

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SUO MOTO WRIT PETITION (CRIMINAL) No(s). 1/2026

IN RE: CREATION OF SPECIAL EXCLUSIVE COURTS

Petitioner(s)

WITH

SLP(Cr1) No. 8799/2025 (II-D)

[FOR CONSIDERATION ON THE PRAYER FOR BAIL]

IA No. 129923/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

Date : 20-04-2026 These petitions were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JOYMALYA BAGCHI

By Courts Motion

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UPON hearing the counsel the Court made the following

O R D E R

1. In deference to the order dated 24.03.2026, learned Advocates General of some States are present in person, while others are present online.

2. The issue pertains to the establishment of exclusive Special Courts for the trial of criminal cases under the Unlawful Activities (Prevention) Act, 1967 ("UAPA") as also under the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act"), whether prosecuted by central agencies, like the National Investigation Agency ("NIA") or the Narcotics Control Bureau ("NCB") or by the State Police/Agencies.

3. In the context of Special Courts to be designated under Section 11 of the National Investigation Agency Act, 2008 ("NIA Act"), the learned Additional Solicitor General of India has referred to an Office Memorandum dated 07.01.2026, substantive portions of which have been reproduced *in extenso* in our orders dated 10.02.2026 and 24.03.2026. Succinctly put, in terms of the said Office Memorandum, the Union of India has agreed to reimburse the expenditure incurred by the States in establishing and running exclusive Special Courts for the trial of criminal cases prosecuted

by the NIA. The reimbursement is subject to an upper limit of Rs. 1 crore for non-recurring expenditure and an annual limit of Rs. 1 crore for recurring expenditure, conditioned on the cost of land and/or construction for the establishment of such Exclusive Special Court(s) being borne by the State Government.

4. It was also pointed out by the learned Additional Solicitor General of India that there are 17 States where more than 10 pending trials are being conducted by NIA, apart from the trials arising from offences under the UAPA that are being prosecuted by the State. It is in this backdrop that this Court deemed it appropriate to request the Advocates General to appear today for:

- (i) identifying the number of separate exclusive NIA/UAPA Special Courts required to be established for giving timely conclusion to the trials in such cases, whether conducted by the NIA or the State Police;

- (ii) ensuring appointment of dedicated Public Prosecutors for each such exclusive Special Court; and

- (iii) securing the provision of the requisite infrastructure for the establishment of such exclusive courts.

5. One issue that arises at this juncture is whether the Central Government will also provide financial assistance/reimbursement of Rs. 1 crore + Rs. 1 crore for such exclusive Special Courts, where the State Agencies are prosecuting the cases under the UAPA. Since the OM dated 07.01.2026 does not expressly clarify this issue, the learned Additional Solicitor General of India seeks and is granted time to have necessary clarification in this regard.

6. A similar exercise is also being conducted with respect to the

creation of exclusive Special Courts for adjudicating trials under the NDPS Act. We are informed by the learned ASG that a proposal, on similar lines as the OM dated 07.01.2026, for reimbursement of the expenditure incurred by the States for establishing and running exclusive Special Courts for NDPS trials is under active consideration.

7. We have also briefly heard the learned Advocates General on these issues. We have impressed upon them to secure complete details of the trials pending under (i) the UAPA, whether conducted by NIA or the State Police; and (ii) the NDPS Act, whether such cases are prosecuted by the State or a Central Agency.

8. At the outset, since the cases being prosecuted by the States under the UAPA as well as the NDPS Act are being brought into the ambit of the instant proceedings, let notice also be issued to all the States apart from those mentioned in paragraph 4 of the order dated 24.03.2026. We request the Advocates General of these States to also be present on the next date of hearing. Concomitantly, we also deem it appropriate to issue notice to the Registrars General of the respective High Courts of these States.

9. Ideally, the Union of India ought to provide financial assistance for concluding all trials under UAPA and the NDPS Act within the timeline of one year, as previously indicated by this Court, irrespective of whether such a trial is conducted by a Central or a State Agency. To that end, upon receipt of the relevant information, a uniform yardstick can be envisaged in order to determine the number of exclusive Special Courts required to be established for dealing with NIA/UAPA/NDPS cases.

10. It goes without saying that to give effect to the policy envisaged in OM dated 07.01.2026, it would be necessary for the respective States to provide requisite courtrooms and other immovable infrastructure for the establishment of the envisaged exclusive Special Courts. The States would also have to appoint dedicated Public Prosecutors for each Exclusive Special Court for the trials conducted by the State. Similarly, the Union of India shall appoint Special Public Prosecutors for the cases conducted by the NIA.

11. The State Governments, in consultation with the High Courts, will also need to make appropriate temporary and permanent additions in the cadre strength of their respective Higher Judicial Services to meet the requirements for the operationalisation of exclusive courts. In that vein, we consider it to be preferable that such courts be presided over by those judicial officers who have experience of not less than 5 years in conducting Sessions trials.

12. Learned Advocates General seek and are granted two weeks' time to obtain the requisite information.

13. Meanwhile, the Registrars General of the High Courts shall also provide the information as per paragraphs 10 and 11 of the order dated 24.03.2026.

14. The Union of India will also file a status report, informing this Court of the decision to be taken regarding financial assistance for the establishment of exclusive Special Courts for cases under the NDPS Act.

15. In the interest of completeness, we clarify that wherever this

Court has referred to 'NIA' cases or 'UAPA/NIA' cases, the intention has been to include all the cases being tried under the UAPA, irrespective of which agency is prosecuting the same. Similarly, cases under the NDPS Act would also refer to all the criminal cases concerning offences under that statute. The parties and authorities shall furnish the necessary information, keeping in mind the broader scope of these proceedings.

16. Post these matters for further consideration on 08.05.2026.

(NITIN TALREJA)
ASTT. REGISTRAR-cum-PS

(PREETHI DILEEP KUMAR)
ASSISTANT REGISTRAR