

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JULY, 2025

PRESENT

THE HON'BLE MRS. JUSTICE K.S.MUDAGAL

AND

THE HON'BLE MRS. JUSTICE P SREE SUDHA

CRIMINAL APPEAL NO.767/2024 (21 (NIA))

C/W

CRIMINAL APPEAL NO.34/2024 (21 (NIA))

CRL.A.NO.767/2024:

BETWEEN:

MR. ZIYA UR REHMAN @ ZIYA
S/O MOHAMMED SAB
AGED ABOUT 42 YEARS
R/AT NO.14, 4TH CROSS
BYRAPPANA LAYOUT
GOVINDAPURA MAIN ROAD
A C POST, BENGALURU-560 045

...APPELLANT

(BY SRI MOHAMMED TAHIR, ADVOCATE)

AND:

NATIONAL INVESTIGATION AGENCY
MINISTRY OF HOME AFFAIRS
REP. BY SPECIAL PUBLIC PROSECUTOR
OFFICE AT HIGH COURT COMPLEX
OPP. TO VIDHANA SOUDHA
BANGALORE-560 001

...RESPONDENT

(BY SRI SACHIN C. ADVOCATE FOR
SRI P. PRASANNA KUMAR, SPL.PP)

CRL.A.NO.34/2024:

BETWEEN:

MOHAMMED MUDASSIR KALEEM
S/O MOHAMMAD KALEEM AHMED
AGED ABOUT 28 YEARS

R/AT NO.401, 4TH FLOOR, HANI ENCLAVE
NEAR PETROL PUMP, SHAMPURA ROAD
GANDHI NAGAR, K.G. HALLI
BENGALURU-560 045
PERMANENT ADDRESS: NO.742
1ST MAIN, BEHIND K G HALLI POLICE STATION
VINOBHANAGAR, BENGALURU-560 045

...APPELLANT

(BY SRI SHANKARAPPA, ADVOCATE FOR
SRI VARUN GOWDA, ADVOCATE)

AND:

THE STATE OF KARNATAKA BY
NATIONAL INVESTIGATION AGENCY
MINISTRY OF HOME AFFAIRS
REP. BY SPECIAL PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001
SRI PRASANNA KUMAR P

...RESPONDENT

(BY SRI SACHIN.C. ADVOCATE FOR
SRI P.PRASANNA KUMAR, SPL.PP)

CRL.A.NO.767/2024 AND CRL.A.NO.34/2024 ARE FILED UNDER SECTION 21(4) OF NIA ACT PRAYING TO SET ASIDE THE ORDER DATED 04.04.2024 (ANNEXURE-A) AND ORDER DATED 05.07.2023 (ANNEXURE-A) PASSED BY THE HON'BLE XLIX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (SPL. COURT FOR TRIAL OF NIA CASES) BENGALURU IN SPL.C.NO.141/2021 AND GRANT REGULAR BAIL TO APPELLANTS/ACCUSED NOS.6 & 20 RESPECTIVELY IN SPL.C.NO.141/2021 UNDER SECTIONS 120B, 143, 145, 147, 188, 353, 427 R/W SECTION 34 AND 149 OF IPC AND SECTIONS 16, 18 AND 20 OF UA(P) ACT, SECTION 2 OF THE PREVENTION OF DESTRUCTION AND LOSS OF PROPERTY ACT ETC.

THESE CRIMINAL APPEALS HAVING BEEN HEARD AND RESERVED ON 16.07.2025 COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **K.S.MUDAGAL J.**, DELIVERED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE K.S.MUDAGAL
AND
HON'BLE MRS. JUSTICE P SREE SUDHA

CAV JUDGMENT

(PER: HON'BLE MRS. JUSTICE K.S.MUDAGAL)

These appeals are preferred by accused Nos.6 and 20 in Special Case No.141/2021 on the file of XLIX Additional City Civil and Sessions Judge (Special Court for the trial of NIA cases) (CCH-50), Bengaluru challenging the orders of rejection of their bail applications.

2. The particulars of the orders are as follows:

Sl. No.	Criminal appeal Nos.	Accused Nos.	Date of application	Date of order
1	34/2024	20	- 04.2023	05.07.2023
2	767/2024	6	25.03.2024	04.04.2024

3. The appellants and 136 other accused are being tried in Spl.C.No.141/2021 for the offences punishable under Sections 143, 147, 148, 353, 333, 332, 436, 427 and 149 of IPC, Sections 15, 16, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967 (for short 'UAP Act') and Section 4 of the Prevention of Damage to Public Property Act, 1984/Section 2 of the Prevention of Destruction and Loss of Property Act, 1981 on the basis of the charge sheet filed by NIA in R.C.35/2020/NIA/DLI.

4. Case of the prosecution in brief is as follows:

(i) That SDPI in Bengaluru was unhappy with the decisions of the Central Government on certain matters viz., repeal of Article 370 of the Constitution, issuance of CAA/NRC, Supreme Court's verdict in Babri masjid and Triple Talak cases. SDPI members actively participated in the agitation against the Government on those issues. They were waiting to create communal disharmony and unrest in the country. Accordingly accused Nos.1, 2, 25 and other SDPI Bengaluru District leaders hatched criminal conspiracy and decided to post some derogatory message to insult and provoke Hindu Gods and Hindu Community through accused No.1's facebook account who has thousands of Hindu followers on facebook. They intentionally selected 11.08.2020 an auspicious day for Hindus i.e., the day of Sri Krishna Janmashtami to post the message. Meanwhile the SDPI cadres were well prepared to respond to any situation arising out of such incident and to execute their plans to commit violent acts to garner the support of the Muslim community.

(ii) In execution of such conspiracy, accused No.1 on 11.08.2020 posted a video/audio clip containing a derogatory comment made by one Murugesh Nirani, MLA offending Hindu deities deliberately tagging the same to P.Naveen, nephew of

Akhanda Srinivasa Murthy, MLA of Pulakeshinagar Constituency so that he responds to the same and they can indulge in violence. As expected said P.Naveen responded posting a cartoon picture with comment on Prophet Mohammed.

(iii) The appellants and other accused held conspiracy meeting at SDPI Office, Nagawara to commit violent acts by attacking the police personnel. They also decided to file maximum number of complaints against P.Naveen in different police stations at Bengaluru to pressurize the police and the Government. After such conspiracy meeting, accused No.25 remained at Nagawara Ward to coordinate the activities in furtherance of the conspiracy. Accused Nos.3, 5, 6 and other accused including the SDPI ward members reached Kadugondanahalli police station (for short 'K.G.Halli Police Station') for filing FIRs, mobilizing SDPI cadres and to attack the police station and police personnel.

(iv) That on 11.08.2020 at 8.45 p.m. accused who were initially about 25 to 30 in numbers, gathered in-front of K.G.Halli Police Station and began shouting slogans demanding the arrest of P.Naveen. By 8.50 p.m. number swollen and all accused led by accused No.14 entered the premises of K.G Halli Police Station demanding registration of

FIR against P.Naveen. By that time on the same allegations, FIR was already registered in Crime No.195/2020 of D.J Halli Police station, Bengaluru. Despite K.G.Halli police informing the accused that in view of such FIR, again other complaints for the same crime cannot be entertained, the mob insisting to register the case became violent. To manage the situation, K.G.Halli police accepted complaints and on the basis of the complaints of accused, registered cases in NCR Nos.384 to 387 of 2020.

(v) Despite that, accused and other protesters instigated by prime accused became unruly forcing the police to impose curfew within the jurisdiction of both K.G Halli and D.J Halli police stations to bring the situation under control. However, accused insisting to handover P.Naveen to their custody, started vandalizing the police station, pelted stones and threw petrol packed in plastic covers and in bottles on the police personnel, forcing police to resort to lathi charge. Mob attempted to snatch weapons from the police personnel and kill them, which led to an order to open fire resulting in death of one person. Rioters set 12 government and private vehicles on fire pouring petrol, inflicted injuries on the police personnel obstructing them from discharging their official duties.

(vi) As per the charge sheet records, at the relevant time, accused Nos.5 and 20 were the active members of SDPI and accused No.6 was the treasurer of SDPI, Nagawara. The allegations against accused Nos.5 and 6 were that in execution of the conspiracy, they mobilized men and material. It was alleged that accused Nos.3 to 7 and few others burnt police vehicles pouring petrol and created terror atmosphere in the area.

(vii) So far as accused No.20, it was alleged that on 11.08.2020 at 21.30 hours, he along with accused Nos.19 to 24 assembled at medical shop of accused No.19 situated at 200 meters distance from K.G.Halli police station, conducted conspiracy meeting, then they went to K.G.Halli police station joined accused No.14 and others in indulging in destructive activities as aforesaid including burning of vehicles. It was further alleged that during and after rioting, accused No.20 was active on whatsapp group "K.G.halli 45". Through such group and other similar social media networks of co-accused, he mobilized the mob to gather in front of K.G.Halli police station and hinted the mob about escape route from police station. It was alleged that the accused captured the photographs of burning vehicles and circulated the same.

(viii) Accused Nos.6 and 20 are charge sheeted for the offences punishable under Sections 120B, 143, 145, 147, 188, 353 and 427 of IPC read with Sections 34 and 149 of IPC, Sections 16, 18, 20 of UAP Act and Section 2 of the Prevention of Destruction and Loss of Property Act, 1981.

5. The earlier bail application of accused No.20 was rejected by the trial Court on 23.04.2021 on considering the merits. The said order was confirmed by this Court on 15.09.2021 in CrI.A.No.585/2021 and connected appeals. The said judgment was upheld by the Hon'ble Supreme Court in S.L.P.(CrI.)No.848/2022 on 28.02.2022. Therefore, the successive application of accused No.20 can succeed only if there is any changed circumstance. The only changed circumstance urged by Sri Shankarappa, learned Counsel is that accused No.20 is in judicial custody since more than 5 years, the trial has not yet commenced and the same is not likely to be concluded in near future.

6. So far as accused No.6, allegations against accused Nos.5 and 6 are common. The trial Court by the impugned order dated 04.04.2024 has rejected the bail applications of accused Nos.5 and 6 by common order. Accused No.6 has challenged the said order in

Crl.A.No.767/2024. Accused No.5 challenged the said order before this Court in Crl.A.No.828/2024. Accused Nos.11, 12 and 13 in the very case had challenged the rejection of their bail applications in Crl.A.No.827/2024. This Court by common order dated 30.08.2024 in both those appeals, dismissed them. The said order was challenged before the Hon'ble Supreme Court in S.L.P.(Crl).No.17214/2024. The Hon'ble Supreme Court by judgment dated 13.02.2025 has confirmed the judgment dated 30.08.2024 passed by this Court in Crl.A.No.827/2024 C/w. Crl.A.No.828/2024.

7. Sri Mohammed Tahir, learned Counsel for accused No.6 vehemently contended that along with the charge sheet, NIA had not produced the statements of the witnesses recorded by the State police, there were material contradictions in the statements of the witnesses recorded by the State police and NIA regarding presence of accused No.6 at the scene of offence and he setting the vehicles ablaze. He submitted that the trial Court has failed to appreciate the same. The delay in trial is another ground urged by him. So far as confirmation of orders by this Court and Hon'ble Supreme Court, it is contended that the statements of witnesses by State police were not on record at that time and

the Hon'ble Supreme Court has dismissed SLPs in *limine* without getting into the merits.

8. The trial Court on considering the statements of the witnesses in detail has found that there is *prima facie* material to accept the case of the prosecution regarding involvement of the accused in the offences for which they are charge sheeted. The said common orders were challenged by the co-accused i.e. by accused No.5 and the same is upheld by this Court in Crl.A.No.828/2024. The said order has attained finality. It is true that accused No.6 was not a party in Crl.A.No.827/2024 C/w Crl.A.No.828/2024. But the records show that before the trial Court, accused Nos.5, 6 and 20 were represented by Counsel Sri Mohammed Tahir himself. Crl.A.No.767/2024 and Crl.A.No.828/2024 were filed by him only. But he did not choose to get both matters connected for disposal. The imputations against accused Nos.5 and 6 are one and the same. By delaying this appeal and at this stage by seeking a favourable order, there is an attempt to nullify the order passed by this Court in Crl.A.No.828/2024 and the order of Hon'ble Supreme Court in S.L.P.(Crl) No.17214/2024.

9. An attempt was made to contend that the above said special leave petitions were rejected in *limine* and not on

merits. In S.L.P.(CrI) No.848/2022, the Hon'ble Supreme Court has said that having examined the records, it was not persuaded to consider interference in the matter. The copies of the orders in S.L.P. (CrI.)Nos.848/2022 and 17214/2024 show that they were dismissed on hearing the parties indicating thereby that the Hon'ble Supreme Court on examining the records and hearing the parties had dismissed those matters. Therefore, it is not open to say that they were dismissed without considering merits.

10. The next contention is that the statements of the witnesses recorded by the State police were not before this Court and Hon'ble Supreme Court in the earlier proceedings. That is again totally misleading statement. Reading of paras 16, 17 and 21 in the order in CrI.A.No.827/2024 C/w CrI.A.No.828/2024 makes it clear that the same contention was urged before this Court and that was negated. This Court finds it useful to extract those paragraphs to demonstrate that Counsel for accused No.6 having urged that point and despite consideration of the same by this Court, suppressing the same, is making misleading submissions.

"16. Now the case of accused No.5 Peer Pasha may be examined. ***In para 2 of the impugned order, the Special Court judge has stated that accused Nos.5 and 6 had filed an application for bail and they withdrew it***

on 01.04.2021. The reasons for withdrawing the application are not forthcoming. Anyway the ground urged is that statements of witnesses before two investigative agencies differ and in this view it cannot be said that there are no materials to satisfy the requirement of 'prima facie true' in order that bail can be denied. **To put it in other words, the imputations against accused Nos.5 and 6 found in the statements of witnesses recorded by the NIA are not there in the statements recorded by the State police. To examine this ground the Special Court has referred to the statements of the witnesses namely Narayana L, Chinnaswamy N, Sandeepa, Chandsab Pinjar, Mudaseer Ahamed, Noor Khan and arrived at an opinion that all of them have implicated accused Nos.5 and 6.**

17. In addition the **Special Court has referred to an order passed by this court in Criminal Appeal 567/2021 and connected cases where the submissions of Mohammed Tahir have been extracted to observe that all the contentions of accused Nos.5 and 6 are matters of trial. Reconsideration of these materials actually do not arise, or even if the materials are reassessed we have to concur with findings of the Special Court.** Therefore we find it difficult to take a different view and consequently Criminal Appeal 828/2024 should fail.

21. Moreover the Special Court has observed that if there are contradictions in the two sets of statements of the witnesses, the same may be made use of by the defence during trial. This is the correct position of law. If any observation is made by this court in regard to variations in the statements, it amounts to usurping the jurisdiction of the trial court which has to appreciate the evidence. **We too have compared the statements of**

witnesses given before the State police and the NIA. The statements before the State police constitute former statements which can be used by the defence and if they are confronted the witnesses have the liberty to give explanations based on which the court conducting trial has to appreciate evidence. At this stage the contentions taken by accused 11 to 13 cannot be considered. The decision as to existence of case which appears to be prima facie true, has to be taken on the charge sheet upon which trial is going to be held. Therefore we do not find merit in this appeal also.”

(Emphasis supplied)

11. Above observations clearly show that this Court even examining such statements recorded by the State Police did not find merit in the contentions regarding the alleged inconsistencies of the statements of the witnesses before two Investigating Officers. Hence, the contention that when the earlier orders of this Court and the Hon’ble Supreme Court were passed the statements of the witnesses recorded by the State police were not on record is vexatious.

12. The next contention urged is that there are more than 250 charge sheet witnesses and 138 accused and there is no likelihood of conclusion of the trial in the near future. The said contention is opposed by the other side on the ground that the accused themselves had stalled framing of the charges and the trial by filing innumerable applications

either for bail or for discharge and all such applications were rejected by the trial Court and confirmed by this Court.

13. Above discussions show that some of the co-accused of the appellants challenged the order of this Court rejecting bail applications before the Hon'ble Supreme Court and Hon'ble Supreme Court has confirmed the orders of this Court and trial Court. Accused No.6 and some others have unsuccessfully filed W.P.No.26870/2024 (GM-RES) before this Court challenging the rejection of their application for discharge and this Court has dismissed the said petition on 29.04.2025.

14. Admittedly, there are more than 130 accused in the case. Out of them, 25 are charged for the offences under UAP Act. Accused No.20 has not disputed filing of earlier bail application. The records clearly show that the accused have adopted strategy of filing individual successive applications for bail or discharge, though they were represented by common set of lawyers. The course of events show that the accused for their own benefit, in a calculated manner abusing the process of Court are exhausting time and resources of the trial Court by filing innumerable applications and have obstructed the trial Court from reaching the stage of trial. Now they are

trying to make delay caused by them only as foundation to seek bail. The delay can be imputed neither to the prosecution nor to the trial Court but only to the accused themselves. Such unfair practice is highly deprecable.

15. An attempt was made by Counsel for accused No.6 to contend that the trial Court, on accused Nos.14, 16 and 18 pleading guilty, has sentenced them to rigorous imprisonment of seven years for the offences under UAP Act and accused No.6 stands on the same footing, at the most, accused No.6 will also be sentenced to seven years imprisonment and he has already undergone more than half of the said sentence period, therefore, as per the judgment of the Hon'ble Supreme Court in ***Union of India v. K.A.Najeeb***¹, he is entitled to grant of bail.

16. The appellants are facing charges indulging in terrorists acts, questioning sovereignty of the State by vandalizing police station duly established by the State and assaulting the police to prevent them from discharging their duties. Further their bail applications were rejected finding material against them and those orders have attained finality. The writ petition filed for quashing the proceedings and the

¹ (2021) 3 SCC 713

applications for their discharge from the offences under UAP Act have been rejected and charges are framed against them under the aforesaid Act. In the incident one person has died. The offence under Section 16 of UAP Act carries punishment for death/imprisonment for life.

17. Since the Counsel for accused No.6 produced only the operative portion of order of sentence with regard to accused Nos.14, 16 and 18, this Court caused to collect the print out of the orders of conviction and sentence passed by the trial Court on 08.07.2025 and 23.07.2025. Reading of the same shows that the trial Court finding remorse on the part of those accused for their acts and possibility of their reformation has sentenced them for offences under UAP Act to rigorous imprisonment of seven years etc. The relevant portion of the said order is as follows:

".....The mitigating circumstance is that the offenders **voluntarily pleaded guilty** to the charges and have **expressed deep remorse** for their actions, seeking an opportunity for reform.

.....In this case, the **offenders remorse and their voluntary guilty plea** indicate that a sentence at the minimum level would be proportionate to the crime committed....."

(Emphasis supplied)

18. As the appellants have not pleaded guilty nor showed any remorse, under the circumstances and having regard to the punishment prescribed, at this stage, it is premature to say or prejudge that they will be sentenced to seven years imprisonment only or to seek parity with accused Nos.14, 16 and 18. Hence, the judgment in **Najeeb's** case cannot be justifiably applied to the facts of the present case. In fact in para 15 of the judgment in **Najeeb's** case, the Hon'ble Supreme Court while holding that if the offender is likely to risk the society, the Court has to decide whether individual ought to be released pending trial or not. The said observation reads as follows:

15. ***However, owing to the practicalities of real life where to secure an effective trial and to ameliorate the risk to the society in case a potential criminal is left at large pending trial, the Courts are tasked with deciding whether an individual ought to be released pending trial or not....."***

(Emphasis supplied)

19. Considering the aforesaid facts and circumstances, by no stretch of imagination, it can be concluded that the trial Court has committed any perversity or illegality in exercising its discretion to reject the bail applications of the appellants. Suffice it to say that the other judgments relied on by Counsel for the appellants cannot be justifiably applied to advance

their contentions. The appeals deserve no merits. Hence the following:

ORDER

The appeals are dismissed.

Pending IAs stood disposed of accordingly.

Sd/-
(K.S.MUDAGAL)
JUDGE

Sd/-
(P SREE SUDHA)
JUDGE

KSR