

**NIA CASE NO 05 OF 2022**  
(CNR -WBCS01-001032-2022)

Present: Sri Sukumar Ray  
J.O. CODE NO.WB00590  
Chief Judge, City Sessions Court, Calcutta.  
Cum Special Judge, Under NIA Act  
City Sessions Court, Calcutta

**Order No. 75 dated 03.07.2025**

(1) Today is slated for order.

(2) The hearing of this case has arisen out of an application filed by the accused /petitioners on 27.06.2025 praying for deletion of section 18 of the Unlawful Activities ( Prevention) Act, 1967 from the charge-sheet submitted by the Investigating Officer.

(3) It is submitted by Learned Lawyer for the accused/petitioners that the provision of Section 18 of the Unlawful Activities ( Prevention) Act, 1967 has no manner of application in the case in hand. Accordingly, prayer for deletion of the said provision of Law from the Charge-sheet submitted in this case is sought for on the following grounds –

- (a) NIA added provision of Section 18 of the Unlawful Activities (Prevention) Act, 1967 with malafide intention.
- (b) There was a political rivalry in between two groups and the accused persons are pledged into this case falsely.
- (c) A political feud is coloured as terrorist activity.

(4) Learned Lawyer for the accused/ petitioners draws my attention of section 15 of the Unlawful Activities (Prevention) Act, 1967 and categorically submitted that essential elements to book the accused for the offence under section 18 of the Unlawful Activities ( Prevention) Act, 1967 are very much wanting in this case.

(5) Countering such submission, the Learned Special Public Prosecutor, NIA has submitted that act complained of was committed in order to create terror in the minds of the community at large and as a consequence, the question of deletion of section 18 of the Unlawful Activities (Prevention) Act, 1967 from the Charge-sheet does not arise at all.

**FACTS IN BRIEF**

(6) Initially this case was triggered off over a suo-motu complaint lodged by SI Sanjib Karmakar of Beldanga PS lodged with Beldanga Police Station. The crux of allegation of this case was that on January 17, 2022 SI Sanjib Karmakar of Beldanga Police Station, Murshidabad, received an intelligence input from village police of Bhabta -II Gram Panchayet to the effect that the picket party at Rameshwarpur village heard a sound of bomb blast at 12:30 hours. Pursuant to the instruction of the then OC, Beldanga PS, SI Karmakar, being accompanied by force, went to the spot and found one injured person (Iyasuddin Seikh @ Chadi) who was lying on the ground. On enquiry from the injured it was revealed that one Anaj Master (brother of Pradhan Mansur) and others called Iyasuddin Seikh (the injured), supplied him necessary articles to prepare bomb and during preparation

thereof one of the bombs suddenly exploded causing serious injuries to his person. The statement of the injured was videographed through the mobile of SI Karmakar. Seizure of some live bombs were also effected along with other articles including two mobile phones from the spot. The injured was shifted to hospital for his treatment. During investigation it came into light that the accused persons, being associated with others, creating disruptions in and around the area by way of bombing in order to establish their ascendancy through the said area. It was also alleged that the accused persons prepared bombs for the purpose of their other illegal and massive activities. Over such written complaint Beldanga PS Case no. 26 of 2022 was registered under Section 324/326/307/34/120B Indian Penal Code read with Section 3/4/5 Explosive Substances Act.

(7) During investigation some of the accused persons were arrested and got bail from the Court of District & Sessions Judge, Murshidabad. Subsequently, Government of India, Ministry of Home affairs on September 19, 2022 vide F. No. 11011/78/2022/NIA passed an order under Section 6(5) read with Section 8 of NIA Act, 2008 directing NIA to take up the investigation of this case and thereafter NIA re-registered a case vide no. RC 44/2022/NIA/DLI dated 20.09.2022 against the accused persons and submitted the matter before this Court on 21.09.2022.

(8) Subsequently, on 09.08,2023 NIA got a defeat on its effort to add the penal provision of Section 16/18 of the Unlawful Activities (Prevention) Act, 1967 with the existing offences.

(9) Thereafter, during the pendency of the application for *cancellation of bail*, NIA submitted charge-sheet being no. 30 of 2023 dated 12.12.2023 under Section 120B/201/304 Indian Penal Code read with Section 4/5/6 Explosive Substances Act and Section 18 of the Unlawful Activities (Prevention) Act, 1967 against the accused persons and it was March 10, 2025 when the prayer for *cancellation of bail* of the accused persons was allowed by this Court.

## **DISCUSSION**

(10) True that the term 'insurgency' does not find mention in the Unlawful Activities (Prevention) Act, 1967, even after the 2004 and 2008 amendments. The term refers to rising in active revolt or rebellion. Webster defines it as a condition of revolt against government that does not reach the proportion of an organized revolution.

In *Sarbananda Sonowal Versus UOI [(2005) 5 SCC 665]*, the Hon'ble Apex Court has held that insurgency is undoubtedly a serious form of internal disturbance which causes a grave threat to the life of people, creates panic situation and also hampers the growth and economic prosperity of the State. This Court adopts the aforesaid definition, which is more apt so far the factual aspect of this case is concerned as there does not appear to exist any other satisfactory source.

(11) Although the term 'insurgency' defies a precise definition, yet, it could be understood to mean and cover breakdown of peace and tranquility as also a grave disturbance of public order so as to endanger the security of the state and its sovereignty.

(12) It has been time and again held by the Apex Court that the expression 'public order' is of a wide connotation. In *Ramesh Thapar Versus State of Madras* [1950 SCR 594], it has been held by the Hon'ble Supreme Court that 'public order' signifies a state of tranquility which prevails among the members of a political society as a result of internal regulations enforced by the Government which they have established. The Apex Court, in para 8, quoted a passage from Stephen's Criminal Law of England, wherein he observed as follows:

*"Unlawful assemblies, riots, insurrections, rebellions, levying of war, are offences which run into each other and are not capable of being marked off by perfectly defined boundaries. All of them have in common one feature, namely, that the normal tranquility of a civilized society is in each of the cases mentioned disturbed either by actual force or at least by the show and threat of it."*

(13) In *Superintendent, Central Prison Versus Ram Monohar Lohia* [(1960) 2 SCR 821] the Hon'ble Supreme Court had held that "Public order" is synonymous with public safety and tranquility, and it is the absence of any disorder involving a breach of local significance in contradistinction to national upheavals, such as revolution, civil strife, war, affecting the security of the State. Subsequently, in *Dr Ram Monahar Lohia Versus State of Bihar* [(1966) 1 SCR 709], Hidayatullah, J., held that any contravention of law always affected order, but before it could be said to affect public order, it must affect the community at large. He was of the opinion that offences against "law and order", "public order", and "security of State" are demarcated on the basis of their gravity. The said observation is as follows:-

*"55. It will thus appear that just as "public order" in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting "security of State", "law and order" also comprehends disorders of less gravity than those affecting "public order". One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State....."*

(14) The meaning of the phrase "public order" has also been determined by the Hon'ble Apex Court in *Kanu Biswas Versus State of West Bengal* [(1972) 3 SCC 831] where it was held that the concept of "public order" is based on the French concept of "ordre publique" and is something more than ordinary maintenance of law and order. It has been seen that the propositions promulgated the above noted cases have been time and again followed in subsequent judgments of the Apex Court and still govern the field. At this stage, it would also be pertinent to note the findings of the Hon'ble Federal Court in *Lakhi Narayan Das Versus Province of Bihar* [AIR 1950 FC 59] where the Federal Court while considering the scope and ambit of the expression "public order", used in Entry 1 of the provincial list in the Government of India Act, 1935, in para 12 of the judgment observed as follows:-

*"The expression "Public Order" with which the first item begins is, in our opinion, a most comprehensive term and it clearly indicates the scope or ambit of the subject in respect to which powers of legislation are given to the province. Maintenance of public order within a province is primarily the concern of that province and subject to certain exceptions which involve the use of His Majesty's forces in aid of civil power, the Provincial Legislature is given plenary authority to legislate on all matters which relate to or are necessary for maintenance of public order."*

(15) None can repudiate that 'insurgency' and/or 'promoting insurgency' is one of the facets of terrorism, as defined under the Unlawful Activities (Prevention) Act, 1967 as amended by the 2004 Act. Prior to the 2004 amendment, the Unlawful Activities (Prevention) Act, 1967 did not contain the provisions to deal with terrorism and terrorist activities. By the 2004 amendment, new provisions were inserted in the Unlawful Activities (Prevention) Act, 1967 to deal with terrorism and terrorist activities. The Preamble of the Unlawful Activities (Prevention) Act, 1967 was also amended to state that the said Act is enacted to provide for the more effective prevention of certain unlawful activities of individuals and associations, and dealing with terrorist activities and for matters connected therewith. In 2008 amendment, the Preamble has again been amended and the amended Preamble now also contains a reference to the resolution adopted by the Security Council of the United Nations on 28.09.2001 and also makes reference to the other resolutions passed by the Security Council requiring the States (Nations which are member of the United Nations) to take action against certain terrorist and terrorist organizations. It also makes reference to the order issued by the Central Government in exercise of power under Section 2 of the United Nations (Security Council) Act, 1947 which is known as the Prevention & Suppression of Terrorism (Implementation of Security Council Resolutions) Order, 2007. The Preamble of the Unlawful Activities (Prevention) Act, 1967 now reads as under:

*"An Act to provide for the more effective prevention of certain unlawful activities of individuals and associations and for dealing with terrorist activities and for matters connected therewith.*

*Whereas the Security Council of the United Nations in its 4385th meeting adopted Resolution 1373 (2001) on 28th September, 2001, under Chapter VII of the Charter of the United Nations requiring all the States to take measures to combat international terrorism;*

*And whereas Resolutions 1267 (1999), 1333 (2000), 1363 (2001), 1390 (2002), 1455 (2003), 1526 (2004), 1566 (2004), 1617 (2005), 1735 (2006) and 1822 (2008) of the Security Council of the United Nations require the States to take action against certain terrorists and terrorist organisations, to freeze the assets and other economic resources, to prevent the entry into or the transit through their territory, and prevent the direct or indirect supply, sale or transfer of arms and ammunitions to the individuals or entities listed in the Schedule;*

*And whereas the Central Government, in exercise of the powers conferred by Section 2 of the United Nations (Security Council) Act, 1947 (43 of 1947) has made the Prevention and Suppression of Terrorism (Implementation of Security Council Resolutions) Order, 2007;*

*And whereas it is considered necessary to give effect to the said Resolutions and the Order and to make special provisions for the prevention of, and for coping with, terrorist activities and for matters connected therewith or incidental thereto."*

(16) Section 2(1)(k) and Section 15 of the Unlawful Activities (Prevention) Act, 1967 which were inserted by the 2004 amendment and define and deal with the term 'terrorist act', read as under :

*"2(k). 'terrorist act' has the meaning assigned to it in Section 15 and the expression 'terrorism' and 'terrorist' should be construed accordingly."*

*"15. Terrorist act. Whoever, with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people in India or in any foreign country, does any act by using bombs, dynamite or other explosive Substances or inflammable Substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or by any other Substances (whether biological or otherwise) of a hazardous nature, in such a manner as to cause, or likely to cause, death of, or injuries to any person or persons or loss of, or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community in India or in any foreign country or causes damage or destruction of any property or equipment used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies, or detains any person and threatens to kill or injure such person in order to compel the Government in India or the Government of a foreign country or any other person to do or abstain from doing any act, commits a terrorist act".*

(17) However, after the 2008 amendment, Section 15 has been substituted in the following manner:-

*"15. Whoever does any act with intent to threaten or likely to threaten the unity, integrity, security or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country,-*

*(a) by using bombs, dynamite or other explosive Substances or inflammable Substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or by any other Substances whether biological radioactive, nuclear or otherwise of a hazardous nature or by any other means of whatever nature to cause or likely to cause--*

*(i) death of, or injuries to, any person or persons; or*

*(ii) loss of, or damage to, or destruction of, property; or*

*(iii) disruption of any supplies or services essential to the life of the community in India or in any foreign country; or*

*(iv) damage or destruction of any property in India or in a foreign country used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies; or*

*(b) overawes by means of criminal force or the show of criminal force or attempts to do so or causes death of any public functionary or attempts to cause death of any public functionary; or*

*(c) detains, kidnaps or abducts any person and threatens to kill or injure such person or does any other act in order to compel the Government of India, any*

*State Government or the Government of a foreign country or any other person to do or abstain from doing any act, commits a terrorist act.*

Explanation.- For the purpose of this section, public functionary means the constitutional authorities and any other functionary notified in the Official Gazette by the Central Government as public functionary."

(18) From a bare perusal of Section 15 before and after amendment of the Unlawful Activities ( Prevention) Act, 1967, it comes to light that though after amendment there have been certain additions to the provision but in Substances the provision remains the same. Sub-Clauses (l) and (m) of sub Section (1) of Section 2 of the Unlawful Activities (Prevention) Act, 1967, which define the term `terrorist gang' and `terrorist organisation' respectively, read as under :

(l) *"terrorist gang" means any association, other than terrorist organisation, whether systematic or otherwise, which is concerned with, or involved in, terrorist act;*

(m) *"terrorist organisation" means an organisation listed in the Schedule or an organisation operating under the same name as an organisation so listed;*

(19) The Legislature in its wisdom has, in describing the terms 'terrorist act', employed the words – *"Whoever does any act with intent.....to strike terror or likely to strike terror in the people or any section of the people in India..."*

(20) The allegation made against the accused/petitioners and also the materials collected during investigation clearly manifest that the accused/petitioners were involved in preparing and exploding bombs in around their locality to strike a terror in the mind of the people so as to establish their dominance within that area. Such allegation, certainly, gets matched with the wordings of Section 15 Unlawful Activities ( Prevention) Act, 1967 as quoted above.

(21) Here, one should not be oblivious of the fact that in order to dispose of the application of present description the Court is neither supposed to go into the merits of the evidence collected nor the law permits this Court to do so.

(22) This being the legal position and borrowing sapience from the above discussion we may safely hold that the prayer for deletion of the provision of Unlawful Activities ( Prevention) Act, 1967, as made by the accused/petitioners in their application dated 27.06.2025 is sans merit, deserves rejection which this Court directs.

(23) Todate i.e. on **14.07.2025** for production and appearance of the accused persons and consideration/framing of charge.

Dictated and Corrected by me.

Sd/-

Chief Judge

City Sessions Court, Calcutta

Sd/-

Chief Judge

City Sessions Court, Calcutta