

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (D.B.) No. 812 of 2025

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Rajesh Ganjhu @ Rajesh Kumar Ganjhu, S/o Suraj Nath Ganjhu,
 R/o Village- Heshla Ladhup, P.O. + P.S.- Chandwa, District-
 Latehar, Jharkhand **Appellant**

Versus

Union of India through National Investigating Agency, New Delhi
 **Respondent**

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CORAM : HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY
HON'BLE MR. JUSTICE AMBUJ NATH

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For the Appellant : Mr. Birendra Kumar, Adv.
 For the Respondent-NIA : Mr. Amit Kumar Das, Spl. P.P.
 Mr. Saurav Kumar, Adv.
 Mr. Manmohit Bhalla, Adv.

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Order No. 06/Dated, 30th October, 2025
Per Rongon Mukhopadhyay, J.

Heard Mr. Birendra Kumar, learned counsel for the appellant and Mr. Amit Kumar Das, learned Spl. P.P. for the National Investigating Agency.

2. This appeal is directed against the order dated 21.04.2024 passed in Misc. Criminal Application No. 504 of 2025, in connection with Special (NIA) Case No. 02/2020 arising out of RC Case No. 25/2020, (Chandwa P.S. Case No. 158/2019) by the learned Additional Judicial Commissioner-XVI-cum-Special Judge, NIA, Ranchi, whereby and whereunder the prayer for bail of the appellant has been rejected.

3. The prosecution case is that on 22.11.2019 at 8:00 P.M., a patrolling party of Chandwa Police Station in course of patrolling duty stopped at Lukuiya More at Chandwa. It has been alleged that the cadre of banned terrorist organization i.e. CPI (Maoist) who were waiting in advance, fired indiscriminately at the police patrolling party which led to the death of 4 police personnel. Arms and ammunitions were also looted from the martyred police personnel and by raising slogans, the Maoists fled away. Later on, one of the Home Guard namely, Dinesh Ram who had escaped

unhurt, rushed to the Chandwa Police Station and lodged a complaint.

4. Based on the aforesaid allegations, Chandwa P.S. Case No. 158 of 2019 was instituted against 18 named and some unknown accused persons. On completion of investigation, charge-sheet was submitted against Bajinath Ganjhu, Sunil Ganjhu @ Mangra, Rajesh Kumar Ganjhu, Sanjay Ganjhu, Naresh Ganjhu and Faguna Ganjhu. The Central Government in exercise of its power conferred under Sub-section (5) of Section 6 read with Section 8 of the National Investigating Agency Act, 2008 vide M.H.A. New Delhi, CTCR Division Order no. 11011/42/2020/NIA dated 22.06.2020 directed the NIA to take up the investigation and accordingly, Chandwa P.S. Case No. 158 of 2019 was re-registered as R.C. No. 25 of 2020/NIA/DLI under Sections 147, 148, 149, 452, 302, 353 & 379 of Indian Penal Code, under Section 27 of the Arms Act, under Section 17 (i) & (ii) of Criminal Law Amendment Act and under Sections 10, 13, 17 and 18 of Unlawful Activity (Prevention) Act, 1967. The NIA had submitted the first supplementary charge-sheet against 34 persons for the offences punishable under Sections 120 (B), 121, 121 (A), 122, 147, 148, 149, 302, 307, 353, 395, 396 & 427 of Indian Penal Code, under Sections 10, 13, 16, 17, 18, 20, 21, 38, 39 & 40 of Unlawful Activities (Prevention) Act, 1967 and under Sections 25 (1-b) a, 26, 27 & 35 of the Arms Act.

5. Submission has been advanced by Mr. Birendra Kumar, learned counsel for the appellant that the appellant has been implicated primarily on the basis of suspicion. The appellant has remained in custody since 06.01.2020 and there is no possibility of the trial being concluded in the near future.

6. Mr. Amit Kumar Das, learned Spl. P.P. for the N.I.A. has submitted that in course of investigation it came to light that the appellant is an active member of a terrorist organization and was instrumental in the firing made upon the Police personnel leading to the death of four Police personnel. Efforts are being taken by the NIA

for expeditious disposal of the trial as the total number of witnesses shown in the charge-sheet being 146 in number has been toned down to 89 which the prosecution intends to examine during trial. It has been submitted that the prayer for bail of the appellant has already been rejected earlier since a prima facie case u/s 43-D(5) of the Unlawful Activities (Prevention) Act has been found to be made out against the appellant and there being no fresh grounds to reconsider the prayer for bail of the appellant this appeal deserves to be consigned in the arena of dismissal.

7. The appellant had earlier moved for grant of bail in Criminal Appeal (DB) No. 1458 of 2022 and this Court vide order dated 05.04.2023 had dismissed the appeal on the following grounds:

“9. It therefore, appears that the petitioner had given logistic support to the terrorist organization and was involved in the meeting which was hatched and which culminated in the incident leading to institution of Chandwa P. S. Case No. 158 of 2019 and in view of a prima-facie case having been made out against the appellant, we are not inclined to interfere in the impugned order and consequently this appeal is dismissed.”

8. The only ground which has been taken by the learned counsel for the appellant is the period of custody and the possibility of the trial being concluded in the near future being remote. In the context of the same, we may refer to the case of *“Union of India versus K.A. Najeeb”* reported in (2021) 3 SCC 713 and the relevant reads as under:

“17. It is thus clear to us that the presence of statutory restrictions like Section 43-D(5) of the UAPA per se does not oust the ability of the constitutional courts to grant bail on grounds of violation of Part III of the Constitution. Indeed, both the restrictions under a statute as well as the powers exercisable under constitutional jurisdiction can be well harmonised. Whereas at commencement of proceedings, the courts are expected to appreciate the legislative policy against grant of bail but the rigours of such provisions will melt down where there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. Such an

approach would safeguard against the possibility of provisions like Section 43-D(5) of the UAPA being used as the sole metric for denial of bail or for wholesale breach of constitutional right to speedy trial.

18. Adverting to the case at hand, we are conscious of the fact that the charges levelled against the respondent are grave and a serious threat to societal harmony. Had it been a case at the threshold, we would have outrightly turned down the respondent's prayer. However, keeping in mind the length of the period spent by him in custody and the unlikelihood of the trial being completed anytime soon, the High Court appears to have been left with no other option except to grant bail. An attempt has been made to strike a balance between the appellant's right to lead evidence of its choice and establish the charges beyond any doubt and simultaneously the respondent's rights guaranteed under Part III of our Constitution have been well protected.

19. Yet another reason which persuades us to enlarge the respondent on bail is that Section 43-D(5) of the UAPA is comparatively less stringent than Section 37 of the NDPS Act. Unlike the NDPS Act where the competent court needs to be satisfied that *prima facie* the accused is not guilty and that he is unlikely to commit another offence while on bail; there is no such precondition under UAPA. Instead, Section 43-D(5) of the UAPA merely provides another possible ground for the competent court to refuse bail, in addition to the well-settled considerations like gravity of the offence, possibility of tampering with evidence, influencing the witnesses or chance of the accused evading the trial by absconsion, etc.

Conclusion

20. In light of the above discussion, we are not inclined to interfere with the impugned order. However, we feel that besides the conditions to be imposed by the trial court while releasing the respondent, it would serve the best interest of justice and the society at large to impose some additional conditions that the respondent shall mark his presence every week on Monday at 10 a.m. at the local police station and inform in writing that he is not involved in any other new crime. The respondent shall also refrain from participating in any activity which might enrage communal sentiments. In case the respondent is found to have violated any of his bail conditions or attempted to have tampered the evidence, influence witnesses, or hamper the trial in any other way, then the Special Court shall be at liberty to cancel his bail forthwith. The appeal is accordingly dismissed subject to the abovestated directions."

9. Pursuant to the order dated 11.09.2025 a report has been submitted by the learned trial court which reveals that out of

133 witnesses 13 witnesses have been examined by the prosecution. A supplementary counter affidavit has been filed by the NIA from which it appears that the prosecuting agency intends to examine 89 witnesses. Even though the number of witnesses to be examined have been toned down but considering the fact that only 13 witnesses have been examined so far it does appear bleak that the trial would be concluded in the near future. The probability of delayed trial juxtaposed with the period of incarceration of the appellant enhances his claim for grant of bail and, we accordingly in view of the same set aside the order dated 21.04.2024 passed in Misc. Criminal Application No. 504 of 2025, in connection with Special (NIA) Case No. 02/2020 arising out of RC Case No. 25/2020, (Chandwa P.S. Case No. 158/2019) by the learned Additional Judicial Commissioner-XVI-cum-Special Judge, NIA, Ranchi and direct that the appellant be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each, to the satisfaction of learned Additional Judicial Commissioner-XVI-cum-Special Judge, NIA, Ranchi in connection with Special (NIA) Case No. 02/2020 arising out of RC Case No. 25/2020, (Chandwa P.S. Case No. 158/2019).

10. This appeal is allowed.

11. Pending I.A(s), if any, stands closed.

(Rongon Mukhopadhyay, J.)

(Ambuj Nath, J.)

High Court of Jharkhand at Ranchi

Dated, the 30th day of October, 2025.

A. Sanga/NAFR