating article has been recovered from his possession.

**14.** Submission has been made that except the charge of harboring terrorists, that too in second supplementary charge-sheet, no any strong material has been found during the course of investigation, as produced by the NIA but that aspect of the matter has not been taken into consideration by the learned trial court.

**15.** It has been contended that other co accused person, namely, Santosh Kumar @ Banti Yadav, has been granted the privilege of regular bail vide order dated 09.11.2022 passed in Criminal Appeal (D.B.) No. 98 of 2022, and another co accused, namely, Pritam Kumar @ Chiku Yadav @ Chiku, has been granted the privilege of regular bail vide order dated 22.12.2022 passed in Criminal Appeal (D.B.) No. 205 of 2022, and another co accused persons, namely, Jasim Ansari and Wasim Ansari, have been granted the privilege of regular bail

vide order dated 03.01.2023 passed in Criminal Appeal (D.B.) No.435 of 2022, and another co accused, namely, Jahiruddin Ansari, has been granted the privilege of regular bail vide order dated 03.01.2023 passed in Criminal Appeal (D.B.) No. 51 of 2022, and another co accused, namely, Santosh Yadav @Santosh Kumar Yadav, has been granted the privilege of regular bail vide order dated 18.01.2023 passed in Criminal Appeal (D.B.) No.204 of 2022, and another co accused, namely, Prabhat Kumar Yadav @ Dimple Yadav @Prabhat Kumar, has been granted the privilege of regular bail vide order dated 05.03.2025 passed in Criminal Appeal (D.B.) No. 1412 of 2023, and the case of the appellant is similar to that of the case aforementioned co-accused.

**16.** Further, taking the ground of custody submission has been made that the appellant is in custody since 19.07.2021.

**17.** Further ground has been taken that though charge-sheet has been submitted and charge has been framed way back in year 2021 but till date evidences of the witness has not been concluded and there is no chance of conclusion of trial in near future, due to large number of witnesses and documents in connection with N.I.A. Case.

**18.** The learned counsel for the appellant on the aforesaid premise has submitted that the order dated 20.09.2025 by which bail of the present appellant has been rejected by

special Judge NIA Ranchi may require interference of this Court and the present appellant may be enlarged on bail.

**Submission on behalf of respondent:**

**19.** While on the other hand, Mr. Amit Kumar Das, learned counsel appearing for the National Investigation Agency (NIA), has submitted that specific attributability has come against the appellant to the effect that he was arrested from Swanti Kundan Enclave by Namkum Police and six country made pistols and 27 cartridges were recovered from the said flat which was in presence of the appellant basis upon which he has been arrayed as an accused (A-28).

**20.** It has been contended by referring to paragraph 17.23, 17.24, 17.26 and 17.36 of the 2<sup>nd</sup> supplementary charge-sheet wherein specific involvement of the appellant has been surfaced in course of investigation of giving active support to the organization and even the recovery of arms and ammunitions have been made from the flat where the appellant was present along with one Akash Kumar Roy @ Monu (A-27).

**21.** It has also been stated by referring to an order passed by Coordinate Bench of this Court in the case of Akash Kumar Roy dated 13.02.2023 in Criminal Appeal (DB) No.1238 of 2022 wherefrom it is evident that prayer for regular bail of said Akash Kumar Roy has been rejected and according to

learned counsel, the case of Akash Kumar Roy is exactly similar to that the appellant of this case and as such, even on the issue of parity, it is not a fit case to interfere in the impugned order.

**22.** It has been contended by rebutting the argument advanced on behalf of the appellant that the case of the appellant is identical to that of the case of other co-accused persons but herein the allegation as per the charge-sheet is that the arms and ammunitions were recovered in presence of the appellant from the flat therefore, the allegation as surfaced against said co-accused cannot be said to be identical with the case of the appellant, rather, the case of the appellant is similar to that of Akash Kumar Roy as would be evident from the material surfaced in course of investigation as referred in paragraph 17.23, 17.24, 17.26 and 17.36 of the 2<sup>nd</sup> supplementary chargesheet.

**23.** It is further stated that the bail of several other co-accused has also been rejected by this Hon'ble Court in Cr. Appl.(DB) No. 133 of 2023 vide order dated 17.05.2023 (Ajay Turi vs. N.I.A.), Cr. Appl.(DB) No. 549 of 2023 vide order dated 08.09.2023 (Babulal Turi vs. N.I.A.), Cr. Appl. (DB) No.781 of 2023 vide order dated 15.02.2024 (Pradip Ganjhu vs. N.I.A.), Cr. Appl.(DB) No. 744 of 2023 vide order dated 28.02.2024 (Vikash Anand vs. N.I.A.), Cr. Appl.(DB) No. 840

of 2025 vide order dated 23.09.2025 (Ajay Turi vs. N.I.A.), Cr. Appl.(DB) No. 781 of 2025 vide order dated 13.10.2025 (Ajay Turi vs. N.I.A.), Cr. Appl.(DB) No. 818 of 2025 vide order dated 04.11.2025 (Babulal Turi vs. N.I.A.), Cr. Appl. (DB) No. 976 of 2025 vide order dated 21.11.2025 (Saif Ansari vs. N.I.A.) and Cr. Appl. (DB) No. 448 of 2025 vide order dated 01.12.2025 (Shankar Yadav vs. N.I.A.).

**24.** So far delay in trial is concerned, it has been contended that the Hon'ble Supreme Court recently in the case of ***Gurwinder Singh Versus State of Punjab and Another (2024 SCC OnLine SC 109)*** has held that for the offences under UAPA "Bail will be an exception and Jail will be the rule" and merely period of custody and delay in trial will not be a ground for grant for bail.

**25.** So far as likelihood of delay in the trial due to long list of witnesses, the submission has been made on behalf of NIA that number of witnesses has already been pruned, and 26 witnesses have already been examined as such the plea of the petitioner about the probable delay in the trial is not fit to be accepted.

**26.** Learned counsel for the respondent has emphatically submitted that the case is at advanced stage, as substantial number of prosecution witnesses i.e., 26 in number has already been examined and if at this stage the appellant

would be enlarged on bail, there is every likelihood of influencing the witnesses and tampering with the evidence or may abscond, which would seriously prejudice the fair conduct of the trial.

**27.** It has further been submitted that the present appellant/accused (A-28) had earlier approached this Hon'ble Court seeking identical relief in Cr. Appl. (DB) No. 298 of 2023, and this Hon'ble Court, vide order dated 30.06.2023, was pleased to dismiss the said application, having been satisfied that a *prima facie* true case exists against the appellant/accused Kundan Kumar (A-28), and since herein there is no change in circumstances either on fact or law, therefore prayer for appellant is not fit to be accepted.

**28.** Mr. Das, in the aforesaid premise, has submitted that the impugned order dated 20.09.2025 may not be interfered with.

**Analysis**

**29.** We have heard learned counsel for the parties, perused the documents available on record as also the finding recorded by learned court as recorded in the impugned order dated 20.09.2025.

**30.** It would be evident from the prosecution version that on 18.12.2020 a case being Balumath P.S. Case No. 234/2020 was instituted on information received at the Balumath Police Station against the unknown persons leveling therein the

charge of burning vehicles and firing indiscriminately near Check Post No.1 near Tetariakhand Colliery. The miscreants fired on the police party that had rushed to the spot. Accused persons had burnt four trucks one motorcycle and also injured 04 civilians. From the place of occurrence, remnants of the burnt vehicles, fragments of a cane bomb with wire, a white colour empty gallon of approx 02 liters, spent cartridges and three hand written pamphlets containing threats to the transporters and coal companies, involved in the mining area signed by one Pradip Ganjhu were found from the spot. The Police, on enquiry found that Sujit Sinha and Aman Sahu @Aman Sao had conspired with accused Pradeep Ganjhu and his associates namely Santosh Ganjhu, Bihari Ganjhu, Sakendra Ganjhu, Pramod Ganjhu and others to collect extortion from CCL transporters, contractors, DO holders and disruption of legitimate works.

**31.** Based on the aforesaid allegation, Balumath P.S. case no 234/2020 dated 19.12.2020 was instituted for the offence under Sections 147, 148, 149, 353, 504, 506, 307, 427, 435, 386, 387 and 120B of IPC section 27 of Arms Act, Section 3/4 of the Explosive Substance Act, against accused persons.

**32.** The Ministry of Home Affairs, Government of India directed the NIA to take up the investigation of the Balumath P.S. case no 234/2020 dated 19.12.2020 which was re-

registered case no 01/2021/NIA-RNC and consequently 2<sup>nd</sup> supplementary Chargesheet was submitted against the present appellant arraigned him as accused No.28.

**33.** It has come in the investigation that the present appellant was a member of Aman Sahu and Sujit Sinha Gang and in furtherance of the criminal conspiracy, he was associated with Akash Kumar Roy @ Monu, the then absconding accused Shahrukh Ansari and provided harbour to him. The investigation has also revealed that, the appellant /accused Kundan Kumar (A-28) also received arms and ammunitions from the accused Vikash Anand Ojha @ Abhishek and further provided into the gang members.

**34.** The appellant has been apprehended and taken into custody on 19.07.2021, and accordingly, prayer for bail was made before Special Judge NIA Ranchi by filing Misc. Cr. Application No. 2362 of 2024 but the same has been rejected vide order dated 28.01.2023 against which the Cr. Appeal (DB) No.298 of 2023 was preferred before this Court, which was dismissed after due consideration of all factual aspects on merit vide order dated 30.06.2023. For ready reference the relevant paragraphs of the aforesaid order i.e. order dated 30.06.2023 are being referred as under:

*9. This Court is now proceeding to consider the legality and propriety of the impugned order by taking together the material which has been revealed in course of investigation against the appellant.*

*The extract of the supplementary chargesheet is part of the counter affidavit as appended as Annexure-A. It appears from paragraph 17.23 that it has come on record that Vikash Anand Ojha @ Abhishek (A-26) from January/February, 2021 to July, 2021, received multiple consignments of arms and ammunition from MP and Maharashtra and provided to Akash Kumar Roy @ Monu (A27), Kundan Kumar (A-28) and others in the name of Abhishek. Akash Kumar Roy @ Monu (A-27), Kundan Kumar (A-28) further provided these arms and ammunition to Shahrugh Ansari, the then absconding accused and other gang members. Vikash Anand Ojha @ Abhishek (A-26) was arrested by a team of Special Cell, Delhi Police from Chopda, Maharashtra.*

*It has further been revealed as has been referred under paragraph 17.24 of the supplementary chargesheet that Akash Kumar Roy @ Monu (A-27), Kundan Kumar (A-28) also arranged a flat at Namkum (Ranchi) for the criminal activities of the terrorist gang. Both of them facilitated safe stay/harbor to Shahrugh Ansari, the then absconding accused in the instant case in the said flat at Namkum, Ranchi. In this flat, accused Vikash Anand Ojha @ Abhishek (A-26) visited the said flat at Nankum, Ranchi and supplied arms and ammunition during his visit in June/July 2021. On 19.07.2021 this flat was raided by Police of PS Namkum and arrested Kundan Kumar (A-28) with the arms and ammunition supplied by Vikash Anand Ojha @ Abhishek(A26). Shahrugh Ansari and Akash Kumar Roy @ Monu(A-27) managed to escape from this flat. A separate case no.187/2021,dated 19.07.2021 was registered by Namkum Police against Akash Kumar Roy @ Monu (A-27), Kundan (A28) and others.*

*It appears from Paragraph 17.26 that Kundan Kumar (A-28) received Shahrugh Ansari from Ratu Talab, Ratu in Ranchi and brought him at Namkum flat for facilitating his safe stay/harbor for further criminal activities. Kundan Kumar (A-28) was tasked to supply arms and ammunition to the Sujit Sinha and Aman Sahu gang.*

*The investigation further revealed as has been referred at paragraph 17.36 wherein the complicity of Kundan Kumar (A-28) has been referred who has been seen with Akash Kumar Roy @ Monu. It has also come that during the photo identification*

*proceeding in presence of independent witnesses, protected witness "C" identified the photograph of Vikash Anand Ojha @ Abhishek (A-26) and stated that in the month of June/July 2021, he saw him with Akash Kumar Roy @ Monu Roy (A-27) and Kundan Kumar (A-28) in the said flat. He has also corroborated the fact that he saw him before the raid by Namkum Police in the flat, this person was also present in the said flat in Namkum with Akash Kumar Roy @ Monu Roy (A-27) and Kundan Kumar (A-28). Paragraph 17.23, 17.24, 17.26 and 17.36 are quoted hereunder as :-*

*"17.23 During the investigation, it has come on record that Vikash Anand Ojha @ Abhishek (A-26) from January/February, 2021 to July, 2021, received multiple consignments of arms and ammunition from MP and Maharashtra and provided to Akash Kumar Roy @ Monu (A-27), Kundan Kumar (A-28) and others in the name of Abhishek. Akash Kumar Roy @ Monu (A-27). Kundan Kumar (A-28) further provided these arms and ammunition to Shahrulkh Ansari, the then absconding accused and other gang members. Vikash Anand Ojha @ Abhishek (A-26) was arrested by a team of Special Cell, Delhi Police from Chopda, Maharashtra in its case No. 225 of 2021 dated 26.08.2021 having in possession 20 semiautomatic/country made pistols, 50 live rounds, One Xiaomi smart phone alongwith 02 Airtel Sim cards.*

*17.24 Investigation has revealed that Akash Kumar Roy @ Monu (A-27), Kundan kumar (A-28) also arranged a flat at Namkum (Ranchi) for the criminal activities of the terrorist gang. Both of them facilitated safe stay/harbor to Shahrulkh Ansari, the then absconding accused in the instant case in the said flat at Namkum, Ranchi. In this flat, accused Vikash Anand Ojha @ Abhishek (A-26) visited the said flat at Nankum, Ranchi and supplied arms and ammunition during his visit in June/July 2021. On 19.07.2021 this flat was raided by Police of PS Namkum and arrested Kundan Kumar (A-28) with the arms and ammunition supplied by Vikash Anand Ojha @ Abhishek (A-26). Shahrulkh Ansari and Akash Kumar Roy @ Monu (A-27) managed to escape from this flat.*

*A separate case no.187/2021, dated 19.07.2021 was registered by Namkum Police against Akash Kumar Roy @ Monu (A-27), Kundan (A-28) and others.*

*17.26 During investigation, it has come on record that Kundan Kumar (A-28) received Shahrukh Ansari from Ratu Talab, Ratu in Ranchi and brought him at Namkum flat for facilitating his safe stay/harbor for further criminal activities. Kundan Kumar (A-28) was tasked to supply arms and ammunition to the Sujit Sinha and Aman Sahu gang.*

*17.36 During investigation, it has come on record that Protected witness "C" stated that Akash Kumar Roy a Monu Roy (A-27) and Kundan Kumar (A-28) arranged a flat at Namkum, Ranchion forged ID proof. He saw other persons with Akash Kumar Roy @Monu Roy (A27) and Kundan Kumar (A-28) at this flat During, the photo identification proceeding in presence of independent witnesses, protected witness "C" identified the photograph of Vikash Anand Ojha @ Abhishek (A26) and stated that in the month of June/July 2021, he saw him with Akash Kumar Roy @ Monu Roy (A-27) and Kundan Kumar (A-28)in the said flat. He also identified the photograph of Shahrukh Ansari and stated that he saw him before the raid by Namkum Police in this flat, this person was also present at the said flat in Namkum with Akash Kumar Roy Monu Roy (A-27) and Kundan Kumar (A-28).”*

*The supplementary chargesheet, thus, corroborates the fact about incriminating materials having been found by the investigating agency in course of investigation against the appellant.*

*12. This Court, on the basis of the aforesaid position of law as has been settled by Hon'ble Apex Court, is proceeding to examine as to whether the accusation is prima facie true as compared to the opinion of accused not guilty by taking into consideration the material collected in course of investigation by the NIA.*

*This Court, therefore, is now required to consider as to whether after following the principle laid down under Section 43D(5) of the UA(P) Act, 1967, the case of the appellant can be said to be identical to that of Santosh Kumar @ Banti Yadav or*

*similar to that of the case of Akash Kumar Roy, the appellant in Criminal Appeal (DB) No.1238 of 2022.*

*The chargesheet reflects as also the order dated 09.11.2022 passed in Criminal Appeal (DB) No.98 of 2022 in favour of Santosh Kumar @ Banti Yadav wherein the Coordinate Bench while granting privilege of bail has considered the nature of allegation against the appellant of the said case of harbouring the terrorist, on that ground the privilege of bail was granted along with the ground that Santosh Kumar @ Banti Yadav is languishing in judicial custody since long.*

*But, when the supplementary chargesheet has been examined by this Court in order to assess as has been contended on behalf of the NIA that the case of the appellant is similar to that of accused Akash Kumar Roy by which this Court is in agreement with such submission by going through the incriminating material collected in course of investigation mentioned in paragraph 17.23, 17.24, 17.26 and 17.36 of the supplementary chargesheet, as quoted and referred hereinabove. The complicity which has been found of the appellant is similar to that of the accused Akash Kumar Roy since the appellant was found to be along Akash Kumar Roy from January/February, 2021 to July, 2021, the period in which multiple consignments of arms and ammunitions from MP and Maharashtra were received and provided to Akash Kumar Roy @ Monu (A-27) and Kundan Kumar (A-28), the appellant of the instant appeal.*

*It has also come in the aforesaid paragraph that Akash Kumar Roy @ Monu (A-27) and Kundan Kumar (A-28) also arranged a flat at Namkum (Ranchi) for the criminal activities of the terrorist gang and both of them facilitated safe stay/harbor to Shahrakh Ansari.*

*The aforesaid flat was raided by the Namkum Policy on 19.07.2021 and from the spot the appellant was apprehended with the arms and ammunitions supplied by Vikash Anand Ojha.*

*It has come under paragraph 17.36 that the protected witness "C" stated that Akash Kumar Roy @ Monu Roy (A-27) and Kundan Kumar (A-28) arranged a flat in Namkum, Ranchi on the basis of forged I/D proof. He saw other persons with Akash Kumar Roy @ Monu Roy (A-27) and Kundan Kumar (A-28) at this flat During, the photo identification proceeding in presence of independent*

witnesses, protected witness "C" identified the photograph of Vikash Anand Ojha @ Abhishek (A-26) and stated that in the month of June/July 2021, he saw him with Akash Kumar Roy @ Monu Roy (A-27) and Kundan Kumar (A-28) in the said flat. He also identified the photograph of Shahrukh Ansari and stated that he saw him before the raid by Namkum Police in this flat, this person was also present at the said flat in Namkum with Akash Kumar Roy Monu Roy (A-27) and Kundan Kumar (A-28).

Therefore, from the material which has come in course of investigation basis upon which the supplementary chargesheet has been submitted, it would be evident that the complicity of the appellant is similar to that of Akash Kumar Roy.

The complicity of the other appellant who has been directed to be released on bail, i.e., Santosh Kumar @ Banti Yadav, there is no allegation of receiving arms and ammunitions in huge quantity against him. However, he was alleged with the harbouring of Shahrukh Ansari.

It further appears from the order dated 09.11.2022 passed in Criminal Appeal (DB) No.98 of 2022 wherein the period of custody has also been taken into consideration and the plea of custody of the appellant has also been made a ground.

12. The question will be as to whether in the matter of NIA keeping the mandate of Section 43D(5) of the UA(P) Act, the period of custody can be a ground to release on bail but we are not making any remark upon the said order, since we are not sitting in appeal of the said order but the same is being referred herein on the ground that the appellant of this case is also languishing in judicial custody and that ground has been taken for the purpose of making out a case for release on bail.

14. This Court, therefore, by taking into consideration the interpretation of the provision of Section 43D(5) of the UA(P) Act, 1967, is of the view that the custody has not been 23 mandated to be a ground for bail, rather, the requirement to see the basis of accusation in the F.I.R., the contents of the case diary including the chargesheet and other material gather by investigating agency.

15. This Court, in the aforesaid premise of the settled position, is of the view that the custody cannot be a ground to release the

*accused on bail, rather, it is the accusation made in the F.I.R., contents of the case diary and the material gathered in the chargesheet is of prima consideration.*

*16. This Court, on the basis of the aforesaid consideration, is of the view that herein also the specific involvement of the appellant has been surfaced, as would appear from paragraphs 17.23, 17.24, 17.26 and 17.36 of the supplementary chargesheet, as quoted and referred hereinabove. This Court, after going through the imputation of allegation levelled against Santosh Kumar @ Banti Yadav visà-vis Akash Kumar Roy, is of the view that the case of the appellant is identical to that of the case of Akash Kumar Roy in view of the allegation as surfaced under paragraphs 17.23, 17.24, 17.26 and 17.36 of the supplementary chargesheet.*

*17. This Court, on the basis of the consideration of the material collected in the supplementary chargesheet, is of the view that the accusation made against the accused concerned is prima facie true. 24 So far as the case of Santosh Kumar @ Banti Yadav is concerned, against whom the allegation of harbouring the terrorist is there, therefore, the case of the appellant is not identical to that of the Santosh Kumar @ Banti Yadav, rather, the case of the appellant is identical to the case of Akash Kumar Roy. The Coordinate Bench of this Court has already rejected the prayer for bail of Akash Kumar Roy, therefore, the instant appeal also deserves to be rejected since we are not prima facie satisfied that it is a case where the privilege of bail is to be granted in favour of the appellant as per the discussion made hereinabove.*

*18. This Court, on the basis of the reason assigned hereinabove, is of the view that the order impugned suffers from no infirmity.*

*19. Accordingly, the instant appeal fails and is dismissed.*

**35.** From the perusal of the aforementioned paragraphs of the order dated 30.06.2023 it is evident that this Court has already considered all the pleas of the present appellant/accused Kundan Kumar (A-28) while rejecting his earlier bail application and made out a *prima facie* case in

terms of Section 43D (5) of U.A.P. Act 1967. It is further evident from aforesaid order that this Court while rejecting the prayer of the present appellant has taken settled proposition of law as rendered by the Hon'ble Apex Court and has also considered the statutory mandate of the UAP Act 1967 and has also taken into consideration the issue of parity and thereafter observed that the case of the appellant is not identical to that of the Santosh Kumar @ Banti Yadav, rather, the case of the appellant is identical to the case of Akash Kumar Roy and the Coordinate Bench of this Court has already rejected the prayer for bail of Akash Kumar Roy.

**36.** Thereafter, again Misc. Cr. Application No. 1738 of 2025 has been filed by the appellant before the learned Special Judge, NIA Ranchi which has been dismissed vide order dated 20.09.2025, against which the present appeal has been preferred.

**37.** Since no fresh ground or change in circumstance is available herein therefore, the learned counsel for appellant has taken the ground of long custody i.e. about 4 years and 7 months approximately and probable delay in conclusion of trial has also been taken as one of the grounds. The learned counsel for the appellant has also raised the issue of parity and submitted that since other co-accused have been granted

bail therefore the appellant herein also deserves to be released on bail by interfering with the order impugned.

**38.** While on the other hand, learned counsel appearing for the respondent has argued that ample evidence has been collected in course of investigation as would appear from paragraph 17.23, 17.24, 17.26 and 17.36 of the 2<sup>nd</sup> supplementary charge-sheet wherefrom it is evident that apart from harbouring the terrorist, huge quantity of arms and ammunitions were recovered from the flat in presence of the appellant and from the spot the appellant has been arrested. The ground, therefore, has been agitated that the case of the appellant is not identical to the said co-accused against whom parity has been claimed rather herein apart from harbouring the terrorist, huge quantity of arms and ammunitions were also recovered from the flat in presence of the appellant from where he has been apprehended.

**39.** The ground has also been taken that the case of the appellant is similar to that of accused Akash Kumar Roy whose bail application has already been rejected, against whom the allegation is similar to that of the appellant as would appear from paragraph 17.23, 17.24 and 17.36 of the charge-sheet. Further ground has been taken that list of witnesses has already been pruned and 26 witnesses have already been examined, therefore, submission has been made

that if at this stage, bail would be granted there is every likelihood of misusing the same.

**40.** Adverting to the contention of the learned counsel for the parties, admittedly herein earlier the prayer of the appellant for bail has already been rejected on merit therefore, the present appeal has been filed on the ground of period of custody and probable delay in trial and in addition thereto ground of parity has also been raised.

**41.** In the aforesaid backdrop it requires to refer herein that the statutory mandate contained under Section 43D(5) of the UA(P) Act 1967 imposes a stringent embargo upon the release of an accused charged with such grave offences on bail, unless the twin conditions stipulated therein are satisfied. The Hon'ble Supreme Court in **Gurwinder Singh (supra)**, wherein after considering the judgment in **Union of India v. K.A. Najeeb (supra)**, it was reiterated that the statutory parameters contained in Section 43D(5) of the UA(P) Act 1967 must be applied while considering bail in cases involving serious offences under the Act. It has been held that only where the allegations are found to be prima facie untrue, on the basis of the material collected during investigation, can the prayer for bail be considered, and conversely, where the allegations appear prima facie true, the privilege of bail cannot be extended.

**42.** In the present case, it is apparent from the appellant/accused Kundan Kumar (A-28) has been charge-sheeted for offences punishable under Sections of the UA(P)Act 1967, having maximum punishment of imprisonment for life.

**43.** Although, the culpability of the present accused/appellant has already been dealt with by this Court in order dated 30.06.2023 but at the cost of repetition same has been reiterated herein in precise form. It has come in the 2<sup>nd</sup> supplementary charge-sheet that the appellant /accused Kundan Kumar (A-28) was a member of Aman Sahu and Sujit Sinha Gang and in furtherance of the criminal conspiracy, he was associated with Akash Kumar Roy @ Monu, the then absconding accused Shahrukh Ansari and provided harbour to him. During the course of investigation, it has been revealed that accused Akash Kumar Roy @ Monu (A-27), appellant / accused Kundan Kumar (A-28) has arranged a flat at Namkum (Ranchi) for the criminal activities of the terrorist gang. Both of them facilitated safe stay/harbour to Shahrukh Ansari, the then absconding accused in the instant case in the said flat at Namkum, Ranchi. In this flat, accused Vikash Anand Ojha @ Abhishek(A-26) visited the said flat at Namkum, Ranchi and supplied arms and ammunition during his visit in June/July 2021.

**44.** On 19.07.2021, this flat was raided by Police of P.S. Namkum and arrested appellant/accused Kundan Kumar (A-28) with the arms and ammunition supplied by Vikash Anand Ojha @ Abhishek(A-26). Shahrukh Ansari and Akash Kumar Roy @ Monu(A-27) managed to escape from this flat. A separate case no.187/2021, dated 19.07.2021 was registered by Namkum Police against Akash Kumar Roy @ Monu and (A-27), appellant / accused Kundan Kumar (A-28) others. During the course of further investigation, it has been revealed that appellant / accused Kundan Kumar (A-28), received Shahrukh Ansari from Ratu Talab, Ranchi and brought him at his Namkum Flat for facilitating his stay safe/harbour for further criminal activities. The present appellant/accused Kundan Kumar (A-28), was tasked to supply arms and ammunitions to Sujit Sinha and Aman Sahu Gang.

**45.** Further from the order dated 30.06.2023 it is evident that this Court has already considered all the pleas of the appellant/accused Kundan Kumar (A-28) while rejecting his earlier bail application had found that a prima facie case is made out in terms U.A.P. Act 1967 against the present appellant. It needs to refer herein that the principles of res judicata and such analogous principles although are not applicable in a criminal proceeding, but the courts are bound by the doctrine of judicial discipline and the findings of a

higher court or a coordinate bench must receive serious consideration at the hands of the court entertaining a bail application at a later stage when the same had been rejected earlier. In such an event, the courts must give due weight to the grounds which weighed with the former or higher court in rejecting the bail application.

**46.** Herein there is no material change in the fact situation so far the culpability of the present appellant is concerned but ground of custody and delay in trial as also issue of parity has been raised.

**47.** At this juncture, it would be appropriate to refer herein that only the long incarceration or delay in trial is not the ground to be looked into for enlarging the accused on bail, rather, the accusation so made against the accused persons as also societal impact is also to be taken care of.

**48.** It requires to refer herein that the Hon'ble Apex Court in the case of ***Gurwinder Singh v. State of Punjab(supra)*** taking into consideration the ratio of judgment of ***Union of India vs. K.A. Najeeb, (supra)*** has observed that mere delay in trial pertaining to grave offences as one involved in the instant case cannot be used as a ground to grant bail, for ready reference, the relevant paragraph is being quoted as under:

*"46. As already discussed, the material available on record indicates the involvement of the appellant in furtherance of*

*terrorist activities backed by members of banned terrorist organisation involving exchange of large quantum of money through different channels which needs to be deciphered and therefore in such a scenario if the appellant is released on bail there is every likelihood that he will influence the key witnesses of the case which might hamper the process of justice. Therefore, mere delay in trial pertaining to grave offences as one involved in the instant case cannot be used as a ground to grant bail. Hence, the aforesaid argument on behalf of the appellant cannot be accepted."*

**49.** The Hon'ble Apex Court in its recent judgment in the case of ***Gulfisha Fatima versus State (Govt. of NCT of Delhi) 2026 LiveLaw (SC) 1*** while appreciating the implication of Article 21 vis-vis Section 43D (5) of the Act 1967 and taking into the consideration the ratio laid down in the case of ***Gurwinder Singh v. State of Punjab (supra)*** has categorically observed that if prosecutions alleging offences which implicate the sovereignty, integrity, or security of the State, delay does not operate as a trump card that automatically displaces statutory restraint, for ready reference, the relevant paragraphs of the aforesaid judgment are being quoted as under:

**“32.** *In Union of India v. K.A. Najeeb<sup>2</sup>, this Court recognised a constitutional safeguard that cannot be ignored: statutory restrictions cannot be applied so as to render the guarantee of personal liberty illusory. It was held that where the trial is not likely to commence or conclude within a reasonable period, constitutional courts retain the jurisdiction to grant bail notwithstanding statutory restraints. The decision thus operates as a*

*protection against unconscionable detention and there can be no second opinion on the said principle.*

**33.** *The same decision, however, does not indicate as laying down a mechanical rule under which the mere passage of time becomes determinative in every case arising under a special statute. The jurisprudence of this Court does not support a construction whereby delay simpliciter eclipses a statutory regime enacted by Parliament to address offences of a special category.*

**35.** *The proper constitutional question, therefore, is not whether Article 21 is superior to Section 43D (5). The proper question is how Article 21 is to be applied where Parliament has expressly conditioned the grant of bail in relation to offences alleged to implicate national security. The law does not contemplate an either-or approach. Nor does it contemplate an unstructured blending of statutory and constitutional considerations. What is required is disciplined judicial scrutiny that gives due regard to both.*

**47.** *A closely allied consideration is the role attributed to the accused. Prosecutions under the UAPA may allege varying degrees of participation, ranging from peripheral acts to strategic, organisational, or ideological centrality. The constitutional significance of prolonged incarceration cannot be assessed uniformly for all accused regardless of role. Where the attribution suggests a central or organising role in the alleged design, the need for circumspection before constitutional intervention displaces a statutory embargo is correspondingly greater. Conversely, where the role is peripheral or episodic, prolonged incarceration may more readily assume a punitive character.*

**56.** *It therefore becomes necessary to state, with clarity, the governing approach. In prosecutions alleging offences which implicate the sovereignty, integrity, or security of the State, delay does not operate as a trump card that automatically displaces statutory restraint. Rather, delay serves as a trigger for heightened judicial scrutiny. The*

*outcome of such scrutiny must be determined by a proportional and contextual balancing of legally relevant considerations, including (i) the gravity and statutory character of the offence alleged, (ii) the role attributed to the accused within the alleged design or conspiracy, (iii) the strength of the prima facie case as it emerges at the limited threshold contemplated under the special statute, and (iv) the 2026:JHHC:2958-DB extent to which continued incarceration, viewed cumulatively in the facts of the case, has become demonstrably disproportionate so as to offend the guarantee of personal liberty under Article 21.*

**58.** *In Gurwinder Singh v. State of Punjab, this Court expressly cautioned against the mechanical invocation of prolonged incarceration as a ground for bail in cases involving serious offences under special enactments. The judgment reiterates that the gravity of the offence, the legislative context, and the prima facie material on record cannot be eclipsed merely because the trial has taken time.*

**59.** *This Court in CBI v. Dayamoy Mahato reiterated that while Article 21 remains paramount, it does not operate in a vacuum divorced from competing constitutional interests. The Court emphasized that claims to liberty must be examined in the totality of circumstances, particularly where allegations implicate organised criminality or matters of public interest. Delay, though undoubtedly significant, was held not to assume the character of an absolute or solitary determinant. The emphasis, once again, was on structured judicial reasoning rather than on formulaic outcomes."*

**50.** Thus, on the basis of the aforesaid settled position of law, it is evident 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.

**51.** There is no dispute and it cannot be disputed that the jurisprudence of Article 21 has, as it develops, recognised various facets to be intrinsic to the right to life and liberty such as speedy trial, timely completion of investigation, fair trial etc. but at the same time circumspection in granting the relief of bail in offences that harmful to society such as in this case, stems from a place of concern, understandably legitimate at that, about public order, societal security, overall peace and the general deterrent force in criminal law.

**52.** The scales of justice must balance on the one hand-the constitutionally consecrated and jealously guarded right under Article 21 and on the other, the recognition that individual liberty is not absolute and is subject to just exceptions i.e. the paramount considerations of national interest and societal interest.

**53.** There can be no manner of doubt on the proposition that Article 21 rights are placed on a pedestal, and rightly so, at the same time, though, the individual cannot always be the centre of attention. We observe, therefore, that while Article 21 rights must always be protected, but however, in cases where the security of the society and nation is called into question, the long incarceration cannot be the sole ground of consideration.

**54.** The act of the accused persons must be looked at, on the whole, and all relevant factors must be given due consideration while granting or denying bail. Needless to add, any Court seized of bail application(s) arising out of such offences must record, in their order the reasons and factors that weighed with them in the ultimate outcome.

**55.** In view of the discussion made above it is the settled fact that the rights of an individual are always subservient to the nation/societal interest.

**56.** Further, in the case of **Gurwinder Singh vs. State of Punjab (supra)** and in the case of the **Union of India vs. Barakathullah etc.**, reported in **2024 INSC 452**, the Hon'ble Supreme Court has expressed its concern to the threat raised by terrorist organizations and held that where the accusations against the respondents are prima facie true, the mandate contained in the proviso to Section 43D(5) of the UA(P) Act would become applicable and the accused would not be released on bail.

**57.** Herein, the learned counsel for the respondent NIA has submitted at Bar that in the instant case number of witnesses which were 345 in numbers has already been pruned to 129, out of which, 26 witnesses have already been examined, therefore taking into consideration the aforesaid

submission, the apprehension of appellant in probable delay in trial is not fit to be accepted.

**58.** Further from paragraph 13 of the counter affidavit it has been mentioned by the prosecuting agency that if the present appellant is allowed to be released on bail, then, he will get all opportunities to tamper with the evidence as well as influence the witnesses or he may abscond, for ready reference the relevant paragraph of the counter affidavit is being quoted as under:

*“13. That it is stated that if the appellant is released on bail, there are all probabilities that he may influence the witnesses, tamper with the evidences or may be abscond, which may cause serious prejudice to the trial.”*

**59.** Further, there is serious allegation against the appellant/accused Kundan Kumar (A-28) that he was a member of Aman Sahu and Sujit Sinha Gang and in furtherance of the criminal conspiracy, he was associated with Akash Kumar Roy @ Monu, the then absconding accused Shahrukh Ansari and provided harbour to him. The investigation has also revealed that, the appellant/accused Kundan Kumar (A-28) also received arms and ammunitions from the accused Vikash Anand Ojha @ Abhishek and further provided into the gang members.

**60.** Thus, on the basis of discussion made hereinabove, the contention of learned counsel for the appellant that appellant

is eligible for bail on the ground of custody or delay in trial, is not fit to be accepted.

**61.** Further, the learned counsel for the appellant has raised the issue of parity and has submitted that the other co-accused persons who are similarly placed have already been directed to be release on bail, therefore the prayer of the petitioner is fit to be accepted.

**62.** It has been averred in the memo of appeal that the co accused person, namely, Santosh Kumar @ Banti Yadav, has been granted the privilege of regular bail vide order dated 09.11.2022 passed in Criminal Appeal (D.B.) No. 98 of 2022, and another co accused person, namely, Pritam Kumar @ Chiku Yadav @ Chiku, has been granted the privilege of bail vide order dated 22.12.2022 passed in Criminal Appeal (D.B.) No. 205 of 2022, and another co accused persons, namely, Jasim Ansari and Wasim Ansari, have been granted the privilege of bail vide order dated 03.01.2023 passed in Criminal Appeal (D.B.) No. 435 of 2022, and another co accused person, namely, Jahiruddin Ansari, has been granted the privilege of regular bail vide order dated 03.01.2023 passed in Criminal Appeal (D.B.) No. 51 of 2022, and another co accused, namely, Santosh Yadav @ Santosh Kumar Yadav, has been granted the privilege of regular bail vide order dated 18.01.2023 passed in Criminal Appeal (D.B.)

No.204 of 2022, and another co accused, namely, Prabhat Kumar Yadav @ Dimple Yadav @Prabhat Kumar, has been granted the privilege of regular bail vide order dated 05.03.2025 passed in Criminal Appeal (D.B.) No. 1412 of 2023, and the case of the appellant is similar to that of the case aforementioned co-accused.

**63.** It is evident from aforesaid that except co-accused Prabhat Kumar Yadav @ Dimple Yadav @Prabhat Kumar, who has been granted bail vide order dated 05.03.2025 passed in Criminal Appeal (D.B.) No. 1412 of 2023, all the aforesaid co-accused persons were granted bail before the passing of order dated 30.06.2023 by which the prayer for bail of the present appellant has been rejected.

**64.** It has been contended by the NIA that the allegation as per charge-sheet is that the arms and ammunitions were recovered in presence of the appellant from the flat, therefore, the allegation as surfaced against said co-accused cannot be said to be identical with the case of the appellant, rather, the case of the appellant is similar to that of Akash Kumar Roy as would be evident from the material surfaced in course of investigation as referred in paragraph 17.23, 17.24, 17.26 and 17.36 of the 2<sup>nd</sup> supplementary charge-sheet and the prayer for bail of the said co-accused i.e. Akash Kumar Roy

has already been rejected by the Co-ordinate Bench of this Court.

**65.** The learned counsel for NIA has further submitted that the bail of several co-accused has also been rejected by this Hon'ble Court in Cr. Appl.(DB) No. 133 of 2023 vide order dated 17.05.2023 (Ajay Turi vs. N.I.A.), Cr. Appl.(DB) No. 549 of 2023 vide order dated 08.09.2023 (Babulal Turi vs. N.I.A.), Cr. Appl. (DB) No.781 of 2023 vide order dated 15.02.2024 (Pradip Ganjhu vs. N.I.A.), Cr. Appl.(DB) No. 744 of 2023 vide order dated 28.02.2024 (Vikash Anand vs. N.I.A.), Cr. Appl.(DB) No. 840 of 2025 vide order dated 23.09.2025)(Ajay Turi vs. N.I.A.), Cr. Appl.(DB) No. 781 of 2025 vide order dated 13.10.2025 (Ajay Turi vs. N.I.A.), Cr. Appl.(DB) No. 818 of 2025 vide order dated 04.11.2025 (Babulal Turi vs. N.I.A.), Cr. Appl. (DB) No. 976 of 2025 vide order dated 21.11.2025 (Saif Ansari vs. N.I.A.) and Cr. Appl. (DB) No. 448 of 2025 vide order dated 01.12.2025 (Shankar Yadav vs. N.I.A.).

**66.** It needs to refer herein that the law is well settled that the principle of parity is to be applied if the case of the fact is exactly similar, then, only the principle of parity will be applied 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.

**67.** 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 simply saying that another accused has been granted bail, is not sufficient to determine whether a case for grant of bail on the basis of parity has been established.

**68.** 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 the principle of parity, the Court is required to focus upon the role attached to the accused whose application is under consideration.

**69.** 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 simply saying that another accused has been granted bail is not sufficient to determine whether a case for grant of bail on the basis of parity has been established. Reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in ***Ramesh Bhavan Rathod vs. 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 : (2015) 3 SCC (Cri) 527], 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."*

*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 Sidhdhraisinh Bhagubha Vaghela (A-13) to whom bail was granted on 22- 10-2020 [Siddhraisinh 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 (A16) on the ground that he was armed with a wooden stick and on the ground that Pravin (A-10), Kheta (A-15) and Sidhdhraisinh (A-13) who were armed with sticks had 42 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."*

**70.** In the backdrop of the aforesaid settled legal position this Court has gone through the 2<sup>nd</sup> supplementary charge-sheet and other material available on record.

**71.** The supplementary charge-sheet has been examined by this Court in order to assess as has been contended on behalf of the NIA that the case of the appellant is similar to that of accused Akash Kumar Roy from which this Court is in agreement with such submission by going through the incriminating material collected in course of investigation as mentioned in paragraph 17.23, 17.24, 17.26 and 17.36 of the supplementary charge-sheet, as quoted and referred hereinabove. The complicity which has been found of the appellant is similar to that of the accused Akash Kumar Roy since the appellant was found to be along Akash Kumar Roy from January/February, 2021 to July, 2021, the period in which multiple consignments of arms and ammunitions from

MP and Maharashtra were received and provided to Akash Kumar Roy @ Monu (A-27) and Kundan Kumar (A-28), the appellant of the instant appeal.

**72.** It has also come in the aforesaid paragraph that Akash Kumar Roy @ Monu (A-27) and Kundan Kumar (A-28) also arranged a flat at Namkum (Ranchi) for the criminal activities of the terrorist gang and both of them facilitated safe stay/harbor to Shahrukh Ansari.

**73.** The aforesaid flat was raided by the Namkum Police on 19.07.2021 and from the spot the appellant was apprehended with the arms and ammunitions supplied by Vikash Anand Ojha.

**74.** It has come under paragraph 17.36 that the protected witness "C" stated that Akash Kumar Roy @ Monu Roy (A-27) and Kundan Kumar (A-28) arranged a flat in Namkum, Ranchi on the basis of forged I/D proof. He saw other persons with Akash Kumar Roy @ Monu Roy (A-27) and Kundan Kumar (A-28) at this flat. During, the photo identification proceeding in presence of independent witnesses, protected witness "C" identified the photograph of Vikash Anand Ojha @ Abhishek (A-26) and stated that in the month of June/July 2021, he saw him with Akash Kumar Roy @ Monu Roy (A-27) and Kundan Kumar (A-28) in the said flat. He also identified the photograph of Shahrukh Ansari and stated that he saw

him before the raid by Namkum Police in this flat, this person was also present at the said flat in Namkum with Akash Kumar Roy Monu Roy (A-27) and Kundan Kumar (A-28).

**75.** Therefore, from the material which has come in course of investigation basis upon which the 2<sup>nd</sup> supplementary charge-sheet has been submitted, it would be evident that the complicity of the appellant is similar to that of Akash Kumar Roy of whom the bail application has already been rejected by this Court.

**76.** The complicity of the other co-accused who has been directed to be released on bail, there is no allegation of receiving arms and ammunitions in huge quantity against them and further culpability of the said co-accused persons in alleged commission of crime is also different to the present appellant.

**77.** This Court, in view of the principle of parity as discussed hereinabove and taking into consideration the material available against the present appellant and also the culpability of the present appellant in alleged commission of crime, is of the view that the principle of parity is not fit to be applied herein.

**78.** Thus, this Court, taking into consideration the ratio rendered by the Hon'ble Apex Court in the case of **Gurwinder Singh (Supra)** wherein the judgment rendered by the Hon'ble

Apex Court in the case of **K.A. Najeeb (Supra)** has been referred, is of the view that the parameter which statutorily has been provided under Section 43D(5) is to be taken into consideration for the purpose of consideration of bail and 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 and if the allegation has been found to be prima-facie true, the privilege of bail cannot be granted.

**79.** This Court, based upon the aforesaid reason, is of the view that the impugned order rejecting the prayer for bail, suffers from no infirmity.

**80.** On basis of the discussion made hereinabove and taking into consideration the fact that this Court has earlier expressed its view on merit with regard to the prayer for grant of bail of the present appellant and further there is no vital change in circumstances as no fresh ground has been agitated herein as also taking into consideration the submission advanced on behalf of the respondent-NIA that every endeavour is being taken to conclude the trial by pruning the number of the witnesses substantially, this Court is of the view that the order impugned dated 20.09.2025 passed in Misc. Cr. Application No. 1738 of 2025 requires no interference.

**81.** Accordingly, the instant appeal fails and is, dismissed.

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

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

I agree

**(Sujit Narayan Prasad, J.)**

**(Gautam Kumar Choudhary, J) (Gautam Kumar Choudhary, J.)**

**11/03/2026**

Alankar/**A.F.R.**

Uploaded on 11.03.2026