



Sessions Case No. 57/2023
State -v- Surendra & ors.
MHGA130001432023

COMMON ORDER ON EXHIBIT NO. 1, 166 AND 295
(Passed on 18.03.2026)

1. In nut shell, it is contention of the prosecution that on 23.12.2016 at about 9.00 a.m. trucks were damaged and were set on fire by some of the accused persons. Accused persons have been member of banned organisation, namely CPI (Maoist). Crime No.4 of 2018 was registered with Police Station Vishrambag Pune. In course of investigation in the said crime, digital material was found at the house of accused Surendra. From that material, it was revealed that accused Surendra and accused Warawararao are members of CPI (Maoist) and as per their direction trucks were damaged and were set on fire. Moreover it is alleged that accused Surendra used to carry money. All accused persons had conspired to commit aforesaid act. Therefore, charge sheet came to be filed against accused persons for offences punishable under Sections 307, 341, 435, 323, 504, 506, 143, 147, 148, 149, 120-B of the Indian Penal Code, Section 20 read with Section 5 of the Arms Act, Section 135 of the Bombay Police Act and Section 16, 18, 20 and 23 of the Unlawful Activities (Prevention) Act.
2. Accused Surendra filed application for discharge (Exhibit

No.166). Accused Warawararao filed application for discharge (Exhibit No.295). Advocate for accused persons, namely, accused Masa, accused Thuge and accused Dinesh made submissions on the point of charge. Learned Additional Public Prosecutor also argued on the point of charge.

3. Hon'ble Supreme Court in Criminal Appeal No. 3742/2023 (Surendra -versus- State) passed order dated 21.01.2026 and allowed accused Surendra to inspect record of Special Case No.414/2020 pending in Special Court, NIA, City Civil and Sessions Court, Mumbai. It is further directed that NIA Court should send the record of the said case to this Court. The record and properties have been received by this Court. As per directions of Hon'ble Supreme Court, within the period of three weeks, advocate of accused Surendra is permitted to inspect the record. It is further directed that upon inspection of the record, the case would be fixed for framing of charge. Within four weeks therefrom, after framing of charges, record will have to be transmitted back to NIA Court, Mumbai. Thus, time limit has been set out within which inspection of record and hearing on charge or discharge application will have to be concluded.

4. Accused Surendra was reluctant to cooperate and he was not interested in arguing his application on discharge. His advocate also did not appear therefore vide order below Exhibit No.1 dated 10.2.2026 Shri R. Mahadevan was appointed as amicus curiae for accused Surendra. His application for cancellation of appointment of amicus curiae is also rejected by this court vide order below application (Exhibit No.304). Although opportunity was given to accused Surendra to address the court, he did not avail the said opportunity. Therefore, advocate Shri R. Mahadevan addressed the court on discharge applications filed by accused Surendra and accused Warawararao.
5. Advocate Shri R. Mahadevan submitted that in the present case cognizance is taken by Judicial Magistrate First Class. Under Section 2(d) of Unlawful Activities (Prevention) Act (for short UAPA) only special court can take cognizance. Even remand, in the present case, was entertained by Judicial Magistrate First Class and the case was committed. There is no provision for committal case under UAPA. He relied on Judgment on Hon'ble Apex Court in **Hitendra Vishanu Thakur Vs. State of Maharashtra (AIR 1994 SC 2623)**. In this case, it is held that no court shall take cognizance under TADA Act

without sanction and the said provision was introduced to prevent abuse of TADA Act. He relied on decision of Hon'ble Supreme Court in Criminal Appeal No.1925 of 1996 **State of Andhra Pradesh Vs. Md. Nayeemuddin and Ors.** decided on 23.1.2023. In this case, order of Trial Court was confirmed on the ground that there was no statutory sanction for initiating proceedings. Reliance was also placed on decision of Supreme Court in **State of West Bengal Vs. Jayeeta Das (2024 SCC online SC 550)** wherein it is held that Magistrate granting remand beyond 90 days is illegal. Judgment of Supreme Court in **Bikramajit Singh Vs. State of Punjab in Criminal Appeal No.667 of 2020** decided on 12.10.2020 was cited the point out that only Special Court alone had jurisdiction to extend time beyond 180 days. In sum and substance, it is contention of learned advocate that remand in the present case could not have been granted by the Magistrate beyond 90 days. He had no authority to take cognizance under UAPA. There is no provision for committal. For all these reasons, entire case against all accused persons stand vitiated.

6. Shri R. Mahadevan further submitted that sanction is granted by Additional Chief Secretary to Government of Maharashtra. It is not granted by Secretary to Governor.

Sanction order does not bear date. Entire sanction order reflects that there is no application of mind. He submitted that in the present case there is no report of competent authority and independent review by Government. Moreover, time limit set out in the Unlawful Activities (Prevention) (Recommendation) and Sanction of Prosecution Rules has not been followed. He relied on decision of Supreme Court in **Fuleshwar Gope Vs. Union of India (AIR 2024 SC 4684)**. In this case, it is held that Rules 3 and 4 of aforesaid Rules are to be followed strictly. It is therefore submitted that sanction, in the present case, cannot be said to be legal.

7. Shri R. Mahadevan further submitted that in application No.249 two hard disks have been shown and both are same. There is nothing to distinguish these two hard disks. There is absolutely no evidence against accused Surendra and accused Warawararao to indicate that they had anything to do with incident of damaging and burning at trucks. He submitted that allegations against accused Surendra are based on wild imagination and surmises. There is nothing on record to show that he met with other accused persons. There is no evidence against him. Therefore, Shri R. Mahadevan submitted that accused Surendra and accused Warawararao be

discharged.

8. Shri Menganwar advocate appearing for accused Nos.3, 5 and 6 submitted that there is no sufficient material to frame charge against said accused persons, and therefore, they are also liable to be discharged.
9. Learned Additional Public Prosecutor submitted that evidence collected on record clearly show that accused Surendra and accused Warawararao are connected with other accused persons. They are member of CPI (Maoist) which is banned organisation. With their active support other accused persons carried out the incident. Therefore, there is ample material to frame charge against all accused persons.
10. With aforesaid submissions, now, I turn to find out as to whether or not there is sufficient material to frame charge against aforesaid accused persons or they are liable to be discharged.
11. In the present case, in investigation of crime No. 4/2018 registered with Police Station Vishrambag, Pune, evidence indicating involvement of accused Surendra and accused Warawararao was found. In the said crime, house of accused Surendra was searched and huge

data was found in the said crime which shows involvement of accused Surendra and accused Warawararao in the present crime. Copy of that digital evidence is produced in this court and original evidence was also made available to accused Surendra for inspection.

12. From observations made by Hon'ble Supreme Court in **Jayeeta Das (cited supra)**, it is clear that Magistrate has authority to grant remand upto 90 days. It is true that cognizance in UAPA crime cannot be taken by Magistrate and it is equally true that there is no provision for committal in UAPA. However, the question is merely because Magistrate entertained remand beyond 90 days, took cognizance and committed case to Sessions Court can accused persons claim discharge. In **Naser Bin Abu Bakr Yafai Vs. The State of Maharashtra (2022 (6)SCC 308)** cognizance was taken by Magistrate and the case was committed to Court of Sessions. In the said case, UAPA was involved. Hon'ble Apex Court held that merely because there is enabling provision empowering Special Court to take cognizance is not sufficient to invalidate the charge sheet. It further appears that illegality in investigation is not sufficient enough unless it is shown that it has caused miscarriage of justice. In **Judgebir**

Singh @ Jasbir Singh Samra @ Jasbir and Ors.Vs. National Investigation Agency (2023(7)Scale 559), in paragraph No.73 it is held that error on the part of Investigating officer in filing charge sheet first before the Court of Magistrate has nothing to do with the right of the accused to seek default bail. From observations made in paragraph No.72, it appears that unnecessary committal procedure would not vitiate further proceedings. From observations made by Hon'ble Apex Court in **Naser Bin Abu Bakr Yafai (cited supra) and Judgebir Singh @ Jasbir Singh Samra @ Jasbir and Ors. (cited supra)**, it appears that merely because cognizance is taken by Magistrate or case is committed by Magistrate entire investigation would not become illegal.

13. So far as sanction is concerned, it is true that date is not mentioned in sanction order. However, sanction order indicate that entire material was considered. Moreover, sanction order is issued by order and in the name of Governor of Maharashtra. Whether or not there is application of mind while granting sanction is a matter that falls within domain of trial. Prima facie there is sanction under Section 45 of UAPA.

14. It is true that Unlawful Activities (Prevention) (Recommendation) and Sanction of Prosecution Rules provide for time period within which recommendation is to be made by the authority. It also provides for time limit for grant of sanction. There is no dispute that in **Fuleshwar Gope (cited supra)** Hon'ble Supreme Court has held that time limit set out in aforesaid Rule is mandatory. However, in paragraph No.33 it is observed that strict adherence to timeline mentioned in the Rule shall not affect any decision of the authorities where the same may or may not have been followed as on the date of the Judgment. It is made clear that the said Judgment shall operate prospectively. In the present case, sanction is granted in the year 2019. Therefore, strict timeline of the Rule would not apply to the present case.
15. It is well settled that framing of charge is not mini trial. Court is not expected to appreciate evidence. What the court has to see is whether or not there is sufficient material to frame charge against accused persons. Hon'ble Supreme Court in **Kanti Bhadra Shah Vs. State of West Bengal (AIR 2000 SC 522)** held that if there is no legal requirement that Trial Court should write an order showing reasons for framing the charge, why should the already burdened Trial Courts be further

burden with such an extra work. The time has reached to adopt all possible measures to expedite court procedures to chalk out measures to avert all road blocks causing unavoidable delays. In view of these observations, it is clear that detailed reasons for framing of charge are not required.

16. Digital evidence is consisting of correspondence between accused Surendra and other members of banned organisation, namely, Communist Party (CPI). Literature seized at the instance of accused Surendra shows policies of said banned organisation. One letter shows that accused Surendra has made publicity at the incident that has taken place at Surjagad. Accused Warawararao also made funds available. Another letter is addressed by accused Warawararao to accused Surendra wherein it is mentioned that fund was made available to accused Surendra for activities in Gadchiroli and Buster. In Maoist information bulletin, there is to reference incident involved in the present crime. Another correspondence also shows that accused Surendra has been actively involved in the said organisation. Accused Surendra also responded to accused Warawararao and conveyed that he had started making funds available to comrade. He also referred to Sai Baba case. Thus, there

is sufficient material to indicate that accused Surendra and accused Warawararao are members of CPI (Maoist) which is banned organisation and funds were made available for Terrorist Act. On the basis of support provided by accused Surendra and accused Warawararao, trucks were damaged and burnt. So far as hard disks having same serial number is concerned, that would be subject matter of trial.

17. Statements of witnesses show that accused Masa, accused Dinesh and accused Thuge were amongst those persons who had broken tanks of the trucks with the help of axes and set them on fire. Hurt was caused to the informant, he and other persons were wrongfully confined and criminally intimidated. Consequently, I find sufficient material to frame charge against aforesaid accused persons for offences punishable under Sections 120-B, 307 read with Section 149, 341 read with Section 149, 342 read with Section 149, 435 read with Section 149, 323 read with Section 149, 504 read with Section 149, 506 read with Section 149, 143, 147, 148 of the Indian Penal Code, Section 135 of the Bombay Police Act, Section 28 read with Section 5 of the Arms Act, Section 16, 18 of UAPA and Section 20 of UAPA.

18. Before parting with, I would like to record my appreciation for advocate Shri R. Mahadevan for assisting the court as amicus curiae on behalf of accused Surendra.

19. For reasons aforesaid, I pass following order.

ORDER

- 1) Applications (Exhibit Nos.166 and 295) are rejected.
- 2) I proceed to frame charge against accused No.1, 2, 3, 5 and 6 for offences punishable under Sections 120-B, 307 read with Section 149, 341 read with Section 149, 342 read with Section 149, 435 read with Section 149, 323 read with Section 149, 504 read with Section 149, 506 read with Section 149, 143, 147, 148 of the Indian Penal Code, Section 135 of the Bombay Police Act, Section 28 read with Section 5 of the Arms Act, Section 16, 18 of UAPA and Section 20 of UAPA.
- 3) Record, proceedings and properties of Special Case No.414/2020 be sent to Hon'ble NIA Court, Mumbai.
- 4) Copies of this order be placed below applications (Exhibit No.166 and 295)

Aheri.
Dated – 18.03.2026.

(Rohan B. Rehpade)
Additional Sessions Judge,
Aheri.