

IN THE SPECIAL COURT FOR THE TRIAL OF NIA CASES, ERNAKULAM.

Present:-

**Sri. P.K. Mohandas, Judge, Special court for the trial of
NIA Cases**

Wednesday the 11th day of June, 2025 / 21st Jaishtha, 1947.

Crl.M.P. 229/2025

In

SC No. 02/2023/NIA

**Petitioner/Accused Nos.23
and 60**

1. Ansar K. P. (A23), Age-29/2023,
S/o.Ummer, Kundilpeedikayil House,
Nhangattiri Kadavu, Thrithala, Palakkad
District, Kerala.
2. Saheer. K. V. (A60), Age-34 yrs,
S/o.Muhammedali, Karuppan Valappil (H),
Keezhayur - Post, Pattambi, Palakkad.

**A23-By Adv. M/s. P.C Noushad
Adv.Muhammed Rifa and
Adv.Wakarulislam K.S.**

**A60 - By Advs. M.P Abdul Latheef,
Shaiq Rasal, Abdurahiman. P. K &
Wakharulislam,**

Respondent/ Complainant

Union of India represented by National
Investigation Agency, Kochi.

**Represented by Sri. Ajith Kumar.S
(Special Public Prosecutor, NIA) and
Sri. Sreenath.S (Public Prosecutor,
NIA).**

This Criminal M.P coming on for hearing before me on 02.06.2025 and the
Court on 11.06.2025 passed the following:

ORDER

This is an application for bail submitted by accused Nos.23 & 66 under Section 439 CrPC.

2. The brief facts of the case, as revealed from the final report and the objection filed by the investigating officer are as follows:- The Central Government had received credible information that, the office bearers, members and cadres of Popular Front of India (PFI), a registered society and its affiliates in Kerala have conspired to instigate communal violence and radicalize its cadres to commit terrorist acts in the State of Kerala and various other parts of the country. The PFI members and office bearers based at Kerala having earlier association with the proscribed terrorist organisation, SIMI, maintain operational nexus with other proscribed international terrorist organisations like Lashkar-e-Taiba (LeT), Islamic State of Iraq and Syria (ISIS)/Daesh and Al-Qaida. Some of the members of PFI cadres are also the members of these proscribed terrorist organisations. PFI has created organisational web, which is stretched to recruit vulnerable Muslim youths into proscribed international terrorist organisations to commit terrorist acts. PFI and its members are also indulging in activities prejudicial to the maintenance of harmony by creating feeling of enmity between people of different religions and groups through violent speeches, publications, articles, social media posts, etc. with intention to disrupt public tranquility and have been seen to

have organised movements intending that the participants be trained to use criminal force against people of other religions and groups such as to cause terror, fear and alarm, besides feeling of insecurity among members of other religions and groups. In the last few years, they have been responsible for many violent incidents and murders in Kerala that have created terror in the minds of general public. PFI, its members and office bearers are also indulged in unlawful activities with the intention to cause disaffection against India by inciting people and innocent Muslims to defy Government and institutions established by law and thereby commit disruption of sovereignty and integrity of India.

3. The Central Government formed an opinion that the above activities of the Popular Front of India are offence under sections 120B, 153A of the IPC and sections 13, 18, 18B, 38 and 39 of UA (P) Act, 1967 which are scheduled offences under the National Investigation Agency Act, 2008. Considering the gravity of the offence and its repercussions on national security, the Government of India, Ministry of Home Affairs, CTCR Division vide order No.11011/82/2022-NIA dated 16.09.2022, directed the NIA to take up investigation of the aforesaid case. Accordingly, the case was registered as RC 02/2022/NIA/KOC at NIA Police Station, Kochi on 19.09.2022 under sections 120B, 153A of the IPC and sections 13, 18, 18B, 38 and 39 of UA(P) Act, 1967.

4. Investigation revealed that Crime No.318/2022 of Palakkad Town South P.S. (Srinivasan Murder Case) is a connected offence in terms of section 8 of NIA Act and therefore, the Government of India vide its order No.11011/82/2022/NIA (Part) dated 19.12.2022 directed the NIA to investigate crime No. 318/2022 of Palakkad Town South PS as per section 8 of NIA Act. In pursuance to this order and subsequent orders of Hon'ble High Court of Kerala and the jurisdictional Court, the case records and materials relating to that case were transferred to this Court on 30.01.2023. The case diaries were taken over by the NIA on 02.02.2023.

5. Crime No.318/2022 of Palakkad Town South Police Station was registered on the allegation that the PFI leaders and members conspired together with the intention to create terror and communal divide in the society, conducted intense recce of several Hindu leaders of that locality, whom they had short-listed using their "Reporter Wing" and subsequently selected and brutally murdered one Srinivasan, who was available. Kerala Police had filed charge-sheet in that case against 44 persons for offence under sections 120B, 34, 118, 119, 109, 115, 143, 144, 147, 148, 449, 341, 201, 212, 302 r/w.s.149 of IPC and Section 3(a)(b)(d) r/w 7 of the Religious Institutions (Prevention of Misuse) Act, 1988.

6. It is alleged that the Popular Front of India (PFI), a society registered under the Societies Registration Act, was formed in 2006 merging

the three radical organizations with extremist ideologies, viz., National Democratic Front (NDF) from Kerala, Manitha Neethi Pasarai (MNP) from Tamil Nadu and Karnataka Forum for Dignity (KFD) from Karnataka. The founder leaders of PFI were former cadres and leaders of Students Islamic Movement of India (SIMI), an organisation proscribed by the Government of India in 2001. The Popular Front of India (PFI) has the strongest presence in Kerala, where it has been repeatedly involved in cases of murder, rioting, intimidation, and having links with terrorist organisations.

7. The PFI possesses a well-knit organizational setup with various functional bodies viz. Unit, Area Committee, Division Committee, District Committee, State General Assembly, State Executive Committee, State Secretariat, National General Assembly, National Executive Committee and Central Secretariat. The 15 Member National Executive Committee is the supreme decision making body which frames policies and formulates programs of the organization.

8. PFI has frontal organisations like Rehab India Foundation (RIF), Campus Front of India (CFI), All India Imams Council (AIIC), National Confederation of Human Rights Organization (NCHRO), National Women's Front (NWF), Junior Front, Empower India Foundation and Rehab Foundation, in addition to their political wing, 'Social Democratic Party of India' (SDPI). On 28.09.2022, the Government of India declared the Popular Front of India and

its affiliates/frontal organisations as Unlawful Association as per the Unlawful Activities (Prevention) Act.

9. The first accused, Popular Front of India, its office bearers, leaders and members besides their affiliates, hatched conspiracy since last few years inside and outside Kerala, with their agenda to overthrow the democracy in India and to implement Islamic Rule in India by 2047, for which they prepared structured stages of progression. In pursuance to their plans, they intended to unite Muslims under the flag of PFI, endeavour mass mobilization under the leadership of PFI, form close alliance with SCs/STs/OBCs through their political wing SDPI, and win election in few seats initially, create split between the community/groups in the Society, project the strength of PFI through uniformed march and physically intervening in the defiance of Muslim community and stockpiling of weapons and explosives. Finally, in the fourth and final stage PFI has planned that the party (SDPI) should become the undisputed leader and representative of entire Muslim community by side-lining all other Muslim organizations, gain political power, intrude the loyal cadres in judiciary, army and police, eliminate those go against the interest of PFI and recruit enough trained cadres and stockpiling of arms to declare new Constitution based on Islamic Principles.

10. It is alleged that in pursuance to their larger conspiracy, PFI had established 3 Wings - 'Reporters Wing', 'Physical and Arms Training Wing/PE

Wing' and 'Service Wing/Hit teams'. Through their 'Reporters Wing' which is a quasi-intelligence division of the PFI, it collected private and personal information of prominent personalities in the society, besides leaders of other communities, especially the Hindu Community, including their day-to-day activities. The data is compiled at the PFI district level and communicated to their State hierarchy. The details are regularly updated and utilised to "Target" the individuals as and when required by the terrorist gang. The PFI had trained its cadres for collection of such data and had stored them besides providing the same to their assault teams in 'Service Wing' for attack as and when decided by their leadership.

11. It is further alleged that in furtherance of their agenda, the PFI through their Arms Training Wing, prepared master trainers to impart uniform physical and arms training under a common syllabus with set course to their cadres in various stages under the guise of yoga training programs, rescue and relief activities, martial arts and other physical development activities. The PFI devised the program to filter the cadres through various stages and gave arms and explosives training to selected cadres through these stages. PFI used their various facilities and affiliated institutions, including the institutions run in the name of 'Trusts' besides other places for conducting such training camps and for conducting secret meetings. The PFI used these trained cadres for eliminating shortlisted targets based on the decisions of their leadership as

and when required. The PFI also used such selected cadres as executioners of the decisions of their pseudo court – “Darul Qaza”.

12. The PFI used their ‘Reporters’ and ‘Service Wing’ to eliminate many targeted personalities in Kerala. The PFI, its office bearers and cadres had conspired to commit terrorist act by killing any targeted person of other religion/section of the society to create terror in the minds of other community and public at large. In furtherance to that, PFI leaders and cadres carried out intensive recce on members of other religion, particularly Hindu community and compiled the same for targeting through their ‘Service Wing/Hit teams’.

13. PFI, its leaders and cadres had, on many occasions, conspired to target innocent persons merely for being a prominent member of other community. They do recce of several persons of the other community listed through their “Reporter Wing” and search for their presence on the intended day of elimination and available person is executed by their “Service Wing/ Hit Team”. The whole process has created terror and fear in the minds of public at large. Fearing such targeting, people stay away from their home for long period.

14. In murder cases involving PFI cadres, including the one in Crime No. 318/2022 of Palakkad Town South Police Station, none of the accused had any personal enmity with the deceased. The victims have been selected solely because of their leadership/membership to a particular community and

were killed to create terror in the society. Several persons were reced to become possible target. The PFI has been targeting people from different community as a part of their larger plan to achieve their objective to strike terror among the members of such organisation and community. The PFI through such acts intended to disturb harmony among the society and to terrorise people within the society with a view to create sense of fear and insecurity in their minds. The PFI also intended to instill confidence among their cadres by executing such acts. The plans so made were executed to prevent any defiance of their command in future, in one such specific incident in pursuance to their larger conspiracy, leaders and accused persons being members of Popular Front of India (PFI) conducted conspiracy at various places in Palakkad on 15th and 16th of April 2022, conducted reconnaissance of residences belonging to several leaders from Hindu community who appear in their target-list and chose and decided to eliminate one prominent Hindu leader named S. K. Sreenivasan of Palakkad. They, in furtherance to the conspiracy, set out to commit that terrorist act on 16.04.2022 for which 5 accused persons (A-17 to A-21) came on 03 two-wheelers, three of whom criminally trespassed into SKS Autos situated at Melamuri, Pallippuram, Palakkad run by S. K. Sreenivasan and inflicted grievous injuries on Sreenivasan and killed him by hacking his head and other parts of his body with choppers which the assailants were carrying with the sole intention and purpose to brutally murder him, so as to create terror in the minds of other

community and public at large. The above act of murder is in furtherance of the larger conspiracy of the first accused, to create terror. Kerala Police filed final report sheet against 44 persons regarding incident in Cr. No.318/2022 of Palakkad Town South Police Station under sections 120B, 34, 118, 119, 109, 115, 143, 144, 147, 148, 449, 341, 201, 212, 302 r/w.s.149 of IPC and Section 3(a)(b)(d) r/w.s.7 of the Religious Institutions (Prevention of Misuse) Act, 1988.

15. The investigation revealed that the leaders of PFI had justified the activities of cadres in support of the proscribed terrorist organisation ISIS and were found with the possession of ISIS propaganda videos and documents for propagation. Investigation also revealed that some cadres of PFI who joined ISIS were also arrested and convicted for those offences. PFI was involved in various unlawful activities including delivery of alternate justice. The PFI, its leaders and cadres have incited the people by provocative speeches and slogans to cause communal disharmony.

16. The activities and veiled objectives of PFI have strong communal and anti-national agenda to establish an Islamic rule in India. To achieve this, they conduct stage wise radicalisation of Muslim youths, mainly through their Tarbiyath classes, showing of videos, taking lectures and ensuring allegiance through Bayath (oath) to the PFI in the name of Allah. During their Tarbiyath classes, the PFI radicalise vulnerable youths by communalising and magnifying stray incidents against Muslims with the intention to undermine

democracy and establish Islamic rule in India by subverting the Constitution. The gullible Muslim youths were radicalised and motivated against the so called kafirs or non-believers and all who were opposed to their ideology, including the members of Muslim community, Government and leaders of Hindu organisations by repeatedly showing videos and photos of incidents such as Babri Masjid demolition, Gujarat riots, mob lynching, etc. to portray that the whole Muslim community in India are being targeted and oppressed by the entire State machinery and Government agencies.

17. In furtherance to the larger conspiracy, the accused in the case conspired at various places to indulge in unlawful activities for creating enmity between members of different religions and groups prejudicial to maintenance of harmony with the intention to disrupt public tranquility and cause disaffection against India, propagating alternative justice delivery system and justifying the use of criminal force causing alarm and fear amongst general public. The accused have also encouraged vulnerable youths to join terrorist organisation - ISIS/Daesh for furthering its activities. They also being a part of terrorist gang formed by PFI, caused to recruit the cadres of PFI to that terrorist gang, collected the details of various leaders of Hindu community and the members of its organisations through their "Reporter Wing". They have attended, conducted, supervised and imparted physical and arms training to the cadres of PFI, planned to stock weapons and explosives, possessed arms for

preparing them to commit terrorist acts with intention to establish Islamic Rule in India. In furtherance of the larger conspiracy, accused in this case knowingly and intentionally took part in the conspiracy hatched at Palakkad on 15th and 16th of April 2022, for committing the terrorist act of murdering any prominent leader of Hindu community or its organisation, to create terror in the minds of Hindu community and public at large, which has resulted in the murder of Srinivasan on 16.04.2022 at Palakkad. Accused also committed offence of destruction of evidence and knowingly harboured the accused in this case after commission of the terrorist act.

18. On completion of investigation against A1 to A14, A16 to A19, A21 to A26, A29 to A40, and A42 to A63 and A66, final report has been filed against them (59 accused) on 17.03.2023, for offence under sections 120B, 34, 109, 115, 118, 119, 143, 144, 147, 148, 449, 153A, 341, 302, 201, 212 r/w.s. 149, 120B r/w.s. 302 of IPC, Section 3(a)(b)(d) r/w 7 of the Religious Institutions (Prevention of Misuse) Act, 1988 and Section 13, 16, 18, 18A, 18B, 20, 22C, 23, 38 & 39 of Unlawful Activities (Prevention) Act, 1967 and Section 25 (1) (a) of Arms Act.

The petitioners' case

19. The case of the 1st petitioner is that he is made as the 23rd accused in the case on the allegation that he conducted reeve of the target on 15.04.2022 along with accused No.47, using motorcycle No. KL-09-AQ-713,

and that he assisted the assailants in the commission of the offence along with accused No.22. The first petitioner was arrested on 10.02.2023.

20. The case of the 2nd petitioner is that he is made as the 60th accused in the case on the allegation that he conducted reece for the target on 15.04.2022 along with accused No.24, using motorcycle No. KL-09-AP-9820, and that he assisted the assailants in the commission of the offence along with accused No.24. The 2nd petitioner was arrested on 16.05.2023.

21. The contention of the petitioners is that the allegations against them are fabricated and they are innocent. They have been in custody for over three years and the investigation is complete. They are law-abiding citizens and ready to comply with the conditions that may be imposed by this court and will cooperate with further investigation, if granted bail. The bar under Section 43D(5) of the UAPA will not attract against the petitioners, as the alleged offence will not fall under the definition of terrorist act. Out of 73 accused in the case, 58 are arrested and 28 were granted bail. Considering the large number of witnesses and documents, the trial will be lengthy and the delay in trial is a ground to grant bail to the petitioners.

The objection

22. The National Investigation Agency (NIA) opposed the application and filed a detailed objection. It is contended that the petitioners are members of the terrorist gang formed by PFI to commit terrorist act as a part of the

larger conspiracy hatched by PFI and its office bearers and cadres since last few years to enact their "India 2047" agenda of establishing Islamic rule in India and they attended conspiracy meetings to commit terrorist act of murder of Sreenivasan on 16.04.2022, collected the details of targets, conducted recce of the targets to eliminate them, provided arms and vehicles for committing the terrorist act etc. Accordingly, final report has been filed against them for the offences punishable under various sections of IPC and UAPA, including the offences punishable under Chapter IV and VI of the UAPA. The petitioners are not entitled to bail and the application is only to be dismissed.

23. When the matter came-up for hearing, both sides were heard in detail. I have gone through the records of the case.

24. The learned counsel for the petitioners contended that NIA mainly relies on the document No.1376, a voice clip allegedly recovered from the mobile phone of the 15th accused to establish the allegation of India 2047 Agenda (larger conspiracy). Document No.1376 is a compilation of four documents: (1) Re-registered FIR RC No.31/2022/ NIA, Delhi, (2) FIR No.827/2022 of Phulwarisherif Police station, Bihar, (3) Order of MHA to take up the investigation in FIR 827/2022, and (4) Document with title 'India 2047' having 6 pages, seized from one Mr. Muhammed Jamaludheen in FIR No. 827/2022. The NIA Delhi is conducting investigation with regard to the said crime and charge sheet filed against 26 accused. There is nothing to connect

the accused therein with the petitioners. The said document is brought to the present case with dubious intention that there is a larger conspiracy and it has no legal sanctity. He contended that the prosecution has set-up a story without any evidence.

25. The learned counsel for the petitioners relied on the decision of the Hon'ble Supreme Court in **Union of India v. K.A. Najeeb: 2021 (3) SCC 713** and contended that S.43D(5) of the UAPA is comparatively less stringent than S.37 of the NDPS Act. He also referred to the decision in **Dheeraj Kumar Shukla v. State of UP (2023 KHC 6545)** and argued that when there is delay in trial, the embargo u/s.37 of the NDPS Act can be dispensed with. He also referred to the decision in **Muhammed Muslim @ Hussain v. State (NCT of Delhi) [AIR 2023 SC 1648]** and contended that the right for bail under Article 21 also supports the case of petitioner. The petitioners are in custody for more than 2 years.

26. It is also submitted that the accused Nos. 4, 5, 7, 8, 9, 10, 14, 15, 38, 40, 42, 43, 45, 46, 53, 56, 57 were granted bail by Hon'ble High Court of Kerala by order dated 25.06.2024 [**Ashraf Moulavi and others v. Union of India (2024 KHC Online 529)**]. Some of the other accused are also granted bail by the Hon'ble High Court and the orders were confirmed by the Hon'ble Supreme Court. In *Ashraf Maulavi's* case it was observed therein that :

"26. Over and above the principles gleaned from the precedents referred above, we feel that in cases such as the present, where the allegation against the accused is that they were complicit in terrorism related offences, a court examining the evidence against the accused under Section 43D of the UA (P) Act has also to guard itself against any confirmation bias that might creep in based on ideological biases and false narratives prevalent in society. Such an exercise would be required, not only in keeping with the requirement of safeguarding the personal liberty of the accused under Article 21, but also in the interests of upholding the fundamental right of an accused against arbitrariness and/or discrimination as envisaged under Article 14 of the Constitution. The role of any court, not just the constitutional courts, must be to lean in favor of the fundamental rights of the accused, and not in favors of the restrictions that can be imposed. on those rights."

27. The petitioners' counsel submits that in this case there are more than 1000 witnesses and the charge not yet framed. Even if trial starts within few months, it will take a long time to complete. He submits that the Apex Court in **Javed Gulam Nabi Shaikh v. State of Maharashtra and another (Crl. Appeal No.2787/2024)** in its order dated 03.07.2024 observed that if the prosecuting agency cannot ensure speedy trial, they should not oppose bail citing seriousness of offences.

28. The learned Special Public Prosecutor opposed the application submitting that the petitioners being active cadres of PFI, knowingly and intentionally became part of the larger conspiracy of PFI to enact their "India 2047" agenda of establishing Islamic rule in India. They committed conspiracy to do away Hindu leaders. In furtherance of the conspiracy, preparation was done for committing the terrorist act of murder of any available Hindu leader with the intention of creating terror in the minds of the Hindu community and among public at large, which resulted in the murder of Srinivasan on 16.04.2022 by the PFI cadres.

29. The learned Public Prosecutor submits that the PFI has a mission to establish Islamic rule in India by their "India 2047" vision and this is evident from document No.1376 submitted along with the final report, a voice clip recovered from the mobile phone of the 15th accused and the statements of the protected witness 2, 14 & 16 and statement of approver recorded u/s. 164 of CrPC. He submits that the murder of Mr.Srinivasan on 16.04.2022 was part of the larger conspiracy and this is evident from document Nos.240, 242 to 246, 250 to 254 and protected document Nos. 1, 2, 13, 17 to 24, 26, 27, 29 to 34, 40 to 43, and also the statements of protected witnesses 19, 20, 22, 25, 39 to 47 and CW-605 to 608.

30. The Prosecutor submits that the contents of the said document is corroborated by the statement of protected witnesses 2, 14, 16 and approver,

Aboobacker Sidik (A-52) and the voice clips recovered from the mobile phone of Muhammed Mubarak (A-16 now A-15), which further corroborated with the statement of protected witness No. 14 (former cadre of PFI) who stated that "*I came to know about India 2047 plan of PFI, through the audio messages circulated secretly among the dedicated cadres of PFI with clear instructions to delete the voice clips after listening*".

31. It is submitted by the Prosecutor that in India 2047 agenda it is clearly mentioned that "eliminate those go against the interest of PFI". Therefore PFI, through their secret wing "Reporters wing" collected and maintained the personal details of the people of other community, including their position, name, age, photo, etc. The same is established through the seizure of various hit lists were prepared by PFI cadres through their secret wing called 'Reporters wing'. It is submitted that documents containing the hit list of about 240 persons of other community, i.e., document Nos. Doc- 242 to 245, 250, 252 to 254, were seized from accused Sirajudheen (A56, now A-51), who is a member of secret wing of PFI 'Reporter Wing', as per seizure mahazer dated 17.09.22 (document No.240).

32. It is also submitted that document No.246 is a route map and document No.251 is a photo of one of the main witnesses who identified the assailants (PFI cadres) in crime No. 618/2017 of Tirur PS (Bipin murder case). Protected document No.1 is the witness to the search list dated 22.9.2022

prepared at 'Periyar Valley campus' at Aluva. As per that a hit list containing details of 5 targeted persons, including one former District judge of Kerala has been seized from the wallet of Abdul Wahab (A-15) who is absconding since then. It is submitted that 'Periyar Valley' campus is an arms training centre of PFI which has been attached by NIA u/s.25 of UAP Act as 'Proceeds of terrorism' as per order dated 29.9.2022 and the same has been confirmed by the Designated Authority.

33. It is also submitted that various documents pertaining to accused Muhammed Sadik (A-17, now approver), containing the hit lists (Protected document Nos.17 to 24, 26, 27, 29 to 31) of various persons of other community and pen drive (MO 583) containing the hit list of 197 persons were seized through seizure mahazar dated 04.01.2023 (Protected document No. 13).

34. He submits that the protected document Nos.32 to 35, containing hit list of 35 persons were also seized from the house of Muhammed Sadik (A-17, now approver) during the house search on 17.01.2023. During the search conducted on 05.03.2023, protected document Nos.40 to 43, pertaining to absconding accused Ayooob T A (A-69), containing the hit list of about 500 persons were seized.

35. The learned Public Prosecutor submits that the above materials and other evidence collected during investigation and produced before the court clearly prove the larger conspiracy of the PFI to establish Islamic rule in

India under their agenda 'India 2047'. It will also prove that the accused in this case are the members of terrorist gang, prepared for commission of terrorist act by imparting/undergoing arms training, collecting the details of targets and also by committing terrorist act of murder of Sreenivasan on 16.4.2022 as a part of larger conspiracy to establish Islamic Rule in India as per their hidden agenda India 2047.

36. The learned Public Prosecutor submitted that there are sufficient materials to show that the petitioners have committed the offences punishable under Chapter IV and VI of the UAPA and hence the prohibition under S.43D(5) is applicable in this case. The accused are not entitled bail.

37. Now the court has to consider the materials placed by the prosecution to substantiate the allegations against each of the accused to consider whether there is material to prima facie show that he has committed any offence under the UA(P) Act.

Allegations and materials against A23

38. The 1st petitioner, Ansar K. P. (A-23) is alleged to be the President of Pattambi area of PFI and an active cadre of PFI. The statement of witnesses CW771 to 773, 799, 805, 809, 823, 833, 834, 836, 838 and 840 and the statement of approver, Aboobacker Sidik states that the first petitioner is a PFI cadre as well as the Area President of PFI, Pattambi.

38.1. The first petitioner is alleged to be a member of the terrorist gang formed by PFI to commit terrorist act as a part of the larger conspiracy hatched by PFI and its office bearers and cadres since the last few years to enact their "India 2047" agenda of establishing Islamic Rule in India. As discussed in the foregoing paragraphs, there are materials to show prima facie the larger conspiracy of the PFI to establish Islamic rule in India under their hidden agenda 'India 2047'. It also shows that the accused in this case are the members of terrorist gang, prepared for commission of terrorist act by imparting / undergoing arms training, collecting the details of targets and also by committing the terrorist act of murder of Sreenivasan on 16.4.2022 as a part of larger conspiracy.

38.2. It is alleged that the 1st petitioner allegedly attended the conspiracy meeting held at Curtain Shop of accused Nassar @ Laden Nassar (A-37, now A-33) at Pattambi on 15th April 2022 for committing terrorist act by murdering any available Hindu Leader with the intention of creating terror in the minds of the Hindu community and among public at large. CW-122 has stated that in the evening of 15.4.2022, the 1st petitioner and others had secret meeting in the shop of Nassar @ Laden Nassar (A-33) wherein he heard saying them that "we have to retaliate". Witness CW-121 also stated about the conspiracy meeting of the above accused in the shop of Nassar @ Laden Nassar (A-33) on 15.4.2022. Based on the disclosure of the 1st petitioner

mahazer (D-128) has been prepared at the conspiracy place. CDR and CDR Link report (D-564, D-523, D-1440) also show the presence of the 1st petitioner and others at the scene of conspiracy.

38.3. It is further alleged that the first petitioner conspired with other accused, including Ummar @ Manu (A-18), Abdul Khader @ Iqbal (A-19), Muhammed Bilal (A-22), Saheer KV (A-60, the second petitioner) and other leaders and cadres of PFI held near Khabristan at Palakkad on the night of 15.04.2022 for committing terrorist act of murdering any Hindu leader. The protected witnesses 36 and 38, as well as CW-814, have clearly stated about the active involvement of the first petitioner in the conspiracy. Based on the disclosure of accused Muhammed Bilal (A-22), disclosure-cum-scene mahazer (D-16) has been prepared. The CDR/IPDR locations of the first petitioner further confirms his presence at the place of conspiracy on 15.04.2022

38.4. It is also alleged that the first petitioner, in furtherance of the conspiracy, conducted recce on the night of 15.04.2022 along with accused Ashraf K (A-32), on motorcycle No. KL-09-AQ-713 arranged by Abbas (A-52), for locating other community targets for a terrorist act. Witness CW-823 and approvers Aboobacker Sidik (A-52) and Rishil (A-28) in their statements clearly stated about the recce conducted by the 1st petitioner. CW-203 reported suspicious movement of the accused in motorcycle near Kinfra, Lakkidi on the same night. Based on the disclosures of Basheer T.E. (A-49) and Rishil (A-

28), scene mahazers (D-336, D-346, D-38) were prepared at the places where the accused conducted recce of the targets 'CW-154 and CW-157'. CW-154 and CW-157, the targeted persons, have stated that they are residing at the place where the accused conducted recce. CW-157 also stated the movement of vehicle in which the assailants conducted recce of target in the night of 15.4.2022. The CCTV footages seized from Bismillah Motors and Kinfra vide mahazers (D-194 & D-198) shows the movement of the accused to recce the targets. The motorcycle KL-09-AQ-713 (MO-111) used for recce was seized on 22.04.2022 based on the disclosure of A-24 recorded as (D-15).

38.5. The 1st petitioner allegedly attended the conspiracy meetings held at Palakkad on 16th of April 2022 for committing the terrorist act of murder of Sreenivasan with the intention of creating terror in the minds of the Hindu community and among the public at large. Protected witness 22 and witnesses CW37, 38 and approver Aboobacker Sidik stated to have given statement that they had seen the 1st petitioner, along with assailants and other PFI leaders on 16.4.2022 at noon (i.e just an hour before the murder of Sreenivasan) at vacant land near District Hospital, Palakkad. Approver Aboobacker Siddik (A-52) has given statement that '*The plan was to kill anyone. The decision to kill Sreenivasan was taken near hospital premises and behind the hospital*'. Besides the 1st petitioner, Muhammed Riswan @ Riswan (A-42) and other accused were also part of the conspiracy. Based on the disclosure of

Muhammed Riswan (A-42), a scene mahazer (D-13) was prepared on 22.04.2022 at the conspiracy site.

38.6. It is further alleged that first petitioner in furtherance of the conspiracy, travelled with accused Muhammed Bilal (A-22) on Dio scooter No. KL-09-AL-1023 (MO-114) to BOC Road, Palakkad, where he received weapons from absconding accused Abdul Rasheed (A-28). The statement of witnesses CW-39 and CW-40 confirmed that they had seen Ansar and other accused at the spot. Scene mahazer (D-100) at BOC Road, Palakkad was prepared based on the disclosure of Abdu Rahman (A-17). Later, the 1st petitioner proceeded to SKS Autos, Melamuri, Palakkad, the scene of the crime, where he stood by as part of the defence team. Witnesses CW-11 and CW-12, in their statements, clearly stated that they had seen the accused along with other assailants near the SOC, waiting on the same scooter.

38.7. It is also alleged that the first petitioner, for the purpose of concealment and destruction of evidence, handed over the weapon to Muhammed Bilal (A-22), who concealed it in the bushes and shrubs at Kallekkad, Palakkad. The CCTV footages (D-67) from SRMS Onion & Garlic, Melamuri, shows the movement of the 1st petitioner along with A22 near the Scene of Crime on a scooter, along with other assailants. The witness CW-823 identified the 1st petitioner from the CCTV footage shown to him. Based on the disclosure of Muhammed Bilal (A22), the chopper (MO-38) possessed by the

1st petitioner was recovered through mahazer dated 30.04.2022. The scooter (MO-114) used by A22 and first petitioner was also seized on 22.04.2022 (D-11), based on the disclosure of A22.

Allegations and materials against A60

39. The 2nd petitioner, Saheer K. V. (A-60) is alleged to be the Area Secretary of PFI, Pattambi and active cadre of PFI. The statement of approver Aboobacker Sidik, and statements of CW-767, 768, 770 to 773, 799, 803, 805, 823, 834, 838, 839 & 840 prima facie show that the 2nd petitioner herein, is an active cadre and Area Secretary of PFI, Pattambi Area.

39.1. The 2nd petitioner is alleged to be a member of terrorist gang formed by PFI to commit terrorist act as a part of larger conspiracy hatched by PFI and its office bearers and cadres since last few years to enact their "India 2047" agenda of establishing Islamic Rule in India. The discussion in the foregoing paragraphs will show that there are prima facie materials to substantiate the allegation of the larger conspiracy of the PFI to establish Islamic rule in India. It also shows that the accused in this case are the members of terrorist gang, prepared for commission of terrorist act by imparting/ undergoing arms training, collecting the details of targets and also by committing terrorist act of murder of Sreenivasan on 16.4.2022 as a part of larger conspiracy.

39.2. The 2nd petitioner allegedly attended the conspiracy meeting held

at Curtain Shop of accused Nassar @ Laden Nassar (A-37, now A-33) at Pattambi on 15th April 2022 for committing terrorist act by murdering any available Hindu Leader with the intention of creating terror in the minds of the Hindu community and among public at large. CW-122 has stated that in the evening of 15.4.2022, the 2nd petitioner and others had secret meeting in the shop of Nassar @ Laden Nassar (A-33) wherein he heard saying them that "we have to retaliate". Witness CW-121 also stated about the conspiracy meeting of the above accused in the shop of Nassar @ Laden Nassar (A-33) on 15.4.2022. The place of conspiracy was pointed out by the 2nd petitioner, as per Pointing Out Mahazer D-1506 dated 25.05.2023. CDR and CDR Link report (D-1460, D-1510 and D-1561) will also prove the conspiracy.

39.3. It is further alleged that the 2nd petitioner attended the conspiracy meetings held near Khabrasthan at Palakkad during the night of 15th April 2022 for committing terrorist act. Witness-814 and 823, clearly stated about the active participation of the 2nd petitioner at the conspiracy meetings held near Khabrasthan at Palakkad on 15th April 2022. The CDR/IPDRs show the location of the 4th petitioner at the scene of conspiracy. Further, based on the disclosure of A22 disclosure-cum-scene mahazer has been prepared at the conspiracy place on 22.04.2022 (D-16). The 2nd petitioner also pointed out the conspiracy place vide pointing out mahazer (D-1506). The CDR/IPDR location (D-1460, D-1510 & D-1560) also show the presence of the 2nd petitioner and

others in the conspiracy place.

39.4. It is further alleged that in furtherance to the conspiracy, the 2nd petitioner along with accused Fayas (A-40) conducted recce for locating the targets on 15.04.2022 by using motor cycle No. KL-09-AP-9820 for committing the terrorist act. The statements of approvers Aboobacker Sidik (A-52) and Rishil (A-28) and witness CW823 clearly suggest that the 2nd petitioner conducted recce of target. CW-203 has stated about the suspicious movement of the 2nd petitioner on motorcycle in front of Kinfra at Lakkidi in the night of 15.4.2022. Based on the disclosure of Accused Basheer T. E. (A49), scene mahazers (D336 & D-346) have been prepared at places where the accused conducted recce of targets. CW-154 and CW-157, the targeted persons, have stated that they are residing at the place where the accused conducted recce. CW-157 also stated the movement of vehicle in which the assailants conducted recce of target in the night of 15.4.2022. The CCTV Footage seized from Bismillah Motors, Pathiripala (D-195 & D-196) and CCTV Footage seized from Kinfra, Lakkidi (D-199 & D-200) vide seizure mahazer (D-194 & D-198) on 25.6.2022, show the movement of vehicles in which accused, including the 2nd petitioner travelled to recce the target, CW-154 and CW-157 to eliminate them on 15.4.2022. The motorcycle No. KL-09-AP-9820 (MO-118) which was used by the accused has been seized on 22.4.2022 (D-14), based on the disclosure of Sahad M. (A-39).

39.5. It is further alleged that the 2nd petitioner attended the conspiracy meetings held at Palakkad on 16th of April 2022 for committing terrorist act of murder of Sreenivasan. Protected witnesses 22, CW 37, CW 38 and CW 823 have given statement that they had seen the 2nd petitioner herein, along with the assailants and other PFI leaders and cadres on 16.4.2022 at noon (i.e just before the murder of Sreenivasan) at vacant land near District Hospital Palakkad. The CDRs show the location of the 2nd petitioner at the scene of conspiracy, at the relevant time. Approver Aboobacker Siddik (A-52) has given statement that *'The plan was to kill anyone. The decision to kill Sreenivasan was taken near hospital premises and behind the hospital'*. Besides the 1st petitioner, Muhammed Riswan @ Riswan (A-42) and other accused were also part of the conspiracy. Based on the disclosure of (A-42), Scene Mahazar (D-13) was prepared on 22.04.2022, and the 2nd petitioner also pointed out the conspiracy site vide Pointing Out Mahazer (D-1506).

39.6. It is further alleged that the 2nd petitioner, in furtherance of the conspiracy, travelled as a pillion rider on motorcycle No. KL-09-AQ-713 (MO-111), arranged by accused Abbas (A-47), along with accused Riyasudheen @ Riyas (A-24), to BOC Road, Palakkad, where he received weapons from the absconding accused Abdul Rasheed (A-28). The statement of witnesses CW-39 and CW-40 confirmed that they had seen Saheer K. V. (A60), the 2nd petitioner herein and other accused at the spot. Scene mahazer (D-100) has

been prepared at BOC Road, Palakkad based on the disclosure of Abdu Rahman (A-17). Later, the 2nd petitioner proceeded to SKS Autos, Melamuri, Palakkad, the scene of the crime, where he stood by as part of the defence team. The witnesses CW-11 and CW-12, in their statements, clearly stated that they had seen the 2nd petitioner along with other assailants near the SOC, waiting on the same motorcycle. The said place was also pointed out by the 2nd petitioner vide Mahazar (D-1506) dated 25.05.2023.

39.7. It is also alleged that the 2nd petitioner, for the purpose of concealing and destroying evidence, handed over the dress worn by him and the weapon in his possession to Riyasudheen @ Riyas (A-24), who concealed them in the bushes and shrubs at Kallekkad, Palakkad. The CCTV footages (D-67) seized from SRMS Onion & Garlic, Melamuri, shows the movement of the 1st and 2nd petitioners at the Scene of Crime, along with other assailants on bikes and scooters. Based on the disclosure of Riyasudheen (A-24), the chopper (MO-37) possessed by the 2nd petitioner was recovered through a mahazer (D76) dated 30.04.2022 and the Motorcycle (MO-111) used by A24 and the 2nd petitioner for committing terrorist act was also seized on 22.04.2022 (D-15). Further based on the disclosure of Saheer K. V, the 2nd petitioner herein, disclosure-cum-seizure mahazer (D-1501) was prepared for the recovery of a brown shirt (MO-649) worn by the 2nd petitioner, which has been forwarded to the FSL, Trivandrum, for scientific comparison with the

CCTV footage.

39.8. The final report along with the evidence collected discloses prima-facie case against the petitioners. Therefore the bar u/s. 43D (5) of the UA (P) Act is applicable in this case.

Discussion and conclusion:

40. During the discussion in the above paragraphs I have narrated the allegations against the petitioners and the evidence relied on by the prosecution to substantiate the allegations. The contention of the learned counsel for the petitioners is that there is no material which prima facie show that the petitioners have committed the offence coming under Chapter IV or VI of the Act. The evidence discussed above show that there are prima facie materials to show that the petitioners are active members of the PFI. It further show the presence of the petitioners at the place of conspiracy and near scene of incident and also their role in commission of the offence.

41. The allegations against the petitioners and the materials placed before the court in support of the same show that there are prima facie materials to substantiate the offences coming under Chapter IV and IV of the UA(P) Act. Investigation is completed as regards the role of the petitioners in the case and final report already filed. The court has taken cognizance of the offence against them.

42. The Hon'ble Supreme Court in **Gurwinder Singh v. State of**

Punjab (2024 KHC 6062) has considered the question of granting bail in offences under the UA(P) Act and the scope of the proviso to S.43D(5) of the Act. The Apex Court has observed that:

“The source of the power to grant bail in respect of non-bailable offences punishable with death or life imprisonment emanates from Section 439 CrPC. It can be noticed that Section 43D(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.

17. A bare reading of Sub-section (5) of Section 43D shows that apart from the fact that Sub-section (5) bars a Special Court from releasing an accused on bail without affording the Public Prosecutor an opportunity of being heard on the application seeking release of an accused on bail, the proviso to Sub-section (5) of Section 43D puts a complete embargo on the powers of the Special Court to release an accused on bail. It lays down that if the Court, ‘on perusal of the case diary or the report made under Section 173 of the Code of Criminal Procedure’, is of the opinion that there are reasonable grounds for believing that the accusation, against such person, as

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

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

19. The courts are, therefore, burdened with a sensitive task on hand. In dealing with bail applications under UAP

Act, the courts are merely examining if there is justification to reject bail. The 'justifications' must be searched from the case diary and the final report submitted before the Special Court. The legislature has prescribed a low, 'prima facie' standard, as a measure of the degree of satisfaction, to be recorded by Court when scrutinising the justifications [materials on record]. This standard can be contrasted with the standard of 'strong suspicion', which is used by Courts while hearing applications for 'discharge'. In fact, the Supreme Court in *Zahoor Ali Watali* has noticed this difference, where it said: 2 (2019) 5 SCC 1 12 "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."

20. 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 43D, 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.” (emphasis supplied by me)

43. The Apex Court has considered the decision in *Gurwinder Singh’s* case in its latest decision in **Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari v. State of Uttarpradesh dated 18-07-2024 in Crl.A. No.2790/2024 (2024 INSC 534)**. According to learned counsel for the petitioner, no reliance can be placed on the decision in *Gurwinder Singh’s* case. A reading of the judgment of the Apex Court in *Javed Ansari’s* case shows that the accused in that case was undergoing detention from February 2015 and the Apex Court considered the Special Leave Petition against the judgment rejecting the bail application in 2024. In para 31 of the judgment the Court observed that “*In Gurwinder Singh (supra) on which reliance has been placed by the*

respondent, a two Judge Bench of this Court distinguished K.A. Najeeb (supra) holding that the appellant in K.A. Najeeb (supra) was in custody for five years and that the trial of the appellant in that case was severed from the other co-accused whose trial had concluded whereupon they were sentenced to imprisonment of eight years; but in Gurwinder Singh, the trial was already underway and that twenty two witnesses including the protected witnesses have been examined. It was in that context, the two Judge Bench of this Court in Gurwinder Singh observed that mere delay in trial pertaining to grave offences cannot be used as a ground to grant bail.”

44. The two Judge Bench of the Apex Court in Union of India represented by **the Inspector of Police, NIA, Chennai Branch v. Barakathullah (Crl.A. No.2715/2024 dated 22-05-2024, reported in 2024 INSC 452)** has referred to and followed the decisions in *Watali's case* and *Gurwinder Singh's case*. In the decision referred to by the counsel for the petitioner, the Apex Court distinguished the decision in *Gurwinder Singh's case* on facts. That decision was rendered on the fact that the accused was undergoing detention for long period without trial. So, there is no change in the law laid down in *Gurwinder Singh* and this court is bound to follow the same.

45. The Hon'ble High Court of Kerala has disposed the appeals filed by some of the accused in this case against the rejection of their bail applications as per judgment dated 25-06-2024 in Crl.A.139/2024 and

connected appeals. The Hon'ble Court was pleased to release some of the accused on bail and dismissed the appeals filed by the other accused. After referring to the decisions of the Apex Court regarding granting of bail in such cases, the Court observed in para 29 of the judgment that : *"Proceeding thus, we feel that it is only in respect of those appellants/accused, against whom the material relied upon by the prosecution, when taken as a whole, crosses the threshold of 'general allegations coupled with overt acts that would clearly suggest the complicity of the accused in the offence with which he is charged', that we can say with any degree of conviction that there are reasonable grounds for believing that there are reasonable grounds for believing that the accusation against the person is prima facie true. In other words, there has to be some corroborative materials, other than mere statement of witnesses, to show that there were overt acts or acts of active participation by the appellants/accused, such as authorship of offensive documents and/or speeches, in order to deny them bail."*

46. In this case, apart from the statement of witnesses, there are materials which prima facie suggest that the petitioners had active role in the commission of the offence. The materials placed before the court prima facie make out the offence under Chapter IV of the Act. In order to make out a "terrorist act" as defined in Section 15, the person need not be a member of the terrorist organisation. In the case in hand, there is specific allegation that

the accused have hatched conspiracy to further their target of “India 2047”, allegedly, to establish Islamic rule in India. It is further alleged that the murder of Mr.Srinivasan is part of their attempt to further such activities and part of the larger conspiracy. As stated above, there are materials which prima facie show that the petitioners had involved in the conspiracy and destruction of evidence. While considering an application for bail the court need not go deep into the evidence. The Apex Court in **Jagjeet Singh and ors v. Ashish Mishra @ Monu and anr (2022 (3) KHC 449)** has held that a court while deciding an application for bail, should refrain from evaluating or undertaking a detailed assessment of evidence, as the same is not a relevant consideration at the threshold stage.

47. In the light of the discussion in the foregoing paragraphs and on a careful scrutiny of the materials placed before me, I am of the view that there are reasonable grounds for believing that the accusation against the petitioners are prima facie true. The allegations against the petitioners are of serious nature. The Proviso to Section 43D(5) is applicable in this case and the petitioners are not entitled to be released on bail at this stage.

48. The learned counsel for the petitioners contended that the petitioners are undergoing detention for long time and considering the period of detention and the fact that the case is not ripe for trial, the petitioners are entitled to bail. It is true that the petitioners were arrested in the year 2023 and

they are in remand since then. But, as regards the petitioners are concerned, investigation is completed and final report filed. The learned Prosecutor submitted that some of the accused have filed a petition as SLP (Crl.) 3658/2024 and the Hon'ble Supreme Court as per order dated 06-05-2024 was pleased to pass an order restraining this Court from framing charge and the order was later extended until further orders on 15-07-2024. So, though the investigation is completed and final report against all the arrested accused filed, the trial of the case could not be proceeded with. The petitioners cannot take advantage of such a situation and seek bail.

49. The other contention of the learned counsel for the petitioners is that in the light of the decision in *Najeeb's case* and other decisions on the point, considering the long duration during which the petitioners have undergone detention and as there is no possibility of commencement of trial in the near future, the petitioners are entitled to be released on bail.

50. The Hon'ble High Court in the judgment in **Ashif v. Union of India (2025 KER 30291)** dated 08.04.2025, referring to the decision in *Najeeb's case* has observed that :

“In the decision in *Najeeb's case*, the Hon'ble Apex Court, while considering the bail application of an accused involved in a case charged inter alia under Sections 16, 18, 19 & 20 of UAPA Act and who has undergone a long period of incarceration, held as

follows:

"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".

While holding so, the court also observed and considered the fact that Section 43-D(5) of UAPA is comparatively less stringent than Section 37 of the NDPS Act.

11. Subsequently, in another decision in Shoma Kanti Sen v.

State of Maharashtra (2024 KHC 6182), the Apex Court, by relying on the decision in Najeeb's case and rejecting the contentions of the prosecution that unless the conditions specified in Section 43-D(5) of UAPA are fulfilled the accused is not liable to be enlarged on bail, held thus:

“38. Relying on this judgment, Mr. Nataraj, submits that bail is not a fundamental right. Secondly, to be entitled to be enlarged on bail, an accused charged with offences enumerated in Chapters IV and VI of the 1967 Act, must fulfill the conditions specified in S.43D(5) thereof. We do not accept the first part of this submission. This Court has already accepted right of an accused under the said offences of the 1967 Act to be enlarged on bail founding such right on Art.21 of the Constitution of India. This was in the case of Najeeb(supra), and in that judgment, long period of incarceration was held to be a valid ground to enlarge an accused on bail in spite of the bail -restricting provision of S.43D(5) of the 1967 Act. Pre-conviction detention is necessary to collect evidence (at the investigation stage), to maintain purity in the course of trial and also to prevent an accused from being fugitive from justice. Such detention is also necessary to prevent further commission of offence by the same

accused. Depending on gravity and seriousness of the offence alleged to have been committed by an accused, detention before conclusion of trial at the investigation and post - chargesheet stage has the sanction of law broadly on these reasonings. But any form of deprivation of liberty results in breach of Art.21 of the Constitution of India and must be justified on the ground of being reasonable, following a just and fair procedure and such deprivation must be proportionate in the facts of a given case. These would be the overarching principles which the law Courts would have to apply while testing prosecution's plea of pre - trial detention, both at investigation and post - chargesheet stage”.

The same principle was also followed by the Apex Court in Javed Gulam Nabi Shaikh's case and Athar Parwez' case (all cited supra). In the decision in Athar Parwez's case, the Apex Court after discussing Najeeb's case, went on to observe as follows:

“At the initial stage, the legislative policy needs to be appreciated and followed by the Courts. Keeping the statutory provisions in mind but with the passage of time the effect of that statutory provision would in fact have to be diluted giving way to

the mandate of Part III of the Constitution where the accused as of now is not a convict and is facing the charges. Constitutional right of speedy trial in such circumstances will have precedence over the bar/strict provisions of the statute and cannot be made the sole reason for denial of bail. Therefore, the period of incarceration of an accused could also be a relevant factor to be considered by the constitutional courts not to be merely governed by the statutory provisions.” (emphasis supplied by me)

51. Hon’ble Supreme Court in **Vernon v. State of Maharashtra (2023 KHC 6743)** has considered the dictum in K.A.Najeb’s case and other precedents on the point and has observed that :

“As the charges against the appellants include commission of offences under different Sections of the 1967 Act, including those coming within Chapters IV and VI thereof, the restriction on grant of bail as contained in S.43D (5) of the said Act would apply in their cases. We shall also refer to the ratio of the judgment of a three - Judge Bench of this Court in the case of **Union of India - vs - K.A. Najeeb** [2021 (3) SCC 713] while examining the appellants’ cases in the backdrop of the aforesaid provision. In this judgment, *it has been held that*

*such statutory restrictions, per se, do not oust the jurisdiction of the Constitutional Courts to grant bail on grounds of violation of Part III of the Constitution of India and it would be within the jurisdiction of the Constitutional Courts, i.e., this Court and the High Courts to relax the rigours of such provisions, where there is no likelihood of trial being completed within a reasonable time and the period of incarceration a detainee has already undergone, covers a substantial part of the prescribed sentences for the offences with which the latter has been charged. This ratio has been relied upon by the learned counsel for the appellants. Other authorities cited on this point are **Thwaha Fasal - vs - Union of India** [2021 SCC OnLine SC 1000] and **Angela Harish Sontakke - vs - State of Maharashtra** [2021 (3) SCC 723]. On general proposition of law on the aspect of grant of bail due to delay in trial, the case of **Sagar Tatyaram Gorkhe and Another - vs - State of Maharashtra** [2021 (3) SCC 725] has been relied upon.”*

52. A reading of the decision in *Najeeb’s case* and the subsequent precedents on the same point shows that when there is violation of Part-III of the Constitution, the constitutional courts can interfere and despite Section

43D (5) of the UAPA, the constitutional courts can exercise its power to release the accused on bail. The Hon'ble Supreme Court in *Vernon's* case has considered the dictum in *Najeeb's* case and similar cases and observed that it would be within the jurisdiction of the constitutional courts, i.e., the Supreme Court and High Court, to relax the rigour of the provisions of the UAPA. All the decisions relied on by the learned counsel for the petitioners are of the consistent view that only the constitutional courts are entitled to relax the rigour of such provisions.

53. The Supreme Court is established under Article 124 of the Constitution of India and the High Courts are established under Article 214 of the Constitution of India. The Sessions Court or a Special Court cannot be said to be a "*constitutional court*". The Sessions Courts are established under the CrPC and Special Courts are established or notified under the special statute. So it cannot be equated with the constitutional courts. The decisions relied on by the counsel specifically deal with power of the constitutional courts. Only because the constitutional courts have exercised its power to relax the rigour of the provisions of the Act, it is not possible to find that this court has power to release the accused on bail as contended by the learned counsel for the petitioner.

54. In the light of the discussion in the foregoing paragraphs and on a careful scrutiny of the materials placed before me, I am of the view that there

are reasonable grounds for believing that the accusation against the petitioners is prima facie true. The allegations against the petitioners are serious in nature. Final report is already filed and the case is ripe for trial. The Proviso to Section 43D(5) is applicable in this case and the petitioners are not entitled to be released on bail at this stage. Hence the petition is only to be dismissed.

In the result, the petition is dismissed.

Dictated to the Confidential Asst., transcribed and typewritten by her, corrected and pronounced by me in open court on this the 11th day of June, 2025.

Sd/-
P. K. Mohandas
Judge, Special Court for NIA Cases

Appendix: Nil

Id/-
Judge, Special Court for NIA Cases
(By Order)

//True Copy//

Sd/-
Sheristadar.