* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 2nd SEPTEMBER, 2025

IN THE MATTER OF:

\+ **CRL.A. 1207/2024 & CRL.M.(BAIL) 2168/2024**

TASLEEM AHMED .....Appellant

Through: Mr. Mehmood Pracha, Mr. Jatin Bhatt, Mr. Sanawar, Mr. Kshitij Singh, Mr. Mohd. Hasan, Ms. Heem Sahoo, Ms. Nujhat Naseem, Mr. Sikander, Ms. Sadiya Sultan & Mr. Chirag Verma, Advs.

versus

STATE GOVT. OF NCT OF DELHI .....Respondent

Through: Mr. Amit Prasad, SPP for the State, Mr. Madhukar Pandey, SPP (through VC) for State with Mr. Dhruv Pande, Mr. Aarush Bhatia, Mr. Ayodhya Prasad, Ms. Ruchika Prasad, Mr. Umesh Kumar Singh, Mr. Sulabh Gupta, Mr. Harshil Jain, Mr. Saravjeet Singh & Mr. Daksh Sachdeva, Advs.

Mr. P.S. Kushwaha, Addl. CP (Special Cell) (VC), Insp. Anil Kumar, Insp. Suhaib Ahmed, ASI Sanjay Kumar, HC Dheeraj Goswami (Special Cell).

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

JUDGMENT

SUBRAMONIUM PRASAD, J.

1. The present appeal has been preferred by the Appellant herein challenging the Order dated 25.11.2024 (*hereinafter referred to as "**Impugned Order**"*) passed by the learned Additional Sessions Judge-03, Shahdara, Karkardooma Courts, Delhi in FIR No. 59/2020 registered at Police Station Crime Branch, Delhi, whereby the third bail application filed by the Appellant was rejected.

2. Briefly stated, the facts germane to the present case are as follows –

   a. The instant case emerges from the incidents which occurred in North-East Delhi during 23.02.2020 to 25.02.2020, where protests at a large scale were organised against the promulgation of Citizenship Amendment Act, 2019 and the amendments made to the policy of National Registry of Citizens.

   b. As per the case of the prosecution, various incidents of rioting and violence were conducted in the name of protests, thereby creating ruckus in the society and damage to the public property.

   c. In this backdrop, FIRs were registered against the accused persons. Pertinently, the Appellant was initially apprehended on 08.04.2020 for his participation in the alleged riots in FIR No. 48/2020 and was also granted regular bail in the said FIR on 10.06.2020.

   d. However, the present case arises out of the subsequent FIR bearing No. 59/2020 dated 06.03.2020, which was registered at

the Police Station Crime Branch, Delhi, with respect to the rioting and violence which took place in Maujpur, Kardampuri, Jafrabad, Chand Bagh, Gokulpuri, Shiv Vihar in Delhi, specifically pertaining to the protests which occurred near the Jafrabad Metro Station, where women and children blocked the roads as a sign of protest.

e. Chargesheet was filed against the accused persons and the Appellant was arrayed as Accused No. 12 for the offences punishable under the following provisions –

   i. Sections 109, 114, 124A, 147, 148, 149, 153A, 186, 201, 212, 295, 302, 307, 341, 353, 395, 420, 427, 435, 436, 452, 454, 468, 471, 326A, 326B, 34, 120B of the IPC;

   ii. Sections 25, 27 of Arms Act, 1959;

   iii. Sections 13, 16, 17, 18 of Unlawful Activities (Prevention) Act, 1967 (*hereinafter referred to as "**UAPA**"*);

   iv. Sections 3 and 4 of Prevention of Damage to Public Property Act, 1987.

f. The Appellant was arrested on 24.06.2020 and has been in judicial custody since then.

g. Emerging out of the same FIR i.e., 59/2020, three co-accused, namely, Asif Iqbal Tanha, Natasha Narwal and Devangana Kalita filed appeals bearing CRL. A. 39/2021, CRL. A. 82/2021 and CRL. A. 90/2021, respectively, before this Court and *vide* three separate judgments dated 15.06.2021, they were granted bail by this Court.

h. The said judgments were challenged by the NIA (*hereinafter referred to as "**Respondent Agency**"*) by filing an SLP and while issuing notice, the Apex Court *vide* Order dated 18.06.2021 passed interim directions observing that the impugned bail orders required no interference at that stage but they shall not be treated as a precedent. The Order dated 18.06.2021, in its entirety, is reproduced hereinunder:-

> *"Issue notice. Ms. Pritha Kumar accepts notice in SLP(Crl.) No. 4287/2021 and Ms. Pragya Baghel, learned counsel accepts notice in SLP(Crl.) Nos. 4289/2021 and 4288/2021. Let the counter affidavits be filed within four weeks. List in the week commencing 19.07.2021 on a non miscellaneous day.* ***In the meantime, the impugned judgment shall not be treated as a precedent and may not be relied upon by any of the parties in any of the proceedings****. It is clarified that the release of the respondents on bail is not being interfered at this stage.*"
>
> (emphasis supplied)

i. The Appellant herein filed his first bail application before the concerned Trial Court on 16.06.2021, however, the same was dismissed on merits *vide* Order dated 16.03.2022.

j. Pursuant thereto, the Appellant filed an IA No. 60391/2022 in SLP (Crl.) No. 4289/2021 seeking clarification with regards to the interim directions passed in the Order dated 18.06.2021 on the issue of parity. On 02.05.2023, the Apex Court granted liberty to the Appellant to make out a case of parity before the concerned Trial Court. The said Order in its entirety reads as under:-

"*The impugned order is an extremely elaborate order of bail interpreting various provisions of the UAPA Act. In our view the only issue which is required to be examined in such matters is whether in the factual scenario an accused is entitled to bail or not. It is this argument which persuaded us while issuing notice on 18.06.2021 to observe that the impugned judgment cannot be treated as a precedent and may not be relied upon by any of the parties in any other proceedings. The idea was to protect the State against use of the judgment on enunciation of law qua interpretation of the provisions of the UAPA Act in a bail matter. The respondents have been on bail now for almost two years. We see no purpose in keeping these matters alive.*

We may notice that one of the co-accused has filed an application seeking in a way to interpret our interim directions dated 18.06.2021 and submitting that the said observations were coming in the way of seeking bail.

The applicant is a co-accused. If the co-accused is entitled to a plea on parity, that is for him to make and the Court to consider. We want to make it clear at a cost of repetition that the purpose of the interim order dated 18.06.2021 was that the expounded legal position regarding statutory interpretations in a bail matter should not be utilized in proceedings either of co-accused or any other person or any other matter. *With the aforesaid clarification the interim directions dated 18.06.2021 are made the final directions in the matter.*

On having noticed the aforesaid, we close the present proceedings.

The special leave petitions and the application for intervention are accordingly disposed of.

We make it clear that thus we have not gone into the legal position regarding statutory interpretation one way or the other.

Pending application stands disposed of."
(emphasis supplied)

k. Relying on the Order dated 02.05.2023, the Appellant herein filed a second bail application claiming bail only on the grounds of parity with other co-accused persons i.e., Asif Iqbal Tanha, Natasha Narwal and Devangana Kalita. The Trial Court *vide* Order dated 22.02.2024 dismissed the bail application stating that the co-accused were granted bail only on the pretext that the allegations under Sections 15, 17 and 18 of UAPA are *prima facie* not made, whereas the allegations against the Appellant attract the embargo under Section 43D(5) of the UAPA.

l. Thereafter, the Appellant filed a third bail application on 28.10.2024 primarily on three grounds – *firstly*, the Appellant has been in judicial custody for over 4 years; *secondly*, no progress in trial since the last bail application and *thirdly*, trial is not proceeding on day-to-day basis and hence, not likely to conclude in a reasonable period.

m. *Vide* impugned Order dated 25.11.2024, the learned Trial Court dismissed the third bail application stating that the bail cannot be granted to the Appellant solely on the grounds of delay in trial.

n. It is this Order which is under challenge in the present appeal.

3. During the pendency of the Appeal, an interim application for bail was filed by the Appellant herein claiming bail on the ground of delay in concluding the appeal. At this juncture, it is pertinent to note that the present case was part of a batch of appeals, which were listed before a Coordinate Bench of this Court. However, the Appellant herein requested the Bench to de-tag this appeal citing that the present case is distinguishable on facts. Accordingly, *vide* Order dated 20.03.2025, the Coordinate Bench of this Court de-tagged this matter from the batch of appeals and listed the matter before this Court i.e., the Roster Bench. The said Order reads as under:-

> "*1. This appeal was transferred to the Bench comprising one of us (Navin Chawla, J) along with Hon'ble Ms. Justice Shailender Kaur on the premise that there are other connected appeals that are being heard by that Bench.*
>
> ***2. The learned counsel for the appellant, however, later submitted that this appeal should be heard separately, as it raises other issues and, on facts, is distinct from the connected cases.***
>
> *3. Though in the said combination, the Bench did try to hear this appeal, it was not possible to commence hearing of the same due to the nature of the Board and as the Bench is presently hearing the batch of appeals.*
>
> ***4. It would, therefore, be appropriate that this appeal be listed before the Roster Bench, especially keeping in view the submission of the learned counsel for the appellant that the present appeal would not be connected with the appeals which are otherwise being heard by the Special Bench.***

5. Subject to orders of Hon'ble the Chief Justice, list this appeal before the Roster Bench on 25"" March, 2025."

(emphasis supplied)

4. Therefore, this Court, being the Roster Bench, has heard the present appeal separately as the appeal has been de-tagged. It is pertinent to mention that though the Apex Court had permitted the Appellant to seek bail on the ground of parity, yet Mr. Mehmood Pracha, learned Counsel for the Appellant, has confined his arguments only to the question of delay. He states that the Appellant is eligible to be granted bail under Section 43D(5) of the UAPA solely on the ground of delay in trial. Pressing his interim bail application bearing CRL.M.B No. 2168/2024, learned Counsel for the Appellant submitted that the Appellant is in judicial custody for over 5 years and that there has been no progress in trial since the rejection of his second bail application. It is submitted that the Appellant has been assigned the role of a conspirator but no material has been produced by the Respondent Agency against the Appellant in the chargesheet assigning him a special role.

5. Mr. Pracha submitted that there are 20 accused persons who have been arrayed in the instant FIR, wherein 18 accused persons were arrested and the remaining 2 are absconding. It has been submitted that the Respondent Agency has filed a chargesheet against the Appellant, primarily for his role as a conspirator in the riots. The compliance under Section 207 of the CrPC *qua* all the accused persons was only concluded on 05.08.2023. It is also contended that the learned Trial Court has specifically recorded in its Order dated 05.08.2023 that the arguments on charge will be commenced from 11.09.2023 onwards on a day-to-day basis. However, only 5 accused

persons (including the Appellant herein) have commenced their arguments on charge till date and that it will take unjustifiably long period of time for all the accused persons to even start their arguments on charge due to the inordinate delay on part of the Respondent Agency.

6. It is further stated that there are 700 witnesses to be examined in the present case and the charges are not even framed against the accused persons including Appellant herein. The trial has yet not been commenced, thereby affecting his fundamental rights under Article 21 of the Constitution of India. Relying on Union of India vs. K.A. Najeeb, **(2021) 3 SCC 713**, learned Counsel for the Appellant submitted that if trial is delayed, that itself is a ground for grant of bail under Section 43D(5) of the UAPA. He states that in the present case, the accused person is in custody for about five years and that there is no possibility that the trial will be concluded in a reasonable period of time.

7. *Per Contra*, Mr. Amit Prasad, learned SPP for the Respondent Agency, submits that given the Appellant herein is pressing the present appeal only on the ground of delay and has restricted his arguments. He is addressing arguments only on two aspects– *firstly*, that the interim bail application filed by the Appellant is not maintainable and *secondly*, that the bail cannot be granted under Section 43D(5) of the UAPA solely on the ground of delay.

8. With respect to the interim bail application filed by the Appellant, learned SPP for the Respondent Agency contended that any bail application pertaining to the offences under UAPA shall be filed before the Special Court and an appeal against the said Order of the Special Court is maintainable before the High Court. A perusal of the provisions shows that

any application of bail, whether interim or regular, has to be initially filed in the Special Court as provided under Section 21 of the NIA Act. It is submitted that the instant interim bail application is filed directly in this Court and, therefore, the same is not maintainable. To substantiate this argument, the learned SPP has placed reliance on State of AP through Inspector General, NIA vs. Mohd. Hussain, **(2014) 1 SCC 258**. Assuming that the interim bail application is maintainable, the same is equally affected by Section 43D(5) of UAPA in the absence of any specific provision in the said statute.

9. It is submitted that the rigours under Section 43D(5) of the UAPA does not get defeated solely on the ground of delay. It is stated that bail under Section 43D(5) of the UAPA can be granted only if the Court is satisfied that conditions for grant of bail are satisfied.

10. Heard learned Counsels for the parties and perused the material on record.

11. Before going any further, it is pertinent to first address the preliminary objections raised by the Respondent Agency on the maintainability of interim bail application of the Appellant.

12. For the sake of convenience, Section 21 of the NIA Act, which deals with Appeals, is reproduced hereinunder:–

> *"**21. Appeals.—***
>
> *(1) Notwithstanding anything contained in the Code, an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of a Special Court to the High Court both on facts and on law.*

(2) Every appeal under sub-section (1) shall be heard by a bench of two Judges of the High Court and shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.

(3) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order including an interlocutory order of a Special Court.

(4) Notwithstanding anything contained in sub-section (3) of section 378 of the Code, an appeal shall lie to the High Court against an order of the Special Court granting or refusing bail.

(5) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment, sentence or order appealed from: Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days: Provided further that no appeal shall be entertained after the expiry of period of ninety days."

13. A reading of Section 21(4) of the NIA Act makes it manifestly clear that an appeal shall lie to the High Court against the bail order passed by the Special Court.

14. The Apex Court in the case of State of AP through Inspector General, NIA vs. Mohd. Hussain, **(2014) 1 SCC 258,** has clarified this position and observed as under: –

*"**27.** The order passed by this Court on 2-8-2013 in State of A.P. v. Mohd. Hussain [State of A.P. v. Mohd. Hussain, (2014) 1 SCC 706] is therefore clarified as follows:*

> ***27.1.*** *Firstly, an appeal from an order of the Special Court under the NIA Act, refusing or granting bail shall lie only to a Bench of two Judges of the High Court.*
>
> ***27.2.*** *And, secondly as far as Prayer (b) of the petition for clarification is concerned, it is made clear that inasmuch as the applicant is being prosecuted for the offences under the MCOC Act, 1999, as well as the Unlawful Activities (Prevention) Act, 1967, such offences are triable only by the Special Court, and therefore application for bail in such matters will have to be made before the Special Court under the NIA Act, 2008, and shall not lie before the High Court either under Section 439 or under Section 482 of the Code. The application for bail filed by the applicant in the present case is not maintainable before the High Court.*
>
> ***27.3.*** *Thus, where the NIA Act applies, the original application for bail shall lie only before the Special Court, and appeal against the orders therein shall lie only to a Bench of two Judges of the High Court."*

15. In the present case, the Appellant filed his interim bail application before this Court without exhausting his rights before the Special Court, as evidently stated under Section 21(4) of the NIA Act. Given the procedural fallacy on part of the Appellant, this Court cannot entertain the interim bail application as only an appeal impugning the bail order of the Special Court is maintainable before the Division Bench of the High Court.

16. In light of the foregoing paragraphs, the interim bail application bearing CRL.M.B No. 2168/2024 filed by the Appellant before this Court is not maintainable and is, hereby, dismissed.

17. The only question which remains for adjudication is whether bail under Section 43D(5) of UAPA can be granted to the Appellant solely on the ground of delay in the facts of the present case ?

18. Adverting to the question of delay raised specifically by the Appellant herein, it is pertinent to note that the Appellant has vehemently submitted that the delay in trial occurred due to the various adjournments taken by the State for arguing the case on point of charge.

19. To ascertain the correct picture, it is pertinent to sum-up the proceedings of the Trial Court and the same are tabulated as under:–

DATE OF THE ORDER	**SUMMARY OF THE TRIAL COURT'S ORDER-SHEETS**
05.08.2023	- Compliance under Section 207 of the CrPC *qua* all the accused persons was completed. - Matter was listed for arguments on charge on 11.09.2023 onwards for a day-to-day hearing. - Learned SPP submitted that he shall commence his arguments on 11.09.2023.
11.09.2023	- The accused persons namely, Devangana Kalita, Natasha Narwal, Sowjhanya Shankaran, Asif Iqbal Tanha objected to commencement of arguments on charge as the investigation is still ongoing. - Learned SPP stated that he is ready to begin the arguments and objections were raised that despite giving considerable period of time for starting the arguments on charge, no adjournment application was

	moved on time. He stated that the accused persons will later claim bail on the ground of delay in trial. - The Appellant herein, ***Tasleem Ahmed*** has submitted that he wants the arguments on charge to begin.
18.09.2023	- Accused persons, namely, Meeran Haider, Athar Khan, Khalid Saifi, Faizan Khan, Ishrat Jahan, Sharjeel Imam, Safoora Zargar, Saleem Malik @ Munna, Shifa-ur-Rehman, Shadab Ahmad and Gulfisha Ahmed have sought for deferment of arguments on point of charge as the investigation is not yet completed. - On the other hand, accused persons, namely, Saleem Khan, ***Tasleem Ahmed***, Umar Khalid and Tahir Hussain submits that they want the arguments on charge to begin.
06.01.2024 to 08.08.2024	- The accused who got bail were not permitting the argument on charge to commence on the ground that the investigation had not been completed. There is nothing to indicate that during this period the Appellant made any specific argument to jump the queue and advance arguments on charge. - Adjournments were sought to address the arguments in rebuttal.
20.09.2024	- The accused persons collectively submitted to the learned Trial Court that they shall arrive at a consensus on who will start the arguments on point of charge and stated that a schedule to that effect will be submitted to

	the learned Trial Court for convenience purposes.
04.10.2024	- Accused persons, namely, Tahir Hussain, Asif Iqbal @ Tanha, Umar Khalid, Sharjeel Imam, Ishrat Jahan sought for adjournments citing difficulties in commencing the arguments on charge. - The learned Trial Court had recorded its distress in the said matter as the accused persons are delaying the proceedings despite reaching a consensus on addressing the arguments in a particular sequence and consent has been taken to argue the matter on a day-to-day basis. However, *the accused persons including the Appellant were not ready to start their arguments on charge.*
20.11.2024 to 07.02.2025	- Adjournments sought by the accused persons. No attempt is made by the Appellant to commence arguments.
12.02.2025	- Objection of learned SPP is recorded wherein he submits that despite directions of day-to-day hearing, the accused persons are not coming forward to address the arguments on charge. He also stated that nobody is ready to address the arguments till date despite a consensual schedule having been made among the accused persons.
04.04.2025	- ***Tasleem Ahmed*** commenced/completed his arguments on charge.
08.04.2025 to	- Adjournments sought by other accused persons citing

02.07.2025	certain difficulties in arguing the matter on charge

20. Upon perusal of the aforesaid table, it is observed that by Order dated 05.08.2023, the arguments on charge are being heard from 11.09.2023 onwards. On 11.09.2023 and 18.09.2023, several co-accused persons objected to the arguments on charge due to the ongoing investigation. It, therefore, cannot be said that the State is delaying the hearing on charge.

21. Material on record indicates the reluctance on the part of the accused including the Appellant to advance the arguments on charge. Though, on 20.09.2024, a consensus was reached by the accused persons to streamline the proceedings by submitting a schedule as to who will argue on charge sequentially, despite the same, arguments on charge were not commenced by the Appellant. The learned Trial Court recorded its distress in Order dated 04.10.2024, which reads as under:–

> "*It is surprising that on the last date of hearing the court specifically noted that the matter shall be heard on charge on day to day basis and after considering the submissions of the Ld. Counsel for the accused persons that they will make consensus among themselves for addressing arguments in a particular sequence and with their consent only the matter was fixed today for arguments on charge but still none of the counsel is ready to address arguments. The court sees that more than sufficient time was given but still Ld. Counsel for the accused persons are not ready today, The accused persons are warned that the matter should not get delayed further unnecessarily on their part and any delay will be viewed by the court seriously."*

22. A bare perusal of the order sheets clearly indicate that the learned Counsel for the accused have taken many adjournments during the course of arguments on charge. The order-sheets show that the learned Counsel for the accused were not ready to argue the matter on charge, thereby protracting the proceedings. The facts and order sheets reveal that the accused themselves have been responsible for delaying the trial at various points in time. The inordinate delay in trial, as alleged by the Appellant herein is not due to the inaction of the Respondent Agency or the Trial Court.

23. Material on record shows that at no point of time, the learned Trial Court has or has unnecessarily delayed the arguments on charge. In fact, to facilitate the proceedings properly and in a speedy manner, the learned Trial Court has ensured that the proceedings take place in a structured manner, wherein liberty was given to the accused persons to come to a consensus as to who will argue the case sequentially.

24. Adverting to the limited issue herein i.e., whether bail under Section 43D(5) of the UAPA can be granted solely on the basis of delay in trial in the present set of facts, it is apposite to read Section 43D(5) of UAPA, which is as under:–

> ***"43D(5)*** *Notwithstanding anything contained in the Code, no person accused of an offence punishable under Chapters IV and VI of this Act shall, if in custody, be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release:*
>
> *Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under section 173 of the Code is of the opinion that there are*

> *reasonable grounds for believing that the accusation against such person is prima facie true."*

25. The proviso of Section 43D(5) of the UAPA, which is couched in negative terms, states that if the Courts are satisfied that the *prima facie* allegations against the accused person are true after "*perusal of the case diary or the report made under Section 173 of CrPC*", bail cannot be granted. In other words, after examining the material annexed to the chargesheet, if the Courts are satisfied that the allegations against the accused are not true, then bail under Section 43D(5) of the UAPA can be granted. What amounts to *prima facie* case has been elaboratively dealt by the Apex Court in the case of Gurwinder Singh v. State of Punjab, **(2024) 5 SCC 403**. The relevant portions of the said judgment are as under: –

> ***"24.*** *The source of the power to grant bail in respect of non-bailable offences punishable with death or life imprisonment emanates from Section 439CrPC. It can be noticed that Section 43-D(5) of the UAP Act modifies the application of the general bail provisions in respect of offences punishable under Chapter IV and Chapter VI of the UAP Act.*
>
> ***25.*** *A bare reading of sub-section (5) of Section 43-D shows that apart from the fact that sub-section (5) bars a Special Court from releasing an accused on bail without affording the Public Prosecutor an opportunity of being heard on the application seeking release of an accused on bail, the proviso to sub-section (5) of Section 43-D puts a complete embargo on the powers of the Special Court to release an accused on bail.* ***It lays down that if the Court, "on perusal of the case diary or the report made under Section 173 of the Code of Criminal Procedure", is of the opinion that there are reasonable grounds for believing that the accusation, against such person, as regards***

commission of offence or offences under Chapter IV and/or Chapter VI of the UAP Act is prima facie true, such accused person shall not be released on bail or on his own bond. It is interesting to note that there is no analogous provision traceable in any other statute to the one found in Section 43-D(5) of the UAP Act. In that sense, the language of bail limitation adopted therein remains unique to the UAP Act.

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

27. *The courts are, therefore, burdened with a sensitive task on hand. In dealing with bail applications under the UAP Act, the courts are merely examining if there is justification to reject bail. The "justifications" must be searched from the case diary and the final report submitted before the Special Court.* ***The legislature has prescribed a low, "prima facie" standard, as a measure of the degree of satisfaction, to be recorded by the Court when scrutinising the justifications [materials on record]. This standard can be contrasted with the standard of "strong suspicion", which is used by courts while hearing applications for "discharge".*** *In fact, the Supreme Court in Zahoor Ahmad Watali [NIA v. Zahoor Ahmad Shah Watali,*

(2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] has noticed this difference, where it said : (SCC p. 24, para 23)

"23. ... In any case, the degree of satisfaction to be recorded by the court for opining that there are reasonable grounds for believing that the accusation against the accused is prima facie true, is lighter than the degree of satisfaction to be recorded for considering a discharge application or framing of charges in relation to offences under the 1967 Act."
(emphasis supplied)

28. *In this background, the test for rejection of bail is quite plain. Bail must be rejected as a "rule", if after hearing the Public Prosecutor and after perusing the final report or case diary, the court arrives at a conclusion that there are reasonable grounds for believing that the accusations are prima facie true. It is only if the test for rejection of bail is not satisfied — that the courts would proceed to decide the bail application in accordance with the "tripod test" (flight risk, influencing witnesses, tampering with evidence). This position is made clear by sub-section (6) of Section 43-D, which lays down that the restrictions, on granting of bail specified in sub-section (5), are in addition to the restrictions under the Code of Criminal Procedure or any other law for the time being in force on grant of bail.*

29. *On a textual reading of Section 43-D(5) of the UAP Act, the inquiry that a bail court must undertake while deciding bail applications under the UAP Act can be summarised in the form of a twin-prong test:*

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

1.1. Examine if, prima facie, the alleged "accusations" make out an offence under Chapter IV or VI of the UAP Act;

***1.2. Such examination should be limited to case diary and final report submitted under Section 173CrPC**;*

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

On a consideration of various factors such as nature of offence, length of punishment (if convicted), age, character, status of accused, etc. the court must ask itself:

2.1. Whether the accused is a flight risk?

2.2. Whether there is apprehension of the accused tampering with the evidence?

2.3. Whether there is apprehension of accused influencing witnesses?

***30.** The question of entering the "second test" of the inquiry will not arise if the "first test" is satisfied. And merely because the first test is satisfied, that does not mean however that the accused is automatically entitled to bail. The accused will have to show that he successfully passes the "tripod test".*

Test for rejection of bail : Guidelines as laid down by Supreme Court in Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383]

31. *In the previous section, based on a textual reading, we have discussed the broad inquiry which courts seized of bail applications under Section 43-D(5) of the UAP Act read with Section 439CrPC must indulge in. Setting out the framework of the law seems rather easy, yet the application of it, presents its own complexities. For greater clarity in the application of the test set out above, it would be helpful to seek guidance from binding precedents.*

32. *In this regard, we need to look no further than Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] which has laid down elaborate guidelines on the approach that courts must partake in, in their application of the bail limitations under the UAP Act. On a perusal of paras 23 to 24 and 26 to 27, the following 8-point propositions emerge and they are summarised as follows:*

32.1.Meaning of "prima facie true" *: (Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] , SCC p. 24, para 23)*

On the face of it, the materials must show the complicity of the accused in commission of the offence. The materials/evidence must be good and sufficient to establish a given fact or chain of facts constituting the stated offence, unless rebutted or contradicted by other evidence.

32.2. Degree of satisfaction at pre charge-sheet, post charge-sheet and post-charges — compared *: (Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] , SCC p. 28, para 26)*

"26. ... once charges are framed, it would be safe to assume that a very strong suspicion was founded upon the materials before the Court, which prompted the

Court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged against the accused, to justify the framing of charge. ***In that situation, the accused may have to undertake an arduous task to satisfy the Court that despite the framing of charge, the materials presented along with the charge-sheet (report under Section 173CrPC), do not make out reasonable grounds for believing that the accusation against him is prima facie true. Similar opinion is required to be formed by the Court whilst considering the prayer for bail, made after filing of the first report made under Section 173 of the Code, as in the present case****."*

32.3. *Reasoning, necessary but no detailed evaluation of evidence : (Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] , SCC p. 27, para 24)*

"24. ... the exercise to be undertaken by the Court at this stage—of giving reasons for grant or non-grant of bail—is markedly different from discussing merits or demerits of the evidence. The elaborate examination or dissection of the evidence is not required to be done at this stage."

32.4. *Record a finding on broad probabilities, not based on proof beyond doubt : (Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] , SCC p. 27, para 24)*

"The Court is merely expected to record a finding on the basis of broad probabilities regarding the involvement of the accused in the commission of the stated offence or otherwise."

32.5. *Duration of the limitation under Section 43-D(5) : (Watali case [NIA v. Zahoor Ahmad Shah*

Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] , SCC p. 27, para 26)

"26. ... the special provision, Section 43-D of the 1967 Act, applies right from the stage of registration of FIR for the offences under Chapters IV and VI of the 1967 Act until the conclusion of the trial thereof."

***32.6. Material on record must be analysed as a "whole"; no piecemeal analysis** : (Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] , SCC p. 28, para 27)*

*"27. ... **the totality of the material gathered by the investigating agency and presented along with the report and including the case diary, is required to be reckoned and not by analysing individual pieces of evidence or circumstance.**"*

***32.7.** Contents of documents to be presumed as true : (Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] , SCC p. 28, para 27)*

"27. ... The Court must look at the contents of the document and take such document into account as it is."

***32.8.** Admissibility of documents relied upon by prosecution cannot be questioned : (Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] , SCC pp. 24 & 28, paras 23 & 27)*

The materials/evidence collected by the investigation agency in support of the accusation against the accused in the first information report must prevail

until contradicted and overcome or disproved by other evidence…. In any case, the question of discarding the document at this stage, on the ground of being inadmissible in evidence, is not permissible.

33. *It will also be apposite at this juncture to refer to the directions issued in Devendar Gupta v. NIA [Devendar Gupta v. NIA, 2014 SCC OnLine AP 192 : (2014) 2 ALD (Cri) 251] wherein a Division Bench of the High Court of Andhra Pradesh strove to strike a balance between the mandate under Section 43-D on one hand and the rights of the accused on the other. It was held as follows : (SCC OnLine AP)*

"The following instances or circumstances, in our view, would provide adequate guidance for the Court to form an opinion, as to whether the accusation in such cases is "prima facie true":

(1) Whether the accused is/are associated with any organisation, which is prohibited through an order passed under the provisions of the Act;

(2) Whether the accused was convicted of the offences involving such crimes, or terrorist activities, or though acquitted on technical grounds; was held to be associated with terrorist activities;

(3) Whether any explosive material, of the category used in the commission of the crime, which gave rise to the prosecution; was recovered from, or at the instance of the accused;

(4) Whether any eyewitness or a mechanical device, such as CC camera, had indicated the involvement, or presence of the accused, at or around the scene of occurrence; and

(5) Whether the accused was/were arrested, soon after the occurrence, on the basis of the information, or clues available with the enforcement or investigating agencies."

(emphasis supplied)

34. *In Kekhriesatuo Tep v. NIA [Kekhriesatuo Tep v. NIA, (2023) 6 SCC 58 : (2023) 2 SCC (Cri) 676] the two-Judge Bench (B.R. Gavai and Sanjay Karol, JJ.) while dealing with the bail application for the offence of supporting and raising funds for terrorist organisation under Sections 39 and 40 of the UAP Act relied upon NIA v. Zahoor Ahmad Shah Watali [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] and observed that : (Kekhriesatuo Tep case [Kekhriesatuo Tep v. NIA, (2023) 6 SCC 58 : (2023) 2 SCC (Cri) 676] , SCC p. 63, para 13)*

While dealing with the bail petition filed by the accused against whom offences under Chapters IV and VI of UAPA have been made, the court has to consider as to whether there are reasonable grounds for believing that the accusation against the accused is prima facie true. The Bench also observed that distinction between the words "not guilty" as used in TADA, MCOCA and the NDPS Act as against the words "prima facie" in the UAPA as held in Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] ***to state that a degree of satisfaction required in the case of "not guilty" is much stronger than the satisfaction required in a case where the words used are "prima facie****"….*

35. *In Sudesh Kedia v. Union of India [Sudesh Kedia v. Union of India, (2021) 4 SCC 704 : (2021) 2 SCC (Cri) 496] the Bench of Nageswara Rao and S.*

Ravindra Bhat, JJ. while dealing with a bail application for the offence under Sections 17, 18 and 21 of the UAP Act relied upon the principle propounded in Watali case [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] (at SCC p. 24, para 23) and observed that : (Sudesh Kedia case [Sudesh Kedia v. Union of India, (2021) 4 SCC 704 : (2021) 2 SCC (Cri) 496] , SCC p. 708, para 12)

the expression "prima facie" would mean that the materials/evidence collated by the investigating agency in reference to the accusation against the accused concerned must prevail until contradicted and overcome or disproved by other evidence, and on the face of it, shows that complicity of such accused in the commission of the stated offence. It must be good and sufficient on its face to establish a given fact or the chain of facts constituting the stated offence, unless rebutted or contradicted.*"*

(emphasis supplied)

26. The Judgment of the Apex Court in Gurwinder Singh (supra), has considered the Judgment of the Apex Court in NIA v. Zahoor Ahmad Shah Watali, **(2019) 5 SCC 1**, which has also held that before granting bail for offences under the UAPA, the Court has to peruse the material and come to the conclusion that there are no reasonable grounds for believing that the accusation against the accused is *prima facie* true. Conversely, if in the opinion of the Court, there are reasonable grounds for believing that the accusation against such person are true, then the question of granting bail would not arise. None of the decisions indicate that delay can be the sole ground for grant of bail.

27. Though the Apex Court in K. A. Najeeb (supra) indicates that Section 43D(5) of the UAPA *per se* does not oust the jurisdiction of the constitutional courts to grant bail on violation of Part III of the Constitution of India, but it further states that they have to be construed harmoniously. The Apex Court in Union of India v. K.A. Najeeb, **(2021) 3 SCC 713**, has observed 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."*
>
> (emphasis supplied)

28. A reading of the judgment passed by the Apex Court in K. A. Najeeb (supra) also indicates that delay cannot be the sole factor for grant of bail. It must be emphasized that in the facts of this case, majority of delay is attributable to the accused and not on the inability on the part of the prosecution to speed up the proceedings.

29. The Apex Court in Vernon v. State of Maharashtra, **(2023) 15 SCC 56,** has quoted with approval the reasons given by the Apex Court in K. A. Najeeb (supra) that Section 43D(5) of the UAPA does not denude the jurisdiction of a constitutional court in testing if continued detention in a given case will breach the concept of liberty enshrined under Article 21 of the Constitution of India. However, a reading of Vernon (supra) also does not indicate that delay can be the factor for grant of bail especially when the State cannot be solely held responsible for the delay in the proceedings. The relevant portion of the said Judgment reads as under:–

> *"**51.** We shall now turn to the other offence under the 1967 Act, which is under Section 13 thereof, and the 1860 Code offences. The yardstick for justifying the appellants' plea for bail is lighter in this context. The appellants are almost five years in detention. In K.A. Najeeb [Union of India v. K.A. Najeeb, (2021) 3 SCC 713] and Angela Harish Sontakke [Angela Harish Sontakke v. State of Maharashtra, (2021) 3 SCC 723] , delay of trial was considered to be a relevant factor while examining the plea for bail of the accused. In K.A. Najeeb [Union of India v. K.A. Najeeb, (2021) 3 SCC 713] , in particular, this same provision, that is, Section 43-D(5) was involved.*
>
> ***52.** In these two proceedings, the appellants have not crossed, as undertrials, a substantial term of the sentence that may have been ultimately imposed against them if the prosecution could establish the charges against them. **But the fundamental proposition of law laid down in K.A. Najeeb [Union of India v. K.A. Najeeb, (2021) 3 SCC 713] , that a bail-restricting clause cannot denude the jurisdiction of a constitutional court in testing if continued detention in a given case would breach the concept of liberty enshrined in Article 21 of the Constitution of***

India, would apply in a case where such a bail-restricting clause is being invoked on the basis of materials with prima facie low-probative value or quality.

53. *In Zahoor Ahmad Shah Watali [NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] reference was made to the judgment of Jayendra Saraswathi Swamigal v. State of T.N. [Jayendra Saraswathi Swamigal v. State of T.N., (2005) 2 SCC 13 : 2005 SCC (Cri) 481] in which, citing two earlier decisions of this Court in State v. Jagjit Singh [State v. Jagjit Singh, 1960 SCC OnLine SC 2 : AIR 1962 SC 253] and Gurcharan Singh v. State (Delhi Admn.) [Gurcharan Singh v. State (Delhi Admn.), (1978) 1 SCC 118 : 1978 SCC (Cri) 41], the factors for granting bail under normal circumstances were discussed. It was held that the nature and seriousness of the offences, the character of the evidence, circumstances which are peculiar to the accused, a reasonable possibility of the presence of the accused not being secured at the trial; reasonable apprehension of witnesses being tampered with; the larger interest of the public or the State would be relevant factors for granting or rejecting bail. Juxtaposing the appellants' case founded on Articles 14 and 21 of the Constitution of India with the aforesaid allegations and considering the fact that almost five years have lapsed since they were taken into custody, we are satisfied that the appellants have made out a case for granting bail. Allegations against them no doubt are serious, but for that reason alone bail cannot be denied to them. While dealing with the offences under Chapters IV and VI of the 1967 Act, we have referred to the materials available against them at this stage. These materials cannot justify continued detention of the appellants, pending final outcome of the case under the other provisions of the 1860 Code and the 1967 Act."*

(emphasis supplied)

30. The Apex Court in Manish Sisodia v. Directorate of Enforcement, **2024 SCC OnLine SC 1920** further emphasises that if the trial is being affected due to the conduct of the State or the Trial Court showcasing deliberate attempts to delay the trial, then the embargo under Section 43D(5) of the UAPA takes a back seat. The relevant extracts reads as under:-

> *"**28**. Before considering the submissions of the learned ASG with regard to maintainability of the present appeals on account of the second order of this Court, it will be apposite to refer to certain observations made by this Court in its first order, which read thus:*
>
> *"xxx*
>
> ***28**. Detention or jail before being pronounced guilty of an offence should not become punishment without trial. If the trial gets protracted despite assurances of the prosecution, and it is clear that case will not be decided within a foreseeable time, the prayer for bail may be meritorious. While the prosecution may pertain to an economic offence, yet it may not be proper to equate these cases with those punishable with death, imprisonment for life, ten years or more like offences under the Narcotic Drugs and Psychotropic Substances Act, 1985, murder, cases of rape, dacoity, kidnaping for ransom, mass violence, etc. Neither is this a case where 100/1000s of depositors have been defrauded. The allegations have to be established and proven. The right to bail in cases of delay, coupled with incarceration for a long period, depending on the nature of the allegations, should be read into Section 439 of the Code and Section 45 of the PML Act. **The reason is that the constitutional mandate is the higher law, and it is the basic right of the person charged of an offence and not convicted, that he be ensured and given a speedy trial. When the trial is not***

proceeding for reasons not attributable to the accused, the court, unless there are good reasons, may well be guided to exercise the power to grant bail. This would be truer where the trial would take years."

(emphasis supplied)

31. In the case of Harpreet Singh Talwar alias Kabir Talwar vs. State of Gujarat through National Investigating Agency, **2025 SCC OnLine SC 1103**, the Apex Court reiterated the significance on the harmonious approach to be taken by the Court depending on the case-to-case basis. The relevant paragraph reads as under:-

> *"**24**. The rigour of Section 43D(5) of the UAPA would, however, in an appropriate case yield to the overarching mandate of Article 21 of the Constitution, especially where the trial is inordinately delayed or where the incarceration becomes punitive. However, such relaxation cannot possibly be automatic and must be evaluated in light of the specific facts and risks associated with each case, as has been previously clarified."*

32. Furthermore, this Court in the case of Jagtar Singh Johal vs. NIA, **2024 SCC Online Del 89,** observed that the bail under Section 43D(5) of the UAPA cannot be granted solely on the basis of long incarceration of the accused person and the same has to be viewed along with the gravity of offences which are supported by the relevant *material* provided by the Respondent Agency. The relevant portion of the same is as follows:-

> *"**76.** Cases involving serious crimes could be of various categories, such as offences relating to laundering of money, offences related to counterfeit currency, terrorist acts, etc. Acts of Terrorism and association with banned organisations which have*

international networks as also acts against the nation have to be considered as a distinct and more serious category of offences. All offences covered under the UAPA cannot be treated with the same brush. Even for the purpose of grant of bail, such offences are not to be examined on the basis of mere facts of one particular FIR but on a larger canvas in the overall scheme of the multiple FIRs, if existing, against a particular accused. The damage in terms of loss of life as also the intent behind such attacks i.e., to destabilise the law and order situation as well as to strike terror in the minds of people in or outside India, has to be considered for the purposes of granting bail. Terrorist activities, which have trans-national links, would also fall in a more serious and grave category of cases. Accused, who are involved in such activities, could be working overtly and covertly. The fact that they could be linked through dark networks which are easily not traceable needs to be borne in mind. Investigating agencies face enormous challenges in unearthing evidence in such cases. ***While speedy trial is necessary as a Constitutional prescription, in cases involving anti-national activities and that too terrorism at an international scale, long incarceration in itself ought not to lead to enlargement on bail when facts show involvement in such activities.*** *In the case of persons associated with terrorist or unlawful organizations having their activities spanning across countries, the consideration for grant of bail in such serious offences ought to be strictly dealt with, as prescribed in the statute(UAPA), on the benchmarks contained in Section 43D(5) of the Act."*

(emphasis supplied)

33. Likewise, this Court in the case of Nayeem Ahmad Khan v. National Investigating Agency, **2025 SCC OnLine Del 2233,** observed that long incarceration alone cannot be a ground to grant bail under Section 43D(5) of

UAPA and the Court has to evaluate the same based on the factual matrix and its implications, thereof. The relevant paragraphs are reproduced hereinunder:-

> *"**95**. Furthermore, the Supreme Court in catena of decisions, also relied upon by the appellant, has held that in cases where the trial is not likely to conclude in the near future and to balance the period of custody undergone by an undertrial with his fundamental right to liberty would entitle him to be enlarged on bail.*
>
> ***96**. **There is no doubt that the appellant has been in custody for long, however, the charges have been framed and the trial is already underway. Moreover, a perusal of the statement of witnesses, including protected witnesses, present a grave picture of a larger conspiracy threatening the unity and integrity of our nation, thus, the grant of bail to the appellant would be detrimental to the security and safety of the public at large and the same cannot be simply ignored by this Court. While we are aware that the right of an undertrial to a speedy trial is of paramount consideration, however, in cases involving terrorist activities which have nation wide implications and where there is an intention to destabilise the unity of the Union of India and to disrupt its law and order, more so, to create terror in the minds of general public, which are also factors that weigh in, long period of incarceration would not, in itself, be ground enough to enlarge an accused on bail. In the present case, prima facie, the objective sought to be achieved by the accused persons, including the appellant, is of secession of Jammu and Kashmir from the Union of India through terrorist activities, already elaborated in our discussion, which threatens the unity, integrity and security of the nation.***

> ***97****. It is also trite in law that ratio in any decision has to be seen in its overall facts and circumstances and even a slight variation in the facts can have substantial difference in its precedential value and cannot be applied to the other without considering the specific facts and circumstances that have unfolded in the case at hand."*
>
> (emphasis supplied)

34. The foregoing judgment specifically states that long incarceration cannot be the sole reason for grant of bail if the facts of the case demand otherwise. Therefore, it is inevitable that the Court while dealing with the grant of bail under Section 43D(5) of the UAPA has to deal with the merits of the case. Except in case of palpable violation of fundamental rights or breach of constitutional rights, bail cannot be granted on the sole factor of long incarceration or delay in trial because, to even allow itself to adjudicate on the issue of grant of bail under Section 43D(5), the Courts must analyse and examine the material provided by the Investigating Agency in whole, which is nothing but assessing the merits of the case on a *prima facie* basis.

35. Factors such as long incarceration or delay in trial cannot be taken as sole factors for the grant of bail without considering the gravity of the offence or the role played by the accused in the said case, which can be only determined upon a consideration on the merits of the case. Such factors are only ancillary in nature and cannot be viewed in isolation for considering bail under Section 43D(5) of UAPA.

36. Therefore, it is imperative for the Appellant to show the Court that the factors such as delay in trial and long incarceration warrants bail under Section 43D(5) of UAPA, when *coupled with the merits of the case* i.e., the material annexed with the chargesheet. In the present case, the Appellant has

not even pressed on the merits of the case, thereby disabling this Court from perusing the *material* in order to make an informed decision as to the grant of bail.

37. In light of the foregoing reasons and especially in view of the peculiar facts of this case, the Appellant cannot be granted bail under Section 43D(5) of the UAPA only on the ground of delay in trial keeping in mind, the Judgment of Gurwinder Singh, (*supra*), as the same would have to include the determination of a "*prima facie*" case, which would involve an assessment of the case on merits as well.

38. Material on record indicates that certain accused persons have got bail and some of the accused persons are in prison. Those accused persons who got bail are trying to delay the arguments on charge on the ground that the investigation is still pending. The arguments on charge are being delayed by the accused persons who are out on bail at the cost of those accused persons who are in prison. Despite orders from the Court directing the Counsels for the accused persons to decide amongst themselves as to how and in what order the arguments on charge will be advanced by the accused, there seems to be no consensus among them. Mr. Mehmood Pracha, learned Counsel for the Appellant, has tried to contend that the accused waited in queue patiently as it would not have been fair on his part to jump the queue and advance the arguments on charge. However, that contention of the learned Counsel for the Appellant cannot be accepted as the Appellant did not advance arguments despite requests by the Special Court and has advanced arguments only on 04.04.2025 which is during the pendency of the instant appeal. This Court therefore does not find any infirmity in the impugned

Order passed by the learned Trial Court rejecting the bail of the Appellant on the ground of delay.

39. Undoubtedly, speedy trial is a concomitant and a facet of Article 21 of the Constitution of India. However, to ask for bail after there has been a systematic delay in trial on the part of the accused, is not acceptable and if it is done then the statute, which restricts the grant of bail on the ground of delay in trial can easily be circumvented by delaying the trial on the one hand and by pressing bail applications on the other. The fact that the accused has completed his arguments on charge alone would not entitle him to bail at this juncture on the ground of delay in trial as the arguments on charge were not advanced by the Appellant in the first available occasion.

40. Accordingly, the instant appeal is dismissed along with pending applications, if any.

41. It is made clear that this Court has not gone into the merits of the case.

SUBRAMONIUM PRASAD, J

HARISH VAIDYANATHAN SHANKAR, J

SEPTEMBER 02, 2025
hsk/sm