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REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2026
(ARISING OUT OF SLP (CRL.) NO. 13988/2025)

GULFISHA FATIMA ….APPELLANT(S)

VERSUS

STATE (GOVT. OF NCT OF DELHI) …..RESPONDENT(S)

WITH
CRIMINAL APPEAL NO. /2026
(ARISING OUT OF SLP (CRL.) NO. 14030/2025)

WITH
CRIMINAL APPEAL NO. /2026
(ARISING OUT OF SLP (CRL.) NO. 14132/2025)

WITH
CRIMINAL APPEAL NO. /2026
(ARISING OUT OF SLP (CRL.) NO. 14165/2025)

WITH
CRIMINAL APPEAL NO. /2026
(ARISING OUT OF SLP (CRL.) NO. 14859/2025)

WITH
CRIMINAL APPEAL NO. /2026
(ARISING OUT OF SLP (CRL.) NO. 15335/2025)

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WITH
CRIMINAL APPEAL NO. /2026
(ARISING OUT OF SLP (CRL.) NO. 17055/2025)

J U D G M E N T

ARAVIND KUMAR, J.

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1. INTRODUCTION

1. Heard. Leave Granted.

2. These appeals arise out of a common judgment and order passed by the High Court of Delhi in Criminal Appeal No. 184 of 2022 and connected matters, by which the High Court affirmed the rejection of bail applications filed by the appellants. The appellants stand arraigned as accused in FIR No. 59 of 2020 registered by the Crime Branch, Delhi, arising out of the incidents that occurred in several parts of the National Capital Territory of Delhi (hereinafter referred to as "Delhi Riots") in February 2020.

3. At the inception, the appellants were booked under Sections 147, 148, 149 and 120B of the Indian Penal Code. Upon completion of investigation, a charge-sheet came to be filed alleging offences under Sections 120B read with Sections 109, 114, 124A, 147, 148, 149, 153A, 186, 201, 212, 295, 302, 307, 341, 353, 395, 420, 427, 435, 436, 452, 454, 468, 471 and 34 of the Indian Penal Code, as also under Sections 13, 16, 17 and 18 of the Unlawful Activities (Prevention) Act, 1967, Sections 25 and 27 of the Arms Act, and Sections 3 and 4 of the Prevention of Damage to Public Property Act, 1984.

4. The appellants before this Court are Sharjeel Imam [SLP (Crl.) No. 14030 of 2025], Umar Khalid [SLP (Crl.) No. 14165 of 2025], Shifa Ur Rehman [SLP (Crl.) No. 14859 of 2025], Mohd. Saleem Khan [SLP (Crl.) No. 15335 of 2025], Meeran Haider [SLP (Crl.) No. 14132 of 2025], Shadab Ahmed [SLP (Crl.) No. 17055 of 2025], and Gulfisha Fatima [SLP (Crl.) No. 13988 of 2025].

5. The prosecution case, as placed before the Court, proceeds on the footing that the incidents of violence were not isolated or spontaneous, but were the outcome of a larger conspiracy in which several accused persons are alleged to have participated at different stages and in different capacities. While the FIR and the impugned judgment are common, the role attributed to each appellant, the

nature of the allegations, and the material relied upon by the prosecution are not uniform.

6. Before this Court, certain submissions have been advanced which are common to all the appeals, particularly on the question of prolonged incarceration and the plea founded on Article 21 of the Constitution. At the same time, each appeal also raises issues which are specific to the appellant concerned and which turn on the role attributed, the prosecution material relied upon, and the findings recorded by the courts below.

7. The judgment, therefore, first notices the broad factual background of the case and the prosecution narrative as emerging from FIR No. 59 of 2020 and the charge-sheets filed pursuant thereto. It then considers the plea of prolonged incarceration and the statutory framework governing the grant of bail under Section 43D (5) of the Unlawful Activities (Prevention) Act, 1967. The scope of a "terrorist act" under Section 15 of the Act is also examined, to the extent it bears upon the submissions advanced.

8. Thereafter, the appeals are taken up one by one. In each case, the submissions advanced on behalf of the appellant and the response of the prosecution are noticed, followed by the findings of the Trial Court and the High Court. The role attributed to the appellant is then considered in the light of the statutory requirements and the principles governing the grant of bail under the UAPA.

9. It is in this manner that the present batch of appeals falls for consideration.

1.1. BRIEF BACKGROUND OF THE CASE

10. FIR No. 59 of 2020 is one of the FIR's registered for the cause of the riots that took place in Delhi NCR in the month of February 2020. The prosecution story reveals how the riots were allegedly orchestrated and executed by the Appellants herein.

11. The prosecution case is founded on allegations of a pre-planned criminal conspiracy involving several accused persons, including the present appellants. It is alleged that the conspiracy was hatched with the object of orchestrating riots in the National Capital Territory of Delhi as a form of protest against the enactment of the Citizenship Amendment Act, 2019 and the proposed National Register of Citizens.

12. According to the prosecution, the conspiracy culminated in the deliberate incitement of widespread communal violence on and around 22nd, 23rd, and 24th February 2020. The acts allegedly committed during this period were not spontaneous but were the outcome of coordinated efforts to inflame tensions, mobilise crowds, and execute violent actions across various parts of Delhi.

13. The riots are stated to have resulted in grave consequences, including the loss of 54 lives, among them a senior police officer and an Intelligence Bureau official, as well as grievous injuries to several police personnel and civilians. In addition, extensive damage was caused to over 1,500 public and private properties, alongside substantial intangible harm to public order, social harmony, and the nation at large.

14. Before proceeding to the further analysis of the matter, it would be apposite to advert to the contents of First Information Report No. 59 of 2020 (hereinafter referred to as "the FIR"), as well as the contents of the charge-sheet and the supplementary charge-sheets filed by the Investigating Officer before the competent Court, which are discussed in the succeeding section.

1.2. CASE OF PROSECTION AS PROPOUNDED UNDER FIR NO. 59 OF 2020

15. First Information Report No. 59 of 2020 constitutes the genesis of the present case and sets out the allegations of conspiracy attributed to the appellants herein, which are stated to have culminated in the riots that occurred on 23rd,

24th, and 25th February 2020. Before proceeding further with the analysis, it is necessary to reproduce the contents of the said FIR.

16. FIR 59 of 2020 was registered by the PS, Crime Branch New Delhi on 06.03.2020. Sub-Inspector Shri. Arvind Kumar, posted with the Crime Branch, Delhi claims to have received information from an informant regarding the communal riots that occurred in Delhi on 23rd, 24th and 25th February 2020. According to the information so received, the riots were allegedly the outcome of a pre-planned conspiracy orchestrated by the Jawaharlal Nehru University (JNU 'for short') student Umar Khalid along with his associates, who were stated to be affiliated with different organisations.

17. It is alleged that, as part of the said conspiracy, Umar Khalid delivered provocative speeches calling upon people to come out on the streets and block roads during the visit of the then President of the United States of America, Mr. Donald Trump, on 24th and 25th February 2020. The alleged objective of such actions was to internationalise a narrative that minorities in India were being ill-treated and tortured. It is further alleged that women and children were deliberately mobilised to come out on the streets in various localities of Delhi to escalate tensions and precipitate communal violence.

18. The FIR further reveals that, in several areas including Maujpur, Kardampuri, Jafrabad, Chand Bagh, Gokulpuri, Shiv Vihar and adjoining localities, weapons and incendiary materials such as firearms, petrol bombs, acid bottles, stones, slingshots and other dangerous substances were allegedly stockpiled in homes in advance. It is alleged that the task of mobilising people from different places to participate in the riots was assigned to one Danish, resident of Bhajanpura, Delhi. Specific reference is made to 23rd February 2020, when women and children allegedly blocked the road under the Jafrabad Metro Station to create public disruption, and to the pre-planned evacuation of children from minority schools in the concerned areas.

19. On the basis of the aforesaid information, a daily diary entry bearing DD No. 03 was made. Thereafter, an FIR was registered under Sections 147, 148, 149 and 120B of the Indian Penal Code. Pursuant to the directions of the senior officer, a copy of the FIR was forwarded to the Police Station, Special Cell, Lodhi Colony, for investigation.

20. Subsequent to the registration of the FIR, the appellants herein were apprehended on different dates in connection with FIR No. 59 of 2020. The dates on which the appellants were apprehended in relation to the present FIR are set out hereunder:

SL. No.	**SLP. (Crl.) No.**	**Name Of Appellant**	**Date of Arrest**
1.	13988/2025	Gulfisha Fatima	11.04.2020
2.	14030/2025	Sharjeel Imam	28.01.2020
3.	14132/2025	Meeran Haider	01.04.2020
4.	14165/2025	Umar Khalid	01.10.2020
5.	14859/2025	Shifa Ur Rehman	26.04.2020
6.	15335/2025	Mohd Saleem Khan	25.06.2020
7.	17055/2025	Shadab Ahmed	20.05.2020

1.3. CHARGESHEET:

21. Upon registration of the FIR, the Crime Branch undertook investigation and filed the main charge-sheet on 16.09.2020 against fifteen accused persons, which included some of the appellants herein, namely Gulfisha Fatima, Meeran Haider, Shifa Ur Rehman, Mohd. Saleem Khan, and Shadab Ahmed. The main charge-sheet alleged that the said accused persons were part of a larger conspiracy

which culminated in the riots that took place on 23rd, 24th, and 25th February 2020 in Delhi. It was alleged therein that the accused had committed offences punishable under Sections 120B read with Sections 109, 114, 124A, 147, 148, 149, 153A, 186, 201, 212, 295, 302, 307, 341, 353, 395, 420, 427, 435, 436, 452, 454, 468, 471, and 34 of the Indian Penal Code, as well as under Sections 13, 16, 17, and 18 of the Unlawful Activities (Prevention) Act, 1967 (for short, "UAPA"), Sections 25 and 27 of the Arms Act, and Sections 3 and 4 of the Prevention of Damage to Public Property Act, 1984 (for short, "PDPP Act"). Upon filing of the main charge-sheet, the learned Trial Court[1] took cognizance of the offences against the accused named therein. Thereafter, the State filed its first supplementary charge-sheet on 22.11.2020, arraying three additional accused persons, including the remaining two appellants herein, namely Umar Khalid and Sharjeel Imam, and the Court, vide order dated 22.11.2020, took cognizance of the offences against them as well. The State subsequently filed three further supplementary charge-sheets on 23.02.2021, 02.03.2022, and 07.06.2023.

22. The charge-sheets filed by the State disclose the alleged role attributed to each of the accused/appellants and the contours of the larger conspiracy purportedly orchestrated by them, commencing from the period immediately after the Citizenship Amendment Bill, 2019 (for short, "CAB") was passed by the Central Cabinet on 04.12.2019, and culminating in the riots that occurred in various parts of Delhi and the National Capital Region on 23rd, 24th, and 25th February 2020.

23. Before proceeding further, it is necessary to notice the principal submission urged on behalf of all the appellants at the threshold. The submission rests on the length of custody undergone and the plea that continued incarceration, in the absence of early conclusion of trial, offends the guarantee of personal liberty

[1] Additional Sessions Judge -03, (Shahdara), Karkardooma Court, Delhi

under Article 21 of the Constitution. It is this submission which the Court proposes to examine first.

2. CONSIDERATION OF PROLONGED INCARCERATION AND THE CONSTITUTIONAL PLEA UNDER ARTICLE 21.

24. During the course of arguments advanced before this Court, a fervent plea was addressed on behalf of the appellants resting on constitutional grounds. It was primarily urged that prolonged incarceration, coupled with the absence of any realistic prospect of early conclusion of trial, rendered continued detention constitutionally impermissible and mandate of Article 21 of the Constitution is at peril. At the outset, it was repeatedly stated that the appellants did not seek an examination of the merits of the prosecution case, and that the consideration ought to remain confined to the issue of delay alone.

25. It was submitted that the appellants had been in custody for a substantial length of time; that the progress of trial had been slow; and that the complexity of the prosecution rendered the likelihood of its early conclusion uncertain. Reliance was placed on decisions of this Court recognising that personal liberty cannot be sacrificed at the altar of procedural stagnation, and that prolonged pre-trial incarceration may, in appropriate cases, justify constitutional intervention notwithstanding statutory restrictions on bail. These submissions, though pressed individually, were broadly common in substance.

26. As the hearing progressed, however, it became evident that the plea of delay could not be examined in abstraction. In the course of submissions and rejoinder, reference was necessarily made to the nature of the allegations, the statutory framework invoked, and the role attributed to individual appellants. This was not a departure from the original submission, but a reflection of the legal reality that the constitutional question of delay does not arise in a vacuum. To allay the concern expressed that the appeals would be decided without adequate

delineation of governing principles, this Court considers it appropriate to set out the framework within which the issues are addressed.

27. Accordingly, before turning to the case of each appellant, it becomes necessary to first address certain questions of general application. These include the manner in which pleas founded on delay are to be assessed in prosecutions under special statutes, the contours of the statutory restraint embodied in the Unlawful Activities (Prevention) Act, 1967, and the principles governing the formation of prima facie satisfaction under Section 43D(5) of the Act. This exercise is intended to provide the legal setting within which individual roles and allegations are thereafter examined.

28. At the threshold, it is necessary to clarify the legal contours within which the plea of delay operates in prosecutions under the UAPA. Delay engages Article 21 at two distinct constitutional planes. First, delay may be of such magnitude and character that continued detention becomes per se unconstitutional, irrespective of the strength of the prosecution case. Second, delay may be pressed as a circumstance to contend that the statutory satisfaction under Section 43D(5) stands diluted or displaced. The present case, on an examination of the record, does not meet either threshold. The inquiry that follows is therefore confined to whether the delay alleged is of such a nature as to constitutionally eclipse the statutory embargo, and not whether delay exists in the abstract.

29. We may at the outset clarify the limited compass of the present discussion. This Court is not engaged in any abstract comparison between the Constitution and a statute, nor in declaring that delay must invariably prevail over statutory restrictions, or that delay can never warrant constitutional relief. The question is more precise: in prosecutions under the UAPA, when delay and prolonged incarceration are invoked as grounds for bail, what is the principled approach by which a constitutional court is to examine such a plea.

30. Article 21 occupies a central place in the constitutional scheme. The right to life and personal liberty, and the insistence that any deprivation must conform

to procedure established by law, are foundational guarantees. The right to a speedy trial has been recognised as an important facet of this guarantee. It follows that pre-trial incarceration cannot, by the mere passage of time, be permitted to assume the character of punishment.

31. At the same time, Article 21 has never been understood as operating in isolation from law. The constitutional promise is not that liberty will be unregulated, but that deprivations of liberty will not be arbitrary, unconscionable, or unfair. The expression "procedure established by law" reflects that balance. The UAPA, as a special statute enacted to address offences alleged to affect the security of the State and the stability of civic life, represents a legislative judgment as to the conditions under which bail may be granted at the pre-trial stage. Section 43D(5) of UAPA embodies the exercise of that judgment.

32. In ***Union of India v. K.A. Najeeb***[2], this Court recognised a constitutional safeguard that cannot be ignored: statutory restrictions cannot be applied so as to render the guarantee of personal liberty illusory. It was held that where the trial is not likely to commence or conclude within a reasonable period, constitutional courts retain the jurisdiction to grant bail notwithstanding statutory restraints. The decision thus operates as a protection against unconscionable detention and there can be no second opinion on the said principle.

33. The same decision, however, does not indicate as laying down a mechanical rule under which the mere passage of time becomes determinative in every case arising under a special statute. The jurisprudence of this Court does not support a construction whereby delay simpliciter eclipses a statutory regime enacted by Parliament to address offences of a special category.

34. The constitutional inquiry into delay is not an inquiry into guilt. It is an inquiry into whether continued detention remains constitutionally permissible in the circumstances of the case. That inquiry is necessarily contextual. Context

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[2] (2021) 3 SCC 713

includes the nature of the allegation, the statutory field, the stage of the proceedings, the realistic trajectory of the trial, the causes contributing to delay, and the risks attendant upon release. Delay cannot be detached from these considerations and treated as a solitary determinant.

35. The proper constitutional question, therefore, is not whether Article 21 is superior to Section 43D (5). The proper question is how Article 21 is to be applied where Parliament has expressly conditioned the grant of bail in relation to offences alleged to implicate national security. The law does not contemplate an either-or approach. Nor does it contemplate an unstructured blending of statutory and constitutional considerations. What is required is disciplined judicial scrutiny that gives due regard to both.

36. The appellants have urged that their continued incarceration over a prolonged period, coupled with the pace at which the trial has progressed, warrants their enlargement on bail notwithstanding the statutory embargo contained in Section 43D (5) of the Unlawful Activities (Prevention) Act, 1967. Prolonged custody undoubtedly implicates the constitutional guarantee of personal liberty under Article 21 of the Constitution, and such a plea cannot be rejected on the basis of duration alone without a careful and fact-sensitive examination. At the same time, the Court is required to examine whether the narrative of delay, as projected, is borne out by the record, and whether such delay is of a nature that constitutionally displaces the statutory mandate.

37. The present prosecution arises out of FIR No. 59 of 2020 and involves multiple accused persons, voluminous documentary and electronic evidence, and allegations of a structured and continuing conspiracy. The record reflects that compliance under Section 207 of the Code of Criminal Procedure was completed only on 05.08.2023, after which the Trial Court directed that arguments on charge would commence on a day-to-day basis from 11.09.2023 onwards. The nature of the prosecution, the number of accused, and the breadth of material necessarily

render the proceedings complex and time-consuming. The mere passage of time, therefore, cannot be viewed in isolation.

38. What assumes significance is that the procedural history and order sheets do not support the assertion that the delay is attributable to prosecutorial inaction or judicial inaction. The common counter affidavit and the Trial Court's orders record that, at various stages, the prosecution expressed readiness to proceed, including readiness to commence arguments on charge, while objections, requests for deferment, and issues relating to sequencing of arguments were raised on behalf of the accused. At the stage of compliance under Section 207 CrPC itself, the Trial Court noted that despite repeated directions, certain accused declined to receive copies of the charge-sheet in the manner directed, insisted on alternate modes of supply, or filed successive applications, necessitating further procedural orders and contributing to delay at the pre-charge stage. These aspects emerge from the record and are not matters of conjecture.

39. The plea of delay has also undergone judicial scrutiny in respect of a co-accused arising out of the very same FIR. In ***Tasleem Ahmed v. State (NCT of Delhi)***[3], the High Court of Delhi undertook a detailed examination of the Trial Court order-sheets and, after tabulating the procedural history, recorded categorical findings that the alleged inordinate delay could not be attributed either to the prosecution or to the Trial Court. The High Court noted repeated adjournments sought on behalf of the accused, reluctance to commence arguments on charge despite directions for day-to-day hearing and recorded the Trial Court's expression of distress at the inability to move forward notwithstanding consensus schedules arrived at amongst the defence. The High Court expressly rejected the contention that bail under Section 43D (5) of the UAPA could be granted solely on the ground of delay in such circumstances, holding that the statutory embargo cannot be permitted to be circumvented by

[3] 2023 SCC OnLine Del 3472

delay attributable, at least in part, to the manner in which the defence conducted the proceedings.

40. This Court is conscious that the appellants in the present appeal may not stand on identical factual footing in all respects with the co-accused whose appeal was considered by the High Court. Nevertheless, the findings recorded therein are relevant insofar as they arise from the same trial, the same order-sheets, and the same procedural milieu. They negate the overarching portrayal that the appellants have remained in custody solely on account of prosecutorial inertia or a dormant trial.

41. At the same time, the Court does not proceed on the assumption that the entire delay can be laid at the door of the accused, nor does it characterise the proceedings as free from institutional or systemic constraints. This is not a casual prosecution, nor one involving a narrow factual canvas. The law has taken its course, albeit at a pace dictated by the complexity of the case, the number of accused, and the nature of issues raised. The constitutional concern arising from prolonged custody is therefore acknowledged, but it does not, on the present record, translate into a finding that continued detention has become punitive or unconscionable solely by reason of delay.

42. The approach of addressing delay-related concerns through calibrated judicial supervision, rather than automatic enlargement on bail, stands reinforced by the decision of this Court in ***Union of India v. Saleem Khan***.[4] In that case, despite the accused having remained in custody for over five years and the trial not having commenced, this Court declined to interfere with the rejection of bail qua one accused, while upholding bail granted to another, thereby reiterating that delay-based pleas must necessarily be adjudicated on an accused-specific footing. Significantly, even while acknowledging the constitutional imperative of a speedy trial, the Court did not eclipse the statutory rigour under Section 43D(5)

[4] 2025 SCC OnLine SC 1754

of the UAPA but instead directed expeditious conclusion of the trial and cautioned against any conduct on the part of the accused that may further protract the proceedings. The decision thus affirms that prolonged custody, though a matter of concern, does not operate as an automatic ground for grant of bail where the statutory threshold continues to be attracted.

43. Viewed cumulatively, the record does not support the absolute proposition that the appellants have remained "innocently incarcerated" without any contribution to delay, nor does it disclose a situation where the delay is so wholly unjustified as to override the statutory embargo contained in Section 43D(5). The appropriate constitutional response, at this stage, lies in ensuring vigilant oversight of the trial and its expeditious progression, rather than in eclipsing the statutory mandate governing bail in offences of the present nature. The plea of delay in the facts of the particular case, therefore, does not warrant enlargement on bail, though it justifies continued judicial emphasis on the timely conduct of the proceedings.

44. It is in this sense that the plea of delay must first be examined to see whether it arises in a manner that warrants constitutional scrutiny of continued custody. Broadly stated, the Court must consider whether the custody undergone is substantial, whether the proceedings have made meaningful progress, and whether there exists a realistic prospect of conclusion of trial within a reasonable period. The Court must also take note of the causes contributing to delay, including whether delay is attributable to the inherent complexity of the prosecution or to the conduct of parties, including the accused.

45. A finding that these circumstances exist does not, by itself, compel bail. It merely calls for the next level of constitutional consideration. At that stage, the Court is required to examine whether, notwithstanding delay, continued detention remains constitutionally justified having regard to the statutory context and the facts of the case. This examination is not a free-ranging balancing exercise; it is structured by legally relevant considerations.

46. One such consideration is the gravity of the alleged offence in its statutory setting. Under the UAPA, Parliament has legislatively characterised certain conduct as implicating the security of the State and the peace of society. That legislative characterisation does not conclude the judicial inquiry, but it is not constitutionally irrelevant. It forms part of the context in which the Article 21 claim is assessed.

47. A closely allied consideration is the role attributed to the accused. Prosecutions under the UAPA may allege varying degrees of participation, ranging from peripheral acts to strategic, organisational, or ideological centrality. The constitutional significance of prolonged incarceration cannot be assessed uniformly for all accused regardless of role. Where the attribution suggests a central or organising role in the alleged design, the need for circumspection before constitutional intervention displaces a statutory embargo is correspondingly greater. Conversely, where the role is peripheral or episodic, prolonged incarceration may more readily assume a punitive character.

48. Another consideration is the prima facie strength of the accusation at the limited threshold contemplated by Section 43D(5). At this stage, the Court does not weigh evidence, test defences, or conduct a mini trial. Yet, the constitutional inquiry cannot proceed as if all allegations are identically situated. Whether the prosecution material, taken at its highest, discloses a prima facie nexus between the accused and the statutory ingredients is a circumstance that informs the assessment of continued detention.

49. Consideration must also be given to the integrity of the trial process and the risks associated with release. Depending on the nature of the case, these may include the possibility of influencing witnesses, tampering with evidence, or undermining the fairness of the proceedings. In prosecutions alleging organised activity, the assessment of such risks may differ from that in ordinary criminal cases. This is not to presume guilt, but to recognise that bail decisions are necessarily forward-looking in terms of ensuring an effective trial.

50. The Court must also bear in mind that it is not confined to a binary choice between continued custody and unconditional release. Where delay becomes a matter of constitutional concern, appropriate directions for expeditious trial, prioritisation of witnesses, or periodic review of progress may be issued. Such measures are constitutionally significant responses that address the vice of delay while respecting the statutory framework. The liberty to renew a prayer for bail upon continued stagnation may also be preserved.

51. There is a further constitutional aspect that warrants articulation. Article 21 protects individual liberty. It also, within the same guarantee of life, reflects the State's obligation to protect the life and security of the community. In prosecutions alleging threats to public order and national security, the Court cannot be unmindful that both dimensions are engaged. The constitutional order is not served by an approach that treats liberty as the sole value and societal security as peripheral. Both must be accommodated through reasoned adjudication.

52. The consequence of the above is that ***Najeeb(supra)*** must be understood as a principled safeguard against unconscionable detention. Prolonged incarceration is a matter of serious constitutional concern and carries great weight. It is not, however, the sole determinant. The Court must consider, in totality, whether continued detention has become constitutionally unjustifiable, having regard to the role attributed, the statutory context, the limited prima facie material, the trajectory of the trial, the causes of delay, and the availability of intermediate remedies.

53. This approach does not dilute Article 21. It gives Article 21 structured content in a field where the Constitution itself recognises competing interests. Nor does it render Section 43D(5) absolute. It recognises that statutory restraint must yield in an appropriate case where detention becomes punitive by reason of unreasonable and unjustified delay. What it excludes is a mechanical override based on time alone, divorced from legal context.

54. Having set out the above governing approach, this Court, in the later part of this judgment would apply these principles in a calibrated manner viz. to the claim of each of the appellants. The Court will examine, in relation to each appellant, the role attributed and whether the statutory threshold under Section 43D(5) is attracted on the prosecution material taken at its highest. Thereafter, where the plea of delay and prolonged incarceration is pressed, the Court will consider whether the circumstances warrant constitutional intervention in terms of the principles noticed above, or whether appropriate directions for expeditious trial would adequately address the concern expressed under Article 21.

55. It is in this disciplined manner, and in faithful regard to both statutory design and constitutional principle, that the present appeals are proposed to be adjudicated.

56. It therefore becomes necessary to state, with clarity, the governing approach. In prosecutions alleging offences which implicate the sovereignty, integrity, or security of the State, delay does not operate as a trump card that automatically displaces statutory restraint. Rather, delay serves as a trigger for heightened judicial scrutiny. The outcome of such scrutiny must be determined by a proportional and contextual balancing of legally relevant considerations, including (i) the gravity and statutory character of the offence alleged, (ii) the role attributed to the accused within the alleged design or conspiracy, (iii) the strength of the prima facie case as it emerges at the limited threshold contemplated under the special statute, and (iv) the extent to which continued incarceration, viewed cumulatively in the facts of the case, has become demonstrably disproportionate so as to offend the guarantee of personal liberty under Article 21.

57. Thus, when the composite evaluation yields a clear conclusion that continued detention has crossed the bounds of constitutional permissibility that the Court may justifiably intervene notwithstanding statutory restrictions.

58. In ***Gurwinder Singh v. State of Punjab***[5], this Court expressly cautioned against the mechanical invocation of prolonged incarceration as a ground for bail in cases involving serious offences under special enactments. The judgment reiterates that the gravity of the offence, the legislative context, and the prima facie material on record cannot be eclipsed merely because the trial has taken time.

59. This Court in ***CBI v. Dayamoy Mahato*** [6]reiterated that while Article 21 remains paramount, it does not operate in a vacuum divorced from competing constitutional interests. The Court emphasized that claims to liberty must be examined in the totality of circumstances, particularly where allegations implicate organised criminality or matters of public interest. Delay, though undoubtedly significant, was held not to assume the character of an absolute or solitary determinant. The emphasis, once again, was on structured judicial reasoning rather than on formulaic outcomes.

60. Read together, these decisions do not dilute the constitutional guarantee of personal liberty; they explain the manner in which it is to be applied. They do not support an approach of automatic displacement of statutory restraint, but instead emphasise a contextual and measured exercise of judicial scrutiny.

61. To read ***Najeeb (supra)*** as mandating bail solely on account of prolonged incarceration, irrespective of the statutory context or the nature of the allegations, would be to attribute to the decision a consequence it neither intended nor supports. Such a construction would also lead to an interpretive absurdity, whereby a special statute enacted by Parliament to address offences implicating the sovereignty, integrity, and security of the State would stand effectively neutralised by the mere passage of time, even at a pre-trial stage. Such an outcome cannot be countenanced in constitutional adjudication. Accordingly, the finding

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[5] (2024) 6 SCC 1
[6] 2025 INSC 1418

in ***Najeeb(supra)*** is properly situated as a constitutional safeguard to be invoked in appropriate cases, and not as a mathematical formula of universal application.

62. Before parting with the discussion on delay, it is clarified that the observations herein are confined to the present stage of the proceedings. The constitutional concern arising from prolonged custody has been duly considered on the basis of the record as it presently stands. In the event of continued and unexplained stagnation of the trial, it shall remain open to the appellants to avail such remedies as are permissible in law. The Trial Court is expected to accord due priority to the matter and ensure that the proceedings are carried forward with reasonable expedition.

63. The discussion thus far has been confined to the constitutional plea founded on delay and prolonged incarceration. That inquiry, though necessary, does not conclude the consideration of the present appeals. The question that now arises is the manner in which the prayer for bail is to be examined where the prosecution is governed by a special statutory regime.

3. STATUTORY FRAMEWORK OF SECTION 43D(5) AND THE SCOPE OF JUDICIAL INQUIRY AT THE BAIL STAGE

64. The issues arising before this Court at the stage of consideration of bail engage multiple facets of law, including the nature of the statutory framework, the limits of judicial scrutiny at the pre-trial stage, and the manner in which allegations under a special enactment are required to be assessed. In order to address these aspects in a structured and principled manner, it becomes necessary to examine the scheme of the Unlawful Activities (Prevention) Act, 1967, and in particular the scope and content of Section 43D(5), which regulates the exercise of judicial discretion in such matters. An understanding of this framework provides the necessary foundation for evaluating the material placed on record and the role attributed to each accused in accordance with law.

65. The Unlawful Activities (Prevention) Act, 1967, is a special statute enacted to address forms of criminal conduct which, by their very nature, transcend ordinary breaches of penal law and implicate the sovereignty, integrity, and security of the State. Parliament, in framing the Act and in subsequently strengthening its provisions, has proceeded on the legislative understanding that such offences are rarely confined to isolated acts, but are more often the culmination of organised, sustained, and conspiratorial activity unfolding over time.

66. The statutory scheme of the Act reflects this understanding. Chapters IV and VI do not confine criminal liability to the final execution of a terrorist act alone. They extend culpability to preparatory conduct, facilitation, abetment, and conspiracy, recognising that the threat sought to be addressed by the statute often materialises long before any overt act of violence is committed. The law thus proceeds on a process-based conception of criminality rather than an event-based one.

67. It is within this legislative backdrop that Section 43D(5) assumes significance. The provision constitutes a conscious departure from the general principles governing the grant of bail under the Code of Criminal Procedure. Parliament has imposed a calibrated restriction on the power of courts to grant bail in respect of offences under Chapters IV and VI, reflecting its assessment that the ordinary presumption in favour of pre-trial liberty requires modification where allegations pertain to activities threatening the foundations of the State.

68. At the same time, Section 43D(5) does not exclude judicial scrutiny. Nor does it mandate denial of bail by default. The restriction operates only upon the Court being satisfied that there are reasonable grounds for believing that the accusation against the accused is prima facie true. The provision thus preserves the judicial function, while carefully defining its contours at the pre-trial stage.

69. This Court has, on several occasions, examined the scope and application of Section 43D(5) in diverse factual settings. Decisions such as ***National***

Investigation Agency v. Zahoor Ahmad Shah Watali[7]***, Vernon v. State of Maharashtra***[8]***, Shoma Kanti Sen v. State of Maharashtra***[9]***, Athar Parwez v. Union of India***[10]***, and Jalaluddin Khan v. Union of India***[11] disclose a consistent judicial approach to the provision, notwithstanding variations in factual context. The present analysis seeks not to restate those authorities individually, but to distil the governing principles that emerge from them and to apply those principles in a structured and coherent manner.

70. The expression "prima facie true", which lies at the heart of Section 43D(5), does not invite a detailed examination of evidence, nor does it require the Court to assess the probability of conviction. Equally, it does not reduce the judicial role to a mechanical acceptance of the prosecution's assertions. The statutory standard contemplates a threshold inquiry of limited but real content.

71. At this stage, the Court is required to examine whether the material relied upon by the prosecution, taken at face value and without rebuttal, discloses the essential ingredients of the offences alleged against the accused. The inquiry is one of statutory plausibility, not evidentiary sufficiency. The Court tests the allegations against the legal ingredients of the offence, not against possible defences or competing factual narratives.

72. The discipline imposed by Section 43D(5) necessarily circumscribes the nature of judicial scrutiny permissible at the bail stage. The Court is not called upon to weigh the probative value of evidence, to assess its admissibility, or to determine whether the prosecution version will ultimately withstand trial. Any exercise approximating a mini-trial at this stage would transgress the statutory boundary deliberately drawn by Parliament.

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[7] (2019) 5 SCC 1
[8] (2023) 8 SCC 1
[9] (2021) 16 SCC 720
[10] 2024 SCC OnLine SC 124
[11] 2024 SCC OnLine SC 742

73. Such premature adjudication is not merely procedurally inappropriate; it carries institutional consequences. It risks prejudging issues reserved for trial, distorting the adversarial process, and undermining the legislative intent underlying the special bail regime. Section 43D(5) therefore demands judicial restraint, not judicial abstention, at the pre-trial stage.

74. A salient feature of Section 43D(5) is its express reference to "such person". The statutory text mandates an inquiry that is accused-specific rather than case-centric. The provision does not permit a collective or undifferentiated approach to bail merely because multiple accused are arraigned in the same prosecution or alleged conspiracy.

75. The Court is thus required to examine the role attributed to the individual accused, as emerging from the prosecution material, and to determine whether such attribution bears a prima facie nexus to the offences under Chapters IV or VI. This inquiry does not involve ranking degrees of culpability or pronouncing upon guilt. It serves the limited purpose of determining whether the statutory threshold is crossed qua the accused before the Court.

76. In cases alleging conspiratorial conduct, it becomes necessary to distinguish between the existence of a conspiracy and the position occupied by an accused within the alleged framework. While conspiracy may supply the overarching context, Section 43D(5) requires attention to the nature, extent, and character of participation attributed to the individual.

77. At the threshold stage, the inquiry is directed towards whether the prosecution material suggests conspiratorial centrality or merely conspiratorial association. Conduct which, on the prosecution's own showing, reflects conceptualisation, direction, orchestration, or mobilisation of unlawful activity or terrorist activity, stands on a different footing from conduct alleged to be episodic, peripheral, or substitutable. This distinction does not determine guilt; it informs the statutory assessment of whether continued restraint on liberty is justified at the pre-trial stage.

78. The cumulative effect of the statutory scheme and the jurisprudence of this Court is that Section 43D(5) operates as a gatekeeping provision. It requires the Court to undertake a focused, accused-specific, and legally disciplined inquiry, confined to determining whether the prosecution material, taken at its highest, satisfies the statutory threshold of prima facie truth.

79. Any departure from this calibrated approach, whether by converting the bail stage into a forum for adjudicating defences or by treating the invocation of the statute as determinative of the outcome, would unsettle the careful balance struck by Parliament. The provision demands neither mechanical denial nor casual grant of bail, but a principled application of the statutory standard within its clearly defined limits.

80. From the foregoing discussion, certain propositions governing the application of Section 43D(5) emerge with clarity. ***First***, the provision embodies a deliberate legislative departure from ordinary bail jurisprudence, premised upon the distinctive nature of offences under Chapters IV and VI of the Act. ***Second***, the expression "prima facie true" mandates a threshold judicial inquiry which is neither perfunctory nor adjudicatory, requiring the Court to examine whether the prosecution material, taken at face value, discloses the essential statutory ingredients of the alleged offence. ***Third***, the inquiry is necessarily accused-specific, directed to the role and attribution qua the individual, and does not admit of collective or undifferentiated treatment merely because allegations arise from a common transaction or conspiracy. ***Fourth***, the bail stage under Section 43D(5) is not a forum for evaluating defences, weighing evidence, or conducting a mini-trial; judicial restraint at this stage is not an abdication of duty but a fulfilment of the statutory mandate. These propositions, read together, define the contours of judicial power and responsibility under the provision.

81. The correct application of Section 43D(5), therefore, requires the Court to undertake a structured inquiry confined to the following:

i. whether the prosecution material, accepted as it stands, discloses a prima facie case satisfying the statutory ingredients of the offence alleged;

ii. whether the role attributed to the accused reflects a real and meaningful nexus to the unlawful activity or terrorist activity proscribed under the Act, as distinguished from mere association or peripheral presence; and

iii. whether the statutory threshold is crossed qua the individual accused, without embarking upon an assessment reserved after full-fledged trial.

82. Where these requirements are met, the statutory restraint on the grant of bail must operate with full force; where they are not, the embargo stands lifted. This approach preserves the legislative purpose of the Act, and ensures that the exceptional nature of the bail regime under Section 43D(5) is neither diluted by overreach nor distorted by mechanical application.

83. The discussion thus far has been directed to the manner in which the statutory threshold under Section 43D(5) is to be applied at the stage of bail. That inquiry sets out how the Court is to examine the prayer for bail under a special enactment. The inquiry must now turn to what the accusation is that is sought to be tested against that threshold. This necessarily requires an examination of the statutory meaning and scope of a "terrorist act" under the Act.

4. SCOPE OF "TERRORIST ACT" UNDER SECTION 15 AND THE STATUTORY CONTEXT

84. During the course of arguments, a fervent and sustained debate emerged not merely on the threshold under Section 43D(5), but on a more foundational premise, namely, what the statute itself comprehends as a "terrorist act" and, correspondingly, the legal character of the allegations sought to be brought within

Chapters IV and VI of the Act. On behalf of the appellants, it was urged that the prosecution narrative, even if taken at its highest, discloses at best a situation of public disorder, and that the invocation of the UAPA proceeds on an overstretched understanding of terrorism. The prosecution, on the other hand, contended that the statutory definition is not confined to conventional forms of violence, and that Parliament has consciously employed a broader formulation to capture conduct which threatens the unity, integrity, security, including economic security, or sovereignty of India, and which disrupts civic life in the manner contemplated by the Act. The submissions, in substance, invited the Court either to proceed on assumed notions of what constitutes terrorism, or to anchor its analysis firmly in the legislative definition enacted by Parliament.

85. In this backdrop, and before proceeding to an accused-specific evaluation of the material on record, it becomes necessary to clarify the statutory meaning and setting of Section 15. The prima facie satisfaction contemplated by Section 43D(5) is not a matter of impression or gravity alone; it is a satisfaction referable to defined statutory ingredients. Unless the legal contours of the offence alleged are first identified, the subsequent assessment of individual role risks proceeding without a clear statutory reference point, and may result in either an unduly restrictive or an unduly expansive application of the threshold. It is for this reason that the Court considers it appropriate to briefly notice the scope of Section 15, and its inter-relationship with allied provisions, so that the analysis which follows proceeds on a clear legal foundation and is thereafter applied, with the necessary care and precision, to each appellant individually.

86. Section 15 of the Act defines what constitutes a "terrorist act" for the purposes of the statute. The definition is structured around two essential elements. First, the act must be done with intent to threaten, or be likely to threaten, the unity, integrity, security, including economic security, or sovereignty of India, or with intent to strike terror in the people or any section thereof. Second, the act

must be of such a nature as to cause, or be likely to cause, the consequences enumerated in the provision.

87. The means by which such acts may be committed are not confined to the use of bombs, explosives, firearms, or other conventional weapons alone. Parliament has consciously employed the expression "***by any other means of whatever nature***", which expression cannot be rendered otiose. The statutory emphasis is thus not solely on the instrumentality employed, but on the design, intent, and effect of the act. To construe Section 15 as limited only to conventional modes of violence would be to unduly narrow the provision, contrary to its plain language.

88. The consequences contemplated under Section 15 further illuminate the legislative understanding of terrorism. Apart from death or destruction of property, the provision expressly encompasses acts which disrupt supplies or services essential to the life of the community, as well as acts which threaten the economic security of the nation. This reflects Parliament's recognition that threats to sovereignty and security may arise through conduct that destabilises civic life or societal functioning, even in the absence of immediate physical violence.

89. The Act further recognises that such acts may be the result of collective and coordinated effort. Section 18 makes punishable conspiracy, attempt, abetment, advice, incitement, and knowing facilitation of a terrorist act, as also acts preparatory to its commission. The statutory scheme thus contemplates that terrorist activity may involve multiple actors performing different roles towards a common unlawful objective.

90. Read together, Sections 15 and 18 disclose a legislative design wherein Section 15 defines the nature of acts which Parliament has characterised as terrorist acts, while Section 18 ensures that criminal liability is not confined only to the final execution, but extends to those who contribute to the commission of such acts through planning, coordination, mobilisation, or other forms of concerted action. Whether particular conduct ultimately attracts Section 15

directly, or Section 18 read with Section 15, depends upon the role attributed and the statutory ingredients alleged to be satisfied.

91. At the stage of consideration under Section 43D(5), the Court is not required to finally classify the conduct or determine the precise provision under which liability would ultimately arise. The inquiry is confined to whether, on the prosecution material taken at face value, there are reasonable grounds for believing that the accused's conduct bears a prima facie nexus to a terrorist act as defined under the Act, whether as a direct participant or as a conspirator or facilitator.

92. In light of the foregoing discussion, the plea of delay stands addressed at a general level. The consideration that follows is therefore confined to the individual role attributed to each appellant and the prima facie satisfaction recorded against them under Section 43D(5) of the Unlawful Activities (Prevention) Act, 1967, without reopening the issue of delay except to the extent it bears upon individual attribution.

93. The Court has thus traversed the submissions on prolonged incarceration and the constitutional framework within which such pleas are to be examined in prosecutions under a special statute. The contours of the statutory restraint contained in Section 43D(5) have been delineated, and the scope and meaning of a "terrorist act" under Section 15 of the Act, read with the allied provisions, have also been clarified.

94. The arguments before us made it evident that while certain submissions were urged on common grounds, the ultimate determination cannot rest on general propositions alone. The application of the law must necessarily turn on the role attributed to each accused, the nature of the material relied upon, and the manner in which the courts below have appreciated the same.

95. It therefore becomes necessary to examine each appeal independently, bearing in mind the statutory framework already discussed, and to assess whether the threshold contemplated under Section 43D(5) is attracted in the case of each

appellant and, if so, whether the facts of the individual appeal warrant any departure on constitutional grounds. It is this exercise that the Court would now propose to undertake.

5. INDUVIDUALISED ROLE AND DIFFERNTIATION IN TREATMENT OF THE PRIME CONSPIRATORS WITH OTHERS.

96. Before we proceed to individually analyse each of the role attributed to each of the accused, we would like to reiterate the obvious but very important distinction while considering the bail applications in general and under special statutes like UAPA.

97. The record discloses that all the appellants do not stand on an equal footing as regards culpability. The allegations against the principal accused indicate a central and directive role in conceptualising, planning, and coordinating the alleged terrorist act, whereas the material against certain co-accused reflects conduct of a subsidiary or facilitative nature. The hierarchy of participation, emerging from the prosecution's case itself, requires the Court to assess each application individually, rather than proceed on the premise of equivalence. Such differentiation is intrinsic to criminal adjudication and operates irrespective of the uniformity of charges framed.

98. In the case of the alleged masterminds i.e., Sharjeel Imam and Umar Khalid, the prosecution material comprises direct, corroborative, and contemporaneous evidence, including recoveries, digital communication trails, and statements indicative of managerial responsibility. In contrast, the involvement of others is sought to be established mainly through associative or peripheral conduct. The Court cannot ignore that where evidentiary strength varies materially between accused persons, the need for continued detention likewise varies. Detention that remains necessary to secure ongoing prosecutorial

objectives for the principal offenders may not retain the same necessity for those of limited attribution.

99. The alleged masterminds are stated to have exercised command authority and to possess the ability to mobilise or influence individuals within and outside their immediate circle. Such allegations, when supported by preliminary material, compel heightened caution regarding the possibility of interference with witnesses or reactivation of dormant networks. As against this, co-accused with no independent capacity to mobilise resources or exert organisational leverage do not present the same systemic risk. The logic of detention cannot be applied homogenously where the risk profiles of the accused are markedly dissimilar.

100. The gravity of the alleged act is unquestionably serious however, public interest and national security concerns may be engaged to a materially different degree depending on the role of each accused. The continued detention of those alleged to be the architects of the conspiracy may be required to safeguard broader security interests and deter future acts, whereas the rationale for continued incarceration of minor participants is comparatively attenuated once the investigative purpose is exhausted. The Court is therefore justified in calibrating its approach, ensuring that the pursuit of security does not eclipse the principle of proportionality.

101. It is well recognised that Article 21 rights, though not absolute, require the State and the Court to justify continued custody with reference to the specific individual before it. Treating all accused identically irrespective of their roles would risk transforming pre-trial detention into a punitive mechanism divorced from individual circumstances. The constitutional mandate demands a differentiated inquiry: where prolonged custody disproportionately burdens those whose roles are limited, the balance between individual liberty and collective security may call for conditional release, while the same balance may tilt differently for those alleged to have orchestrated the offence.

102. The statutory restrictions under special enactments do not preclude the Court from recognising distinctions between accused persons based on the quality of material, the nature of involvement, and the necessity of further detention.

103. At this stage, the Court must be careful not to confuse two distinct legal exercises. One is the determination of criminal liability, which belongs to trial. The other is the regulation of personal liberty pending trial, which is the limited concern of bail. The law of conspiracy explains how several persons, acting at different levels and at different points of time, may be bound together by a common design. That doctrine answers the question of liability. It does not answer, by itself, the separate question of how long and on what basis the liberty of each individual may be restrained before guilt is proved. Bail adjudication therefore necessarily proceeds on a different plane. It requires the Court to look at what is attributed to each accused, how that attribution fits within the statutory ingredients, and whether continued detention, at that stage, serves a legitimate purpose recognised by law. This exercise does not dismantle the prosecution case of conspiracy, nor does it rank culpability. It merely ensures that pre-trial detention does not become indiscriminate or automatic, and that statutory restraint operates with reason, proportion, and fidelity to individual attribution. Seen thus, differentiation is not an exception to conspiracy law, but a constitutional discipline imposed upon the exercise of bail jurisdiction.

104. A cumulative and comparative reading of the FIR and the successive charge-sheets discloses a discernible differentiation in the nature, scope, and hierarchy of roles attributed to the accused persons. The prosecution narrative itself delineates Umar Khalid and Sharjeel Imam as occupying a position distinct from the remaining accused, both in terms of conceptual involvement and command over the alleged conspiracy.

105. At the outset, Umar Khalid and Sharjeel Imam are prima facie attributed a central role and alleged to be ideological drivers of the alleged conspiracy. The material relied upon against them is predominantly in the nature of speeches,

meetings, digital communications, and alleged strategic deliberations, commencing immediately after the passage of the CAB/CAA. The charge-sheets attribute to them the role of formulating the protest strategy, including the alleged transition from sit-in demonstrations to chakka jams, selection of locations, and articulation of the broader political objective sought to be advanced. Their alleged acts are thus situated at the planning and preparatory stage, extending over a prolonged period.

106. In contradistinction, the remaining accused namely Gulfisha Fatima, Meeran Haider, Shifa-ur-Rehman, Mohd. Saleem Khan, Shadab Ahmad, Athar Khan, and others are consistently described as local-level facilitators. Their alleged involvement is site-specific and operational, confined to particular localities such as Seelampur, Jafrabad, Chand Bagh, Jamia, and Shaheen Bagh. The allegations against them relate primarily to on-ground mobilisation, logistical coordination, funding at the local level, stockpiling of materials, and execution of directions allegedly received from above, rather than formulation of the overarching strategy.

107. The charge-sheets further reveal a vertical chain of command, wherein conspiratorial - level decisions and strategic directions are alleged to have emanated from the top, while implementation was carried out through intermediaries such as DPSG members, JCC coordinators, and protest site organisers. This internal structuring of the prosecution case itself negates any suggestion of homogeneous or indivisible culpability among all accused. The distinction between those alleged to have exercised centralised command and control and those alleged to have acted as field-level operatives is repeatedly emphasised through the attribution of roles, reliance on different categories of evidence, and the geographical confinement of acts.

108. Even in the narrative concerning escalation into violence, the role attributed to the remaining accused is largely proximate and reactive, arising from developments at specific protest sites. Umar Khalid and Sharjeel Imam, on the

other hand, are alleged to have operated remotely away from the sites of violence, with no direct attribution of participation in acts of arson, assault, or destruction of property. The prosecution case thus proceeds on the footing that the former category of accused were involved in facilitating execution, whereas the latter were involved in conceptualisation and supervision.

109. This differentiation assumes critical legal significance. Once the prosecution itself projects varying degrees of proximity, control, and participation, the law mandates an individualised assessment of culpability, particularly in the context of stringent penal provisions. The alleged role of an accused at the level of ideological articulation or protest coordination cannot, without a demonstrable and proximate nexus to acts of violence, be equated with the role of those alleged to have engaged in facilitation of riots or violent acts.

110. Accordingly, the material placed on record, when examined in its entirety, establishes that Umar Khalid and Sharjeel Imam stand on a qualitatively different footing from the remaining accused, both in the prosecution narrative and in the evidentiary basis relied upon. This structural distinction cannot be ignored and must inform any judicial determination relating to culpability, parity, or the applicability of penal provisions requiring a heightened threshold of intent and participation. Having thus delineated the structural and evidentiary differentiation emerging from the prosecution case itself, it becomes necessary for the Court to examine the bail pleas in an accused-specific manner. The exercise that follows is not one of adjudicating culpability, which lies exclusively within the domain of trial, but of assessing whether the statutory threshold governing pre-trial liberty is attracted qua each appellant. It is in this limited but essential context that the Court now proceeds to consider the submissions advanced on behalf of each accused individually, bearing in mind the role attributed, the nature of material relied upon, and the stage of the proceedings.

6. SHARJEEL IMAM – APPELLANT IN SLP (CRL.) NO. 14030 OF 2025

6.1. SUBMISSIONS ON BEHALF OF APPELLANT:

111. Learned Senior Counsel for the appellant Sri Siddhartha Dave submits that the appellant is a final year Ph.D. scholar of Jawaharlal Nehru University, with an established academic background including B.Tech and M.Tech degrees, Masters in Modern History and Philosophy, and having cleared the National Eligibility Test. It is urged that the appellant had no criminal antecedents whatsoever prior to 2020, and that his involvement in the present set of cases stems solely from speeches and protest-related activities undertaken during the anti-CAA movement.

112. It is submitted that the present proceedings arise out of FIR No. 59 of 2020, pertaining to an alleged conspiracy relating to the incidents in North-East Delhi in February 2020. The FIR was initially registered under IPC provisions alone, and only subsequently were offences under Chapters III, IV and VI of the UAPA, along with serious IPC offences, added. It is pointed out that at the inception of the FIR, only one individual was named, and the appellant was not among them.

113. Learned Senior Counsel emphasized that, as a matter of record, the appellant was not in Delhi after the second week of January 2020, and had already been taken into custody on 28 January 2020 in another case. Despite this admitted position, the appellant was arrayed as an accused in the present FIR through a supplementary charge sheet and was arrested on 25 August 2020, nearly six months after registration of the FIR.

114. It is submitted that the prosecution case against the appellant in the present FIR is founded entirely on material recovered in FIR No. 22 of 2020, namely four speeches delivered at different places, the formation of a WhatsApp group titled “Muslim Students of JNU”, alleged involvement in the Shaheen Bagh

protest, and pamphlets opposing the Citizenship Amendment Act. These very acts, it is urged, already form the subject matter of a separate prosecution, in which the appellant has been granted bail, and in respect of which judicial findings exist that the speeches do not contain any call for violence.

115. Learned Senior counsel submitted that even on the prosecution's own showing, there is no allegation against the appellant of having participated in any meeting where violence was planned, of having discussed use of arms, of any recovery of weapons or incriminating material from him, or of his presence at any site of violence in North-East Delhi. It is further submitted that there is no allegation of any communication or connectivity between the appellant and the other accused persons, including participation in WhatsApp groups such as DPSG, Pinjra Tod or JCC.

116. The learned Senior Counsel for the appellant submitted that the record demonstrates that the appellant repeatedly spoke against violence as a means of protest, that he was already in custody well before the incidents of February 2020, and that even the prosecution witnesses do not place him at Shaheen Bagh or any protest site after the first week of January. It is further pointed out that the WhatsApp group "Muslim Students of JNU" is stated to have become inoperative after mid-January 2020, and that the appellant is not an accused in any FIR relating to the actual incidents of rioting or violence.

117. Learned Senior Counsel submits that, in these circumstances, the statutory threshold under Section 43D(5) of the UAPA is not met. It is urged that protest-related speech, pamphleteering, and mobilisation for non-violent demonstrations, even if assumed to be politically charged, do not by themselves disclose offences under Chapters IV or VI of the UAPA, absent any proximate intent, preparation, or nexus to violence as contemplated under Section 15 of the Act.

118. It is further submitted that the scale of the prosecution itself demonstrates the oppressive nature of continued incarceration. The prosecution has filed

multiple charge sheets, the case involves twenty accused persons, proposes to examine more than nine hundred witnesses, and relies upon voluminous documentary material. The matter remains at the stage of arguments on charge, and there is no proximate progression to trial in the conventional sense.

119. Learned Senior Counsel then places reliance on the principle of parity. It is pointed out that several co-accused in the same FIR, including Natasha Narwal, Devangana Kalita, Asif Iqbal Tanha, Safoora Zargar, Faizan Khan and Ishrat Jahan, have already been granted bail, some on merits. It is submitted that challenges to these bail orders have been dismissed by this Court, and it has been clarified that co-accused are entitled to rely on parity.

120. It is urged that the appellant stands on a better footing than those already on bail. Unlike them, the appellant is not alleged to have been present in Delhi during the relevant period, not alleged to be present near the sites of violence, not shown to be connected with any of the co-accused through calls or messages, and not alleged to have participated in any meeting where violence was discussed. Even the solitary meeting attributed to him is stated, on the prosecution's own material, to have been confined to mobilisation for chakka jam and not violence.

121. Learned Senior counsel therefore submits that continued incarceration of the appellant, despite the absence of allegations of violence-related conspiracy, lack of proximity to the incidents in question, and parity with co-accused already on bail, cannot be sustained either on the statutory framework of the UAPA or on constitutional principles. It is urged that the impugned judgment proceeds on an impermissible conflation of dissent and protest with terrorist activity, warranting interference.

6.2.<u>SUBMISSIONS ON BEHALF OF THE RESPONDENT:</u>

122. Learned ASG Sri S.V. Raju appearing for the Respondent submitted that the appellant is not sought to be prosecuted merely for participation in protests or

expression of dissent, but for his distinct and foundational role in the genesis, planning and execution of a larger criminal conspiracy which ultimately culminated in widespread violence in Delhi. It is urged that the prosecution material, as analysed in detail by the High Court, clearly establishes that the conspiracy did not originate in February 2020 as a spontaneous reaction, but was set in motion in a calibrated and phased manner from early December 2019 onwards, with the appellant being one of its principal architects from the inception itself.

123. It is submitted that the appellant's role is traceable to the first phase of the conspiracy, which involved deliberate mobilisation, radicalisation and preparation of ground conditions through organised chakka jams, blockage of arterial roads, and disruption of essential services. The High Court has noted that this phase was not spontaneous, but involved prior planning, coordination and dissemination of instructions, and that the appellant played a central role in conceptualising and operationalising this strategy through meetings, digital platforms and public speeches.

124. Learned ASG Sri S.V. Raju submitted that the prosecution relies upon contemporaneous electronic evidence, including WhatsApp chats recovered from the appellant's device, which demonstrate that the appellant created and administered the WhatsApp group "Muslim Students of JNU". This group, as recorded by the High Court, functioned as a coordinating mechanism for mobilisation, identification of protest sites, dissemination of protest strategy and synchronisation of chakka jams across locations. The appellant's leadership role in this group is corroborated by witness statements and digital footprints forming part of the charge-sheet material.

125. It was further submitted that the appellant was involved in the drafting, printing and circulation of pamphlets in early December 2019, which deliberately invoked communally sensitive themes such as Babri Masjid, Kashmir and alleged existential threats to the Muslim community. The High Court has relied upon

statements of the printer and other witnesses who have attributed authorship and coordination of these pamphlets to the appellant. It is urged that these pamphlets were not neutral political literature but were designed to mobilise crowds through emotive and incendiary narratives, thereby laying the foundation for mass unrest.

126. Learned ASG Sri S.V. Raju submitted that the appellant's speeches form a crucial link in the chain of conspiracy. In particular, the High Court has noted that in his speech at Jamia Millia Islamia on 13 December 2019, delivered shortly before violence erupted in the area, the appellant articulated a strategy of choking Delhi through organised chakka jams, including blocking roads and disrupting essential supplies such as water and milk. It is urged that the speech reflects conscious awareness that such disruption would inevitably escalate into violence, and that the appellant framed such escalation as an acceptable and necessary consequence of the agitation.

127. It was submitted that the appellant's repeated assertion of opposing violence cannot be examined in isolation. The High Court has correctly observed that conspiracy is to be inferred from cumulative conduct, and that a conspirator may outwardly disavow violence while simultaneously engaging in acts designed to create conditions where violence becomes unavoidable. The appellant's conduct in planning road blockades, paralysing public movement and provoking confrontation with law enforcement must therefore be viewed cumulatively and not in a compartmentalised manner.

128. Learned ASG Sri S.V. Raju further submitted that the appellant attended and participated in conspiratorial meetings at Jangpura and within the JNU ecosystem, where the strategy of chakka jam and escalation of protests was discussed. The High Court has relied upon witness statements, photographic material and call-detail and location evidence to record the appellant's presence and participation in these meetings. It is urged that following these meetings, further coordination groups were created, evidencing a clear progression from planning to execution.

129. It was submitted that the appellant's role was not geographically confined to Delhi. Acting as a mobiliser and ideologue, the appellant travelled to Aligarh and other locations to replicate and export the protest model, aligning regional protests with the broader Delhi-centric strategy. The High Court notes that this was done in coordination with other conspirators, demonstrating that the conspiracy was pan-regional in conception and execution, and not localised or spontaneous.

130. Learned ASG Sri S.V. Raju submitted that the appellant played a decisive role in the creation and sustenance of the Shaheen Bagh protest site, which evolved into a prolonged 24x7 blockade of a major arterial road. The High Court records that the appellant issued instructions, addressed gatherings, and consciously distinguished between symbolic protest and disruptive blockade, opting for the latter. It is urged that the sustained nature of the blockade evidences intentional paralysis of civic life, squarely attracting the mischief contemplated under Chapter IV of the UAPA.

131. It was submitted that the argument of the appellant's absence from Delhi during February 2020 does not exculpate him at the bail stage. The High Court has correctly noted that the appellant's role was foundational and preparatory, and that liability for conspiracy does not require physical presence at the scene of violence once the plan has been set in motion. The riots, it is urged, were the logical culmination of the earlier phases of mobilisation and disruption in which the appellant played a central role.

132. Learned ASG Sri S.V. Raju submitted that the statutory threshold under Section 43D(5) of the UAPA is clearly satisfied. When the prosecution material is taken at face value, as mandated at the bail stage, it discloses acts intended to threaten the unity, integrity and security of the nation by paralysing the National Capital through orchestrated disruption and violence. The High Court's finding that the appellant's role is grave and foundational cannot be characterised as speculative or perverse at this stage.

133. It was further submitted that the plea of parity is misconceived. The High Court has distinguished the appellant's role from that of other accused who have been granted bail, noting that the appellant stands apart as a planner, mobiliser and ideological driver whose actions pre-date and shape the later stages of the conspiracy. Parity cannot be invoked mechanically to neutralise a qualitatively distinct and graver role.

134. Learned ASG Sri S.V. Raju finally submitted that the prosecution material, taken cumulatively, satisfies the "prima facie true" test under Section 43D(5) of the UAPA, and that this is not a fit case for grant of bail. The State accordingly prays that the appeal be dismissed.

6.3. FINDINGS OF THE TRIAL COURT:

135. The Trial Court vide order dated 11.04.2022, passed in IA. No. 81/2021 in SC 163/2020 dismissed the bail application filed by the Appellant. The Court held that the material on record disclosed prima facie involvement of the appellant in a deep-rooted and well-orchestrated criminal conspiracy relating to the North-East Delhi riots of February 2020. On a cumulative reading of the charge-sheet, witness statements under Sections 161 and 164 Cr.P.C., WhatsApp chats of coordinated groups, and other documentary and electronic evidence, the Court found that the protests were not spontaneous but were deliberately planned, escalated into chakka-jam, and thereafter converted into targeted violence, including attacks on police and destruction of public and private property. At the stage of bail, the Court emphasized that it was sufficient if the prosecution material, taken at face value, disclosed the appellant's complicity in the conspiracy, without a detailed appreciation of evidence.

136. A decisive ground for rejection of bail was the statutory embargo under Section 43D(5) of the Unlawful Activities (Prevention) Act, 1967. Applying the principles laid down in ***NIA v. Zahoor Ahmad Shah Watali (supra)***, the Trial Court held that once there exist reasonable grounds for believing that the

accusations are prima facie true, bail must be refused. The Court recorded that the prosecution material satisfied this threshold, showing the appellant's role in initiating, shaping, and sustaining the conspiracy, and therefore the bar under Section 43D(5) squarely applied. This embargo, read with the seriousness of the offences alleged, disentitled the appellant to the discretionary relief of bail.

137. The Trial Court also rejected the defence submissions that the appellant's acts were protected speech or mere calls for peaceful protest. It held that speech, meetings, and mobilization efforts cannot be examined in isolation, and must be assessed in the context of the entire chain of events and the object of the conspiracy. The prosecution case, at this stage, showed that calls for chakka-jam were not benign but were strategically designed to create confrontation, paralyse civic life, provoke law-and-order breakdown, and culminate in communal violence, thereby attracting offences under UAPA and the IPC. Issues relating to intent, interpretation of speeches, admissibility of evidence, and alleged exaggeration were held to be matters for trial, not bail.

138. Lastly, the Trial Court noted that the gravity of the offences, the manner of execution of the conspiracy, the scale of violence, and the societal impact weighed heavily against the grant of bail. It reiterated that at the bail stage, the Trial Court is not required to test the prosecution case for proof beyond reasonable doubt, but only to see whether a prima facie case exists. Finding that the accusations against the appellant were supported by substantial material and that the statutory restrictions under UAPA were attracted, the Court concluded that the appellant was not entitled to bail, and accordingly dismissed the bail application.

6.4. FINDINGS OF THE HIGH COURT:

139. The High Court in the impugned order held that the material on record prima facie showed Sharjeel Imam as one of the principal ideologues and early architects of the conspiracy, who allegedly set the process of mobilisation in motion immediately after the CAB/CAA developments. It was noted that he was

attributed the role of creating and administering WhatsApp groups, printing and circulating large numbers of pamphlets with communal overtones, and delivering speeches across multiple locations calling for disruptive chakka-jaams and paralysing essential services. The High Court found that these acts, when read together with subsequent events, demonstrated planning, preparation, and incitement, and that conspiracy liability does not depend on physical presence at riot sites once foundational planning and instigation are prima facie established.

140. Invoking Section 43D(5) of the UAPA, the High Court Court held that the accusations against Sharjeel Imam crossed the threshold of prima facie truth, thereby statutorily barring bail. The argument that his conduct amounted at best to an offence under Section 13 UAPA, or that his speeches were protected expression, was rejected at the bail stage. The High Court further held that his judicial custody prior to the actual riots did not dilute his alleged role, since the prosecution case was that the conspiracy had already been conceptualised and operationalised by then. Pleas of parity, delay in trial, and evidentiary weaknesses were found insufficient to override the statutory embargo, resulting in dismissal of his bail appeal.

6.5. DISCUSSION ON ROLE AND FINDINGS:

141. On 04.12.2019, immediately after the Cabinet Committee accorded approval to the Citizenship Amendment Bill, 2019 (for short, "CAB"), a WhatsApp group by the name Muslim Students of JNU (MSJ) was created. The charge-sheet discloses that the formation of the said group was the "brainchild" of accused Sharjeel Imam. It is further alleged that, in his chats with Arshad Warsi, a student of Jamia Millia Islamia University (JMI), Sharjeel Imam indicated that he was in contact with a radical communal group known as Students of Jamia (SOJ). According to the charge-sheet, the said group was engaged in distributing pamphlets in various mosques in Delhi against the verdict

of this Court in the Babri Masjid matter, which pamphlets were allegedly aimed at mobilising students of Jamia Millia Islamia University to participate in a protest proposed to be held on 06.12.2019 at 4:30 p.m. at the Polytechnic Lawn, JMI, against the introduction of the CAB.

142. The charge-sheet further reveals that on 06.12.2019, pamphlets were distributed in the areas of Jama Masjid and Nizamuddin by Sharjeel Imam along with members of SOJ, which, according to the prosecution, allegedly contained content capable of creating fear and insecurity among the Muslim community. The pamphlets also carried a call to join a protest organised by United Against Hate (UAH) on 07.12.2019 at Jantar Mantar. Chats exchanged between Sharjeel Imam and Arshad Warsi allegedly indicate Sharjeel Imam's intention to participate in the Jantar Mantar protest and his plan to mobilise students from Aligarh Muslim University (AMU) and Delhi University (DU) with the assistance of MSJ. The chats of the "Core Members of MSJ" further reveal that on 08.12.2019, Sharjeel Imam was invited to a meeting organised by Yogendra Yadav at the basement of premises bearing No. 6/6, Jangpura Extension, Delhi. The said meeting was allegedly convened with the objective of conspiring to incite a "Chakka Jam", and Umar Khalid is stated to have attended the said meeting. The charge-sheet further states that on 10.12.2019, upon the CAB being passed by the Lok Sabha and becoming law, members of MSJ burnt a copy of the Citizenship Amendment Act (CAA) within the JNU campus. Another WhatsApp group titled "CAB TEAM" was formed on 08.12.2019, and chats exchanged therein allegedly disclose a conspiracy to organise protests on 10.12.2019 at Jantar Mantar against the CAA. The said protest allegedly drew significant attention and was attended by several students, including Umar Khalid. On 10.12.2019, Nadeem Khan (one of the top conspirators and a close associate of Umar Khalid,who is also a mentor of Sharjeel Imam) directed Sharjeel Imam to visit Aligarh Muslim University to mobilize the students for the protest.

143. On 10.12.2019, Nadeem Khan, stated to be a close associate of Umar Khalid and a mentor to Sharjeel Imam, allegedly directed Sharjeel Imam to visit Aligarh Muslim University for mobilising students for the protests. On 11.12.2019, Sharjeel Imam allegedly reached Aligarh. As per the charge-sheet, on 12.12.2019, in furtherance of the alleged common conspiracy, Asif Iqbal Tanha, an accused in the case and a prominent member of the Student Islamic Organisation of India (SIO), issued a call for a protest march to Parliament from JMI against the CAA, scheduled for 13.12.2019. Pursuant thereto, a new WhatsApp group titled Muslim Students of JNU_1 was created at the behest of Sharjeel Imam. It is alleged that on 13.12.2019, members of MSJ were directed by Sharjeel Imam to reach Jamia Millia Islamia University, following which protests took place at the said campus. Call Detail Record (CDR) analysis is stated to reveal Sharjeel Imam's presence at Jamia Millia Islamia University on the said date.

144. On 13.12.2019, Sharjeel Imam is alleged to have distributed pamphlets and delivered a provocative speech. The charge-sheet reproduces certain portions of the speech, which, according to the prosecution, instigated the gathering, and reads as follows:

> "हमारी ख्वाहिश और हमारी आरजू यह है की दिल्ली में
>
> चक्का जाम हो ""यह तो आज हुआ है, यह चिंगारी थीइसमें 4000 लोग-3000 लोग थे | अगर organised way में हो, और लोग आएिगे"
>
> "(देश की राजधानी है) जो लोग गुमराह कर रहे हैं, अरे ये दिल्ली है भाई| ये flyover गिर जरा, पूरी दुनिया को खबर होगी | समझ रहे हैं ना ?"
>
> "यह चिंगारी कहा जाएगी ?आग कै से लगेगी ?"
> " लेकिन goal क्या है ?हमें चक्का जाम करना चाहते हैं | हिल्ली के मोहल्लो में दूध बंद करना चाहते हैं, पानी बंद करना चाहते हैं | खुलकर बोहलए यार (बिलकुल)|"

145. The charge-sheet further alleges that riots occurred on 13.12.2019 at Jamia Gate No. 7, during which civilians and approximately 20 police personnel sustained injuries, public and private property was damaged, and essential services were disrupted. FIR No. 296/2019 was registered in respect of the said incident. In relation to the speech delivered at Jamia Millia Islamia University, FIR No. 22/2020 was also registered against Sharjeel Imam at Police Station Crime Branch.

146. It is further alleged that on 15.12.2019, Sharjeel Imam convened a meeting of the MSJ Core Committee at Teflas, a dhaba located within the JNU campus, where further plans of action were discussed. The charge-sheet alleges that Sharjeel Imam sought to involve organisations such as the Popular Front of India (PFI), Jamaat-e-Islami Hind (JIH), SIO, and other groups in furtherance of the conspiracy. On the same date, violent protests allegedly took place in Jamia Nagar and New Friends Colony, resulting in injuries to 45 police personnel and 95 civilians. Two police booths were allegedly burnt, three police motorcycles and one QRT Gypsy were damaged, and three DTC buses along with eight private buses were also damaged. CDR analysis is stated to show the presence of Sharjeel Imam at the site of the protests. FIR No. 242/2019 was registered at Police Station New Friends Colony and FIR No. 298/2019 at Police Station Jamia in relation thereto. The charge-sheet further alleges that Sharjeel Imam, along with members of SOJ, facilitated the establishment of a 24x7 protest site at Shaheen Bagh, allegedly at his behest, despite opposition from local residents. This is stated to mark the conclusion of the first phase of the alleged conspiracy.

147. The second phase of the alleged conspiracy is stated to have commenced on 02.01.2020, when Sharjeel Imam allegedly posted content on his Facebook page advocating a “Chakka Jam”. On 09.01.2020, he is alleged to have conspired with Afreen Fatima to organise a meeting at Teflas, JNU, on 10.01.2020, aimed at mobilising crowds from JNU, Jamia, Old Delhi, and Seelampur to establish protest sites similar to Shaheen Bagh. The stated objectives of these protest sites

were allegedly to enforce chakka jams and engineer riots. On 13.01.2020, Nadeem Khan is alleged to have sent Saiful Islam and Asif Iqbal Tanha to meet Sharjeel Imam at Jamia Millia Islamia University. CDR analysis is stated to confirm Sharjeel Imam's presence at JMI at the relevant time. It is further alleged that Sharjeel Imam facilitated Nadeem Khan in raising and securing the Khureji protest site.

148. On 16.01.2020, Sharjeel Imam is alleged to have delivered another provocative speech, portions of which have been extracted in the charge-sheet, wherein he purportedly referred to blocking access to the North-East and advocated organised action through chakka jams.

> "ये मैं पहले भी शायद अर्ज कर चूका हूँ के 5 लाख लोग हमारे पास हो organised तो हम हिंदुस्तान और नॉर्थ ईस्ट को permanently cut कर सकते हैं,"
>
> "असम को काटना हमारी जिम्मेदारी है असम और इंडिया काट कर अलग हो जायें, तभी ये हमारी बात सुनेंगे"
>
> अगर हमें असम की मदद करनी है, तो हमें असम का रास्ता बंद करना होगा, फ़ौज के हलए, समझ रहे हैं ? फ़ौज के लिए और जीतने भी जो भी यहा से सप्लाई जा रहा है
>
> बंद करो और वो बंद कर सकते है क्योहिंक chicken neck मुसलमानो का है, वो जो इलाका है वो मुस्लिम अकसररयत है"

149. The charge-sheet further alleges that Sharjeel Imam delivered similar speeches at Asonal and Chakand on 22.01.2020 and 23.01.2020, respectively, wherein he is stated to have provoked sections of the Muslim population by inciting them to participate in disruptive chakka jams.

150. According to the prosecution, these speeches, taken cumulatively, led to the establishment of the Shaheen Bagh protest site, which is alleged to be the first successful model of a "Chakka Jam". Thereafter, several such protest sites were allegedly created in parts of North-East Delhi. In furtherance of the alleged

conspiracy, riots are stated to have occurred in North-East Delhi in the last week of February 2020. The charge-sheet thus attributes responsibility to Sharjeel Imam, Umar Khalid, and their associates for the protests and consequential riots that occurred on 23rd, 24th, and 25th February 2020, resulting in loss of life and damage to public property.

151. The Court is conscious that the present appeal is argued at length on the theme that the appellant is sought to be prosecuted for speeches and protest mobilisation, and that continued incarceration, in the teeth of delay and the scale of the trial, would be oppressive. At the same time, the Court cannot lose sight of the limits of the bail stage enquiry under a special statute. The task is neither to decide guilt nor to pronounce upon the correctness of competing interpretations of evidence. The enquiry is confined to determining whether, on the prosecution material as it stands and taken at face value, there exist reasonable grounds for believing that the accusations against the appellant are prima facie true, thereby attracting the statutory embargo under Section 43D(5) of the Unlawful Activities (Prevention) Act, 1967.

152. The appellant has urged, broadly, that he was not in Delhi after the second week of January 2020, that he was already in custody from 28.01.2020 in another case, that he was not present at the sites of the February 2020 riots, that no weapons were recovered from him, that he did not participate in meetings where violence was planned, and that the prosecution against him is substantially founded on speeches, pamphlets and a WhatsApp group which, according to him, are already the subject matter of a separate FIR wherein bail has been granted with observations that the speeches do not contain a call for violence. These submissions are supplemented by a plea of parity with several co-accused who have been enlarged on bail.

153. The State, on the other hand, has consistently urged that the appellant is not being prosecuted for dissent or protest as such, but for a distinct and foundational role in what is alleged as a calibrated conspiracy, which commenced

in the first week of December 2019 and progressed through identifiable phases. The prosecution theory, at least at this stage, does not treat the riots of February 2020 as a sudden eruption. It treats them as the culmination of earlier phases of mobilisation, blockade and disruption, in which the appellant is alleged to have acted as an organiser and ideational driver.

154. In considering these rival positions, the Court must keep in view two controlling principles already delineated earlier in the judgment. First, the prosecution material must be read cumulatively, in its total setting, and not in isolated fragments. Second, the Court does not, at this stage, reject prosecution material by adopting defence explanations or by testing reliability, admissibility or credibility as though conducting a trial. Those aspects remain within the province of final adjudication.

155. The role attributed to the appellant in the charge-sheet narrative is not episodic. The prosecution seeks to place him at the inception of a mobilisation strategy and traces a continuing course of conduct from early December 2019 through January 2020. The charge-sheet refers, inter alia, to the creation of the WhatsApp group "Muslim Students of JNU" and its "core members", to mobilisation through pamphlets distributed in specific localities, to participation in meetings, to the delivery of speeches at multiple places, and to efforts aimed at establishing or sustaining blockade style protest sites.

156. The High Court's individual role note also proceeds on the basis that the appellant engineered the first phase of events from 13.12.2019 to 20.12.2019, and relies upon contemporaneous electronic records in WhatsApp groups and chats as part of the material pointing towards planning and mobilisation. The same note refers to chats dated 07.12.2019 suggesting planning for mass mobilisation and links that planning to the commencement of the first phase of events on 13.12.2019.

157. At this stage, the Court is not called upon to finally pronounce on the evidentiary worth of each digital artefact. Yet, where the prosecution places

reliance on contemporaneous electronic communications to attribute a coordination and mobilisation role, the Court cannot treat such material as irrelevant merely because the defence disputes its ultimate probative value.

158. The appellant has attempted to frame the allegation as one resting solely on speech. The record, at least as placed by the prosecution, does not permit such reduction. The prosecution case is of a chain comprising: (i) creation and administration of mobilisation platforms; (ii) dissemination of written material intended to galvanise participation; (iii) meetings and coordination; and (iv) public exhortations articulating a strategy of disruption. At the bail stage, the Court is concerned with whether this chain, taken at face value, is coherent and whether it reflects a real nexus to the offences alleged.

159. A significant part of the material relied upon relates to 13.12.2019 at Jamia Millia Islamia. The High Court records that the presence of the appellant in Jamia Millia Islamia is reflected by CDR location of his mobile number. It further records that the appellant organised a "chakka jam" and that this chakka jam was differentiated from a "dharna", as reflected in the statement of a protected witness.

160. The statement of the protected witness under Section 164 Cr.P.C., as reproduced in the High Court note, attributes to Umar Khalid the act of explaining the difference between "chakka jam" and "dharna", and issuing directions to the appellant to start "chakka jam" at Shaheen Bagh on a 24x7 basis, with an expressed intent to commence similar activity in other areas at the "right time". This material, if accepted at face value as the bail stage requires, supports the prosecution's contention that the conduct alleged is not ordinary protest, but a planned and differentiated method of blockade and disruption.

161. The same note records, with reference to the main charge-sheet pages, that the appellant's speech of 13.12.2019 targeted Delhi as the capital, used the illustration of a flyover collapse drawing worldwide attention, and exhorted Jamia

and JNU students to execute disruptive chakka jam to such an extent that essential services like milk and water would be paralysed or choked.

162. The defence has urged that the speech contains no direct incitement to violence and is protected. That contention cannot be adjudicated in the manner the defence invites at this stage. The statutory enquiry is not whether the Court, after a full trial, would accept the prosecution's interpretation. The enquiry is whether the prosecution's reading is prima facie plausible on the face of the material and whether, read cumulatively with the other links, it contributes to a coherent narrative of planned disruption.

163. The Court is also mindful of the appellant's reliance on the assertion that he opposed violence. Such an assertion does not, at the bail stage, neutralise an allegation of conspiracy and preparatory orchestration. A conspirator may outwardly couch the conduct in the language of non-violence while engaging in acts intended to create conditions of confrontation and escalation. The prosecution case is that sustained blockade, choking of essential supplies, and deliberate paralysis of civic life are not benign political acts but steps in a planned trajectory, which then culminated in violence.

164. The appellant's absence from Delhi after the second week of January 2020 and his custody from 28.01.2020 are not ignored. However, these facts do not conclude the matter in a prosecution founded on conspiracy and preparatory roles. The prosecution case, as analysed by the courts below, is that the appellant's role is foundational, operating at the stage of mobilisation, organisation and strategy, and that physical presence at the scene of the final violence is not a condition precedent for attributing conspiracy liability.

165. At the present stage, therefore, the absence argument cannot be treated as exculpatory. It is a matter to be tested at trial in the light of complete evidence. The bail stage enquiry cannot be converted into a determination that once the appellant is not physically present during the February riots, his earlier attributed role becomes legally irrelevant.

166. The appellant has urged that the case against him is built entirely on speech, pamphlets and protest related activity. The Court does not accept that characterisation as complete. The prosecution material, as presently placed, alleges a combination of organisational acts, coordination through digital groups, meetings and differentiated strategy of chakka jam and blockade.

167. Further, even within the speech related material, the prosecution emphasis is not on ideological disagreement with the State or on political criticism. The emphasis is on a proposed method of paralysing civic life and choking essential supplies, articulated as a deliberate strategy and linked to a wider mobilisation narrative. Whether this ultimately crosses the final line from protected expression to criminal conduct, and whether the prosecution's interpretation withstands trial scrutiny, are matters for final adjudication. They cannot be conclusively decided at the bail stage without trespassing into forbidden terrain.

168. It is necessary to record expressly that issues such as: (i) admissibility of electronic material; (ii) compliance with procedural requirements; (iii) reliability of witness statements; (iv) interpretative nuances of speeches; and (v) whether any part of the prosecution case is overstated, are all matters to be addressed at trial. At the stage of Section 43D(5), the Court proceeds on the material as it stands.

169. When the structured inquiry delineated earlier in the judgment is applied to the appellant, the following features assume significance. First, the prosecution material, taken at face value, does not depict the appellant as an accidental or peripheral participant. It depicts him as a coordinator and mobiliser at the inception and in the first phase. Second, there is specific material placing him at Jamia on 13.12.2019 through CDR location. Third, there is a protected witness statement relied upon by the prosecution, attributing directions to the appellant to commence a differentiated chakka jam at Shaheen Bagh on a 24x7 basis, with a plan to expand to other areas at the right time. Fo urth, the prosecution relies on

the appellant's speech exhorting disruptive chakka jam and choking of essential services.

170. Taken cumulatively, these elements reflect a role attribution which is not of mere association, presence, or protest participation. The allegation is of deliberate mobilisation, planned blockade strategy, and intentional disruption of civic life. On the prosecution's case, such conduct is relied upon as having a direct nexus to the unlawful activity alleged under the Act, whether as preparatory acts, facilitation, or conspiracy.

171. Once the prosecution material, taken as it stands, crosses that threshold, the statutory embargo under Section 43D(5) operates with full force. The Court cannot then enlarge the appellant on bail by proceeding as though the statutory restraint were a matter of discretionary balancing. The statutory design, as already noted earlier in the judgment, requires the Court to refuse bail where there exist reasonable grounds for believing that the accusation is prima facie true.

172. The plea of parity, though pressed with emphasis, cannot override the statutory conclusion. Parity is not applied by numerical comparison. It is applied by similarity of role, similarity of attribution, and similarity of the material relied upon. The courts below have treated the appellant's role as qualitatively distinct, and the material noticed above indicates why the prosecution alleges a foundational role at the early stage. In such circumstances, parity cannot be invoked mechanically to dilute the statutory embargo.

173. The plea of delay has already been addressed at a general level in the earlier portion of the judgment. In the appellant's case, the Court remains mindful of the scale of the trial. Yet, once the prima facie threshold is crossed, the appropriate judicial response is to ensure prioritisation and expedition, not to grant bail in disregard of the statutory mandate. The remedy for stagnation lies in calibrated judicial supervision and directions for expeditious progress, not enlargement on bail where the embargo is attracted.

174. The Court accordingly finds that the prosecution material, read cumulatively and taken at face value, discloses reasonable grounds for believing that the accusations against the appellant are prima facie true. The material relied upon is not confined to abstract ideology. It comprises digital coordination, attribution of planning and mobilisation, presence supported by location records, a protected witness statement describing differentiated chakka jam strategy, and speech material exhorting disruption and choking of essential services.

175. In view of this prima facie satisfaction, the statutory embargo under Section 43D(5) of the Unlawful Activities (Prevention) Act, 1967 stands attracted. The Court is therefore left with no lawful option but to decline the prayer for bail.

176. For the reasons aforesaid, the appeal preferred by Sharjeel Imam arising out of SLP (Crl.) No. 14030 of 2025 is dismissed. The prayer for bail is rejected.

177. It is clarified that the observations herein are confined to the present stage of consideration under Section 43D(5) of the Act and shall not be construed as an expression on the merits at trial. The Trial Court shall accord due priority to the matter and ensure that the proceedings are carried forward with reasonable expedition.

7. UMAR KHALID – APPELLANT IN SLP (CRL.) 14165 OF 2025:

7.1. SUBMISSION ON BEHALF OF APPELLANT:

178. Learned Senior Counsel Sri Kapil Sibal, appearing on behalf of the appellant, Umar Khalid, submitted that the prosecution record does not attribute any overt act of violence to the appellant in relation to the incidents that occurred in North-East Delhi between 22.02.2020 and 25.02.2020. It was pointed out that, as borne out from the charge-sheet itself, the appellant was not present in North-East Delhi during the period when violence ensued and, on certain crucial dates, was not even in Delhi. No witness statement places the appellant at the site of any

rioting, arson, assault, or destruction of public or private property during the relevant period, nor is any FIR relied upon to attribute such acts to him.

179. It was further submitted that no recoveries whatsoever have been effected from the appellant or at his instance. The record does not disclose recovery of any weapons, arms, ammunition, explosives, inflammable substances, funds, or other incriminating articles. No physical, forensic, or electronic evidence connects the appellant with any violent act. Despite registration of a large number of FIRs in connection with the riots, the prosecution has not relied upon any recovery or witness statement from those FIRs to link the appellant with actual violence. Apart from the present FIR, the appellant was arraigned in only one other FIR arising from the same period, in which he was granted bail and subsequently discharged.

180. Learned Senior Counsel submitted that the prosecution alleges criminal conspiracy primarily on the basis of the appellant's alleged participation in meetings and protests and his alleged association with certain WhatsApp groups. It was pointed out that the appellant neither created nor administered the WhatsApp groups relied upon by the prosecution and was not a member of some of the principal groups alleged to have been used for coordination. The record indicates that the appellant did not send any message calling for violence, arson, or unlawful acts. The messages attributed to him are confined to sharing location pins of protest sites on dates when no violence occurred and to communications relating to a call received from a police official. No material on record demonstrates that any decision to commit violence was taken, conveyed, or implemented at the instance of the appellant through such groups.

181. It was further submitted that the prosecution relies upon the alleged presence of the appellant at various meetings and protests held between December 2019 and February 2020. For several such meetings, no supporting witness is cited; for others, the statements relied upon are hearsay in nature or contradicted by the appellant's call detail records. Photographs relied upon by the

prosecution show the presence of several persons who have not been arraigned as accused. The record does not disclose any material to show that these meetings involved planning, preparation, or execution of violence or that the appellant exercised any command, control, or direction over participants.

182. Learned Senior Counsel submitted that the only overt act specifically attributed to the appellant is a public speech delivered by him at Amravati on 17.02.2020. The transcript of the speech, as placed on record, contains repeated references to non-violence, civil disobedience, non-cooperation, constitutional methods of protest, and Gandhian principles. The speech does not exhort violence, destruction of property, or unlawful action. The prosecution record does not disclose any material establishing a proximate or causal nexus between the said speech and the incidents of violence that occurred in Delhi several days later.

183. It was lastly submitted that, on facts, the prosecution seeks to invoke Sections 15, 16 and 18 of the UAPA by treating the appellant's speech, meeting participation, and protest activity as constituting a "terrorist act", without alleging use of bombs, explosives, firearms, hazardous substances, or any other lethal means enumerated in Section 15. The record reflects that the prosecution relies solely on the residual expression "by any other means of whatever nature" to bring the appellant's acts within the definition of a terrorist act. No factual material is placed on record to show that the appellant caused, attempted to cause, or intended to cause death, injuries, destruction of property, or disruption of essential services by any violent or hazardous means. Apart from speech, association, and alleged presence, no factual act is attributed to the appellant to demonstrate commission of offences under Chapter IV of the UAPA.

7.2. <u>SUBMISSIONS ON BEHALF OF RESPONDENT:</u>

184. Learned ASG Sri S.V. Raju appearing for the respondent submitted that the prosecution case, read as a whole, discloses the active and central role of the appellant, Umar Khalid, in a larger criminal conspiracy which culminated in

widespread violence, disruption of essential services, and communal riots in North-East Delhi. It was contended that the case against the appellant does not rest on isolated incidents or stray speeches, but on a continuous and coordinated course of conduct beginning from December 2019, involving meetings, organisational planning, mobilisation, and execution of a strategy of "chakka jam" distinct from peaceful protest, with the deliberate object of escalating tensions and paralysing the city.

185. It was submitted that the appellant was not a peripheral participant but an ideologue and organiser who conceptualised and propagated the strategy of "chakka jam", differentiating it from a conventional dharna. Reliance was placed on statements of protected witnesses recorded under Section 164 Cr.P.C., electronic records, photographs, and call detail records, which prima facie show that the appellant directed and guided co-accused persons including Sharjeel Imam, Asif Iqbal Tanha and Saiful Islam. The State submitted that meetings held at Jangpura, Jamia, Shaheen Bagh, Indian Social Institute, Gandhi Peace Foundation and Seelampur demonstrate sustained involvement of the appellant in planning and coordination, including the creation of protest committees, WhatsApp groups, and mobilisation teams operating across multiple locations in Delhi.

186. Learned ASG Sri S.V. Raju further submitted that the appellant's role extended beyond ideological advocacy to operational coordination. The prosecution relies upon evidence indicating that protest sites were deliberately expanded, made permanent on a 24x7 basis, and strategically located at arterial roads and sensitive areas. It was contended that WhatsApp groups such as DPSG, JCC, and Jamia Awareness Campaign Team were used to disseminate instructions, coordinate sites, and ensure uniform execution of decisions taken at higher levels. The appellant, it was submitted, was a member of, and exercised influence over, these groups, with witnesses stating that decisions were taken at his instance and subsequently ratified by ground-level organisers.

187. The State submitted that the appellant's presence at Jamia on 13.12.2019 and 15.12.2019 coincided with incidents of violence resulting in injuries to police personnel and civilians and damage to public and private property. Call detail records were relied upon to establish his presence in the area at relevant times. It was contended that witness statements attribute to the appellant directions to initiate chakka jam at Jamia Gate No. 7 and Shaheen Bagh, and to expand such activity to other Muslim-dominated areas. The prosecution further relies upon meetings at Shaheen Bagh and Seelampur where, according to protected witnesses, instructions were issued to mobilise women, stockpile materials such as stones, bottles, acids and chilli powder, and prepare for escalation at an opportune moment.

188. Learned ASG Sri S.V. Raju submitted that the appellant's speech delivered at Amravati on 17.02.2020 forms part of this larger factual matrix. The State contended that the speech cannot be viewed in isolation, but must be read in conjunction with prior meetings, subsequent coordination, and the timing of events. It was urged that the speech, delivered without requisite permission, called for nationwide disruption, invocation of civil disobedience, and collective defiance, which, when coupled with the contemporaneous conspiracy and subsequent violence, prima facie establishes intentional incitement and preparation. The State submitted that the speech reinforced the operational strategy already put in motion.

189. It was further submitted that the offences invoked under Sections 15, 16 and 18 of the Unlawful Activities (Prevention) Act are attracted not merely by use of weapons or explosives, but also by acts intended to threaten the unity, integrity, security and economic stability of the nation, including by disruption of essential services and creation of widespread fear. The prosecution contended that the deliberate blocking of roads, mobilisation at sensitive sites, coordination across districts, and incitement to escalate protests into violent confrontation constitute, at the prima facie stage, acts falling within the expansive definition of

a terrorist act under Section 15, particularly when read with the expression "by any other means of whatever nature".

190. Learned ASG Sri S.V. Raju lastly submitted that the appellant's role cannot be assessed in isolation from the collective conduct of the conspiracy. It was urged that absence of direct recovery or individual acts of violence is not determinative at this stage, as conspiracy by its very nature operates through division of roles. The State contended that the prosecution material, when taken cumulatively and at face value, discloses reasonable grounds for believing that the accusations against the appellant are prima facie true, and that the statutory bar under Section 43D(5) stands attracted.

7.3. FINDINGS OF THE TRIAL COURT:

191. The Trial Court vide order dated 28.05.2024, rejected the second bail application ***(IA No. Bail Application Registration No. 441/2024 in SC No. 163/2020)*** filed by the appellant primarily on the ground that no genuine change in circumstances had been shown since the rejection of the first bail application vide order dated: 24.03.2022, ***I.A. No. 92/2021 in SC No. 163/2020***. Although the appellant asserted change in circumstances, the Court noted that none were specifically pleaded or substantiated. Withdrawal of the SLP before the Supreme Court on the ground of "change in circumstances" did not, by itself, create a fresh cause for reconsideration of bail, especially when earlier findings had attained finality.

192. The plea of delay in trial and prolonged incarceration was also rejected. The Court found that there was no delay attributable to the prosecution rather, proceedings were held up due to objections and applications moved by the accused persons themselves. Relying on recent Supreme Court precedent, the Court held that in cases under the UAPA, delay alone cannot justify grant of bail considering the gravity of the offences and the restrictive statutory framework.

193. The Court further held that reliance on ***Vernon v. State of Maharashtra*** did not advance the appellant's case. It observed that the judgment did not dilute the embargo under Section 43D(5) UAPA and that the Delhi High Court, while dismissing the earlier appeal, had already carried out the required "surface analysis" of the probative value of evidence and concluded that the accusations against the appellant were prima facie true. Subsequent Supreme Court judgments had reaffirmed the law laid down in ***Watali*** and ***Gurvinder Singh.***

194. Finally, the Court held that it was bound by the concurrent findings of the Trial Court and the Delhi High Court rejecting bail, which had attained finality after withdrawal of proceedings before the Supreme Court. The plea of parity with co-accused was rejected, as the appellant's role had already been independently examined and distinguished. In view of the statutory bar under Section 43D(5) UAPA and the prima facie findings on record, the Court found no merit in the application and dismissed it.

7.4. FINDINGS OF THE HIGH COURT:

195. The Court held that the prosecution material, taken cumulatively, disclosed prima facie involvement of Umar Khalid as a key conspirator and mobiliser in the larger conspiracy that culminated in the February 2020 Delhi riots. It was noted that he allegedly played a central role in conceptualising and directing mass mobilisation against the CAA/NRC through coordinated meetings, formation and control of multiple WhatsApp groups (including JCC and DPSG), and delivery of speeches at various locations. The Court found that the prosecution narrative attributed to him a leadership role in escalating protests into disruptive chakka-jaams and, thereafter, into violence, including alleged directions to intensify agitation during strategically sensitive periods. At the bail stage, the Court emphasised that conspiracy must be assessed holistically and not by isolating individual acts or speeches.

196. Applying the statutory embargo under Section 43D(5) of the UAPA, the Court held that there were reasonable grounds for believing that the accusations against Umar Khalid were prima facie true, thereby barring the grant of bail. The pleas of protected speech, absence from riot sites, lack of recoveries, parity with co-accused, change in circumstances, and prolonged incarceration were rejected. The Court clarified that the bail orders granted to other co-accused were expressly directed by the Supreme Court not to operate as precedents and that Umar Khalid's alleged role was qualitatively graver. Issues relating to credibility of witnesses, admissibility of evidence, and interpretation of speeches were held to be matters for trial, leading to dismissal of the bail appeal.

7.5. DISCUSSION ON ROLE AND FINDINGS:

197. Umar Khalid is described in the FIR as the principal conspirator behind the larger conspiracy which, according to the prosecution, culminated in the riots during the last week of February 2020. The charge-sheet alleges that Umar Khalid progressed from being a propagator of the slogan "Bharat Tere Tukde Honge, Insha Allah Insha Allah" to playing a central role in the formulation and execution of the present criminal conspiracy, which is alleged to constitute a terrorist act. The first overt act attributed to Umar Khalid, as per the charge-sheet, is stated to have occurred on 05.12.2019, when, acting on his directions, Sharjeel Imam created the WhatsApp group Muslim Students of JNU (MSJ). It is further alleged that Umar Khalid participated in the protest held on 07.12.2019 at Jantar Mantar, where he, along with Yogendra Yadav and Sharjeel Imam, purportedly agreed to utilise social media as a platform for large-scale indoctrination and mobilisation of youth for the purpose of enforcing a "Chakka Jam" as a mode of protest against the Citizenship Amendment Act.

198. On 08.12.2019, Umar Khalid is alleged to have attended a meeting held at premises bearing No. 6/6, Jangpura Extension, Delhi. The said meeting, which was led by Yogendra Yadav, is stated in the charge-sheet to have resulted in a decision to further the alleged conspiracy of enforcing "Chakka Jams" with the objective of engineering riots. The charge-sheet is stated to contain a photograph of the meeting attended by Umar Khalid on 08.12.2019 at the aforesaid premises. After the conclusion of the meeting, a WhatsApp group titled "CAB Team" was allegedly created for the purpose of organising anti-CAA protests and for mass mobilisation of the Muslim community. In furtherance of the discussions held in the said group, a protest is stated to have taken place on 10.12.2019 at Jantar Mantar, Delhi, which was also attended by Umar Khalid.

199. On 13.12.2019, in furtherance of the alleged conspiracy, Sharjeel Imam is stated to have been introduced by Umar Khalid to students of Jamia Millia Islamia University. It is further alleged that Umar Khalid stated that he had explained to Sharjeel Imam the distinction between a dharna and a chakka jam, and that, at the relevant point of time, they were planning to enforce chakka jams across Delhi with the stated objective of overthrowing the Government, which, according to the prosecution, was described by them as a "Hindu Government" acting against the Muslim community. Umar Khalid is further alleged to have directed Sharjeel Imam, Saif-ul-Islam, and Asif Iqbal Tanha to initiate a chakka jam at Gate No. 7 of Jamia Millia Islamia University and to have instructed Sharjeel Imam to commence a chakka jam at Shaheen Bagh.

200. On 15.12.2019, Umar Khalid is alleged to have visited Jamia Millia Islamia University in furtherance of the common conspiracy. At Jamia, he is stated to have instigated a gathering of local students, which allegedly culminated in rioting. Thereafter, Sharjeel Imam, acting on the directions of Umar Khalid, is alleged to have moved to Shaheen Bagh and blocked Road No. 13 at Shaheen Bagh. On 16.12.2019, Umar Khalid is further alleged to have directed Asif Iqbal Tanha and Saif-ul-Islam to constitute a student body for organising anti-

CAA/NRC protests at Jamia in a planned and organised manner. On 17.12.2019, in furtherance of the alleged conspiracy and on the directions of Umar Khalid, students of Jamia Millia Islamia University, including other appellants herein, namely Shifa-ur-Rehman and Meeran Haider, are stated to have gathered at Gate No. 7 of the University. On further directions of Umar Khalid and Nadeem Khan, the Jamia Coordination Committee (JCC) is alleged to have been formed by Asif Iqbal Tanha and Saiful Islam. The charge-sheet describes the JCC as the brainchild of Umar Khalid and Nadeem Khan, allegedly created to mobilise a larger number of students for the protests. On 19.12.2019, a protest march organised by "Hum Bharat Ke Log" (Swaraj Abhiyan and United Against Hate) from the Red Fort to Shaheed Park, ITO, and a separate protest march organised by Left parties at Mandi House, allegedly took place. Despite denial of permission and imposition of prohibitory orders under Section 144 CrPC in the area, Umar Khalid, Yogendra Yadav, and others are stated to have participated in the protest march and were detained along with 293 other persons.

201. On 20.12.2019, Saif-ul-Islam and Asif Iqbal Tanha are alleged to have constituted another committee, namely the Jamia Awareness Campaign Team (JACT), on the directions of Umar Khalid, with the stated objective of maximising mobilisation of the Muslim population in Muslim-dominated areas of Delhi for establishing 24×7 protest sites aimed at enforcing "Chakka Jams". As per the statements of protected witnesses, Umar Khalid, along with Nadeem Khan, is alleged to have directed one Amanullah to visit Muslim-dominated localities and mobilise residents for the protests, while also encouraging greater participation of women and children, with the purported intent that the presence of women and children would deter the police from dismantling the protest sites. It is further alleged that on 26.12.2019, a meeting was held at the Indian Social Institute, Lodhi Colony, which was attended by Umar Khalid and others, in continuation of the alleged conspiracy. Subsequently, on 28.12.2019, another WhatsApp group titled Delhi Protest Support Group (DPSG) was created for the

purpose of disseminating decisions taken by its members among organisers of various protest sites for execution of the alleged conspiracy. Umar Khalid is stated to have been a member of the said group.

202. On 02.01.2020, a meeting was convened by the administrator of the DPSG, namely Rahul Roy, at the Gandhi Peace Foundation, which was attended by Umar Khalid. As per the charge-sheet, it was reiterated in the said meeting that more protest sites, similar to Shaheen Bagh, be established, with women and children placed at the forefront so as to avoid police action. On 08.01.2020, Khalid Saifi, associated with DPSG and United Against Hate (UAH), is alleged to have organised a meeting at the office of the Popular Front of India (PFI) at Shaheen Bagh, which was attended by Umar Khalid and Tahir Hussain. The charge-sheet relies upon chats dated 20.01.2020 and 21.01.2020 exchanged in the DPSG group, which are stated to have led to the creation of three 24×7 sitting protest sites, with Umar Khalid and Nadeem Khan allegedly exercising control over the said sites. On 23.01.2020 and 24.01.2020, in furtherance of the alleged conspiracy, Umar Khalid is stated to have visited the Seelampur protest site and addressed the gathering assembled there. Thereafter, he is alleged to have held a clandestine meeting with Natasha Narwal, Devangana Kalita, Tasleem, and others, during which, according to the prosecution, Umar Khalid instigated local women of Seelampur to stockpile knives, bottles, acid, stones, chilli powder, and other dangerous articles with the intent to engineer riots. Statements of protected witnesses have been relied upon in the charge-sheet in respect of the meeting allegedly held on 23.01.2020.

203. The charge-sheet further alleges that Umar Khalid attended a meeting organised by the Welfare Party of India (WPI) at Jantar Mantar, Delhi, on 10.02.2019. In the said meeting, Umar Khalid is alleged to have instructed residents of Jahangirpuri to instigate illegal Bangladeshi residents of the area to participate in the activities forming part of the alleged conspiracy.

204. On 17.02.2020, Umar Khalid is alleged, as per the charge-sheet, to have delivered a provocative speech at Amaravati, Maharashtra. It is stated that although he was not among the persons permitted to address the gathering, he nevertheless made a speech. In the said speech, he is alleged to have exhorted people to take to the streets and to demonstrate, during the visit of the then President of the United States of America, Donald Trump, what was portrayed as the ill-treatment of minorities by the Government of India.

205. The charge-sheet further alleges that on 22.02.2020 and 23.02.2020, acting upon the speeches of Umar Khalid and in accordance with the directions issued by him and other alleged executors of the conspiracy, protesters under the guise of women-led 24×7 sit-in protests near Madina Masjid, Seelampur, moved and occupied the 66 Foot Road near Jafrabad Metro Station, thereby completely blocking traffic, constituting a "Chakka Jam". Thereafter, in pursuance of and in furtherance of the common conspiracy, on 23.02.2020, protesters from other protest sites in North-East Delhi and other parts of the city are alleged to have moved from their respective sites to pre-decided points on major roads and blocked, or attempted to block, traffic entirely, thereby enforcing coordinated chakka jams. The charge-sheet states that these blockade points were strategically selected so as to effect a simultaneous and coordinated traffic paralysis across large parts of the city. According to the prosecution, the intent behind these blockades "was not to create traffic chaos but to ensure communal skirmish, as is evident from the movement from predominantly minority clusters, where 24×7 sit-in dharnas were being held, to areas of mixed population for causing the chakka jam."

206. On 23.02.2020, it is alleged in the charge-sheet that protesters from various sites moved in a coordinated manner to pre-designated locations to block traffic across the city. In furtherance of the common conspiracy, and subsequent to the enforcement of the chakka jams, the conspirators are alleged to have launched attacks on police personnel and non-Muslims, and to have caused extensive

damage to government and private property through arson, vandalism, and other violent acts, thereby engineering large-scale riots. The charge-sheet alleges that firearms, petrol bombs, acid, sharp-edged weapons, iron rods, sticks, stones hurled through pre-fabricated large-sized slingshots, and other means were employed to attack and kill police personnel, government employees, and members of the public. It is further alleged that a petrol pump was set ablaze in an attempt to cause a large-scale explosion, which could have resulted in mass casualties and created widespread terror. Access to essential services, including hospitals, medical stores, the Delhi Metro Rail Corporation (DMRC), other public transport systems, schools, colleges, and universities, is stated to have been severely disrupted, leading to the postponement of board examinations and deprivation of essential supplies to the general public.

207. The charge-sheet further states that on 24.02.2020, disillusioned by the scale and magnitude of the violence unleashed by the key conspirators, certain members of the DPSG WhatsApp group threatened to expose all those responsible for the riots. According to the prosecution, several telephonic conversations took place between Umar Khalid and Nadeem Khan during this period. Among these, reliance is placed on a call between Jahanvi Mittal and Tabrez, wherein Jahanvi Mittal is alleged to have warned Tabrez who had allegedly arranged the presence of approximately 300 women protesters to maintain silence regarding the transportation of women from Jahangirpuri to Seelampur–Jafrabad and their alleged participation in the riots on the previous day. The cumulative effect of these communications, as per the charge-sheet, is stated to indicate that the conspirators, having panicked due to the conduct of certain members of their group, decided to adopt what is described as an "ultimate guerrilla strategy" of attributing the violence and resultant carnage to law enforcement agencies.

208. The charge-sheet ultimately attributes the orchestration of the protests and the resultant riots to Umar Khalid, describing him as the principal architect of the events that unfolded.

209. The appellant presses, in substance, three propositions: first, that no overt act of violence is attributed to him and no recoveries have been effected; second, that his alleged presence in meetings, association with groups, and a speech at Amravati cannot be transmuted into offences under Chapters IV and VI of the UAPA; and third, that the prosecution case is an impermissible conflation of protest with terrorism. These submissions are framed with care. Yet they must be tested against the only inquiry open to this Court at this stage: whether the prosecution material, taken as it stands and read cumulatively, furnishes reasonable grounds for believing that the accusations against the appellant are prima facie true, thereby attracting the statutory restraint under Section 43D(5).

210. Two foundational clarifications are necessary. One, the Court is not assessing whether the prosecution will ultimately succeed; it is assessing whether the prosecution case, as presented, crosses the statutory threshold at the bail stage. Two, conspiracy cases, particularly those alleged to unfold in phases, do not disclose themselves through a single piece of evidence; they are built through a chain of circumstances, organisational decisions, communications, and role allocation. The law does not demand that every conspirator execute the terminal act; it demands a prima facie nexus between the accused and the unlawful design, inferred from cumulative conduct.

211. The prosecution narrative, as pleaded, is not episodic. It is architectural. It asserts a phased progression: mobilisation and indoctrination; institutionalisation through committees and digital platforms; expansion of protest sites into permanent blockades; preparation for escalation; and culmination in coordinated chakka jams and widespread violence. The role attributed to Umar Khalid is not of a late entrant nor of a peripheral sympathiser. It is that of an organiser and

coordinator who, according to the prosecution, supplied the "method", the "timing", and the "linkage" between dispersed sites and actors.

212. The factual record placed by the prosecution repeatedly returns to a distinction that is central to the case: the differentiation between a conventional dharna and a chakka jam. This is not treated as semantics. It is treated as strategy. A dharna may be expressive; a chakka jam, as alleged, is disruptive by design. The prosecution case is that the sustained choking of arterial roads, replication of blockade sites, and the movement of crowds from minority clusters into mixed-population areas were not accidental expressions of dissent, but calibrated acts meant to generate confrontation, overwhelm law enforcement, and create conditions for violence.

213. It is in this backdrop that the material regarding 13.12.2019 at Jamia is relied upon. The prosecution relies upon a protected witness statement that the appellant explained the distinction between dharna and chakka jam, projected certain co-accused as his "team", and issued directions for initiation of chakka jam at Gate No. 7 of Jamia and at Shaheen Bagh, with an express reference to expansion "at the right time". At this stage, the Court does not test whether the witness is truthful; it tests whether, if the statement is taken at face value, it links the appellant to the alleged design in a meaningful manner. It does. It is not a statement of mere association; it is a statement of direction and role allocation.

214. The appellant urges that he was not present at riot sites in the critical period. That submission, even if assumed correct, does not answer the prosecution case, because the prosecution does not pitch him as an executor of the terminal violence; it pitches him as a person involved in shaping the method and seeding the strategy earlier. In a phased conspiracy, physical absence at the final scene is not the end of the inquiry; it may, at best, shift the inquiry upstream, to see whether the accused is linked to the preparatory and coordinating stages.

215. The appellant emphasises lack of recoveries, absence of weapons, and absence of forensic linkage. In ordinary IPC bail jurisprudence, these factors

often have weight. Under a special statute alleging a wider conspiracy with distributed roles, these factors cannot be made decisive. A conspiracy organiser may leave no recoveries because the organisers do not carry the instruments that the executors use. If recoveries were treated as a universal requirement, conspiracy cases would be structurally immunised at the bail stage for those who organise rather than execute. The statute does not contemplate such a result.

216. The law does not require the prosecution to demonstrate, at the bail stage, that the accused personally caused death or destruction, or personally stocked explosives, before Section 43D(5) can apply. It requires the Court to see whether the material discloses a prima facie case of involvement in the unlawful activity alleged. Here, the prosecution material is pressed to show that the appellant's role is traced through meetings, committees, instructions, coordination mechanisms, and alleged preparation for escalation. If that chain is prima facie visible, the absence of recoveries does not break it.

217. The appellant's submissions treat meetings as innocuous, and committees as routine protest organisation. The prosecution case treats them as the infrastructure of the conspiracy. The Court must therefore ask: does the material suggest continuity of role across time, rather than episodic presence? The charge-sheet material, as summarised in the accused-wise narrative already set out, places the appellant at repeated decision points: the Jangpura meeting of 08.12.2019; the Jamia phase of mid-December; the formation and functioning of JCC/JACT as mobilisation structures; the creation and operation of DPSG as a dissemination mechanism; the meetings at ISI, Gandhi Peace Foundation and Shaheen Bagh; and the January Seelampur phase alleged to involve preparation for escalation.

218. At this stage, the Court does not decide whether each meeting was conspiratorial. But where multiple meetings across weeks and months are alleged, and where witness material and electronic records are pressed to place the same accused at several of these junctures, the Court is entitled to view continuity itself

as a relevant circumstance. Continuity is the difference between a participant and an organiser in the prosecution narrative.

219. The appellant says he did not create certain WhatsApp groups. That may be ultimately matter of trial. At the bail stage, it is not determinative. The prosecution does not allege that guilt arises from creating a group; it alleges that groups functioned as coordination platforms through which decisions taken at higher level were transmitted to multiple sites for execution. Membership, participation, and the alleged influence exercised through or around such platforms is what the prosecution presses.

220. The record, as placed, indicates that the appellant is shown as a member of DPSG and that protected witness material speaks to the coordinating character of such groups. Whether the appellant sent incriminating messages is not the only relevant factor. In a coordination structure, some speak, others steer. A conspirator's role may be inferred from where he is placed in the architecture, not only from what he typed in a chat window.

221. The appellant places heavy reliance on the Amravati speech, urging that it repeatedly invokes non-violence and constitutional protest. The prosecution urges that the speech forms part of a larger matrix of mobilisation and was delivered in temporal proximity to the culminating phase. At this stage, the Court must resist from committing two errors. The first is to criminalise speech merely because it is politically charged. The second is to immunise a continuing course of conduct merely because it contains language of non-violence.

222. In conspiracy jurisprudence, outward disavowal and inward design may co-exist; public caution does not necessarily negate private preparation. That is why the law insists on cumulative assessment. The speech, in isolation, cannot decide the case. Equally, the speech cannot be extracted from the timeline and used as a complete answer to allegations of meetings, directions, and preparatory acts alleged over months. The Court therefore treats the speech as one

circumstance in a chain, to be evaluated with other material, not as a standalone verdict of innocence or guilt.

223. The prosecution case places emphasis on "timing" and "trigger". It alleges that sustained blockades were designed to mature into a coordinated paralysis across the city, and that the Jafrabad blockade and movement to strategic points occurred on 22–23 February in a synchronised manner. It further alleges that the escalation into violence was not incidental but contemplated. The appellant's absence from the riot scene therefore does not end the inquiry; the inquiry shifts to whether the prosecution material prima facie links him to the strategy that was executed when the "right time" arrived.

224. At this stage, the charge-sheet narrative and the protected witness statements relied upon are pressed to show that the appellant was engaged at earlier phases in shaping the method and expanding the sites, and that preparatory discussions in January included alleged directions for stockpiling and readiness for escalation. The Court cannot pronounce on their truth. It can, however, record that such material, if accepted as the prosecution places it, links the appellant to the alleged design and the timing of its culmination.

225. The appellant urges that continued incarceration is oppressive. This Court has already addressed delay as a constitutional concern and has indicated that the remedy for stagnation lies in judicial supervision and expedition, not automatic enlargement on bail. In the case of the present appellant, the record also discloses that his earlier bail rejection has been subjected to judicial scrutiny and has not been displaced by any subsequent event affecting the prosecution's core attribution. When a statute imposes a high threshold and the case is conspiracy-centric, repeated bail reconsideration on the same material is not the norm. A meaningful change in circumstances must be shown. Save delay, which has been addressed separately, none is shown.

226. Delay can warrant a more searching constitutional scrutiny. But it does not authorise the Court to dilute the statutory threshold by undertaking credibility

findings. The balance must be maintained: constitutional concern is real, but statutory restraint is equally real. Where the prima facie threshold continues to be crossed, delay is met through expeditious trial directions and continued judicial monitoring, not by negating Section 43D(5).

227. It is necessary, at this juncture, to clarify the juridical distinction between ordinary public disorder, which may arise even in the course of legitimate protest, and the prosecution's pleaded case of systemic disruption. Not every disruption of traffic, not every blockade, and not every law-and-order incident engages the statutory framework of the UAPA. The statute is attracted only where the conduct alleged, taken cumulatively, is capable of being understood as threatening the unity, integrity, security, or sovereignty of the nation, or as creating a climate of fear and paralysis transcending ordinary disorder.

228. The prosecution case, as placed before this Court, does not proceed on the footing that the protests merely inconvenienced commuters or strained policing resources. It proceeds on the footing that a deliberate method of agitation was conceived and executed, namely sustained and replicated "chakka jams" at strategically selected arterial locations, with the object of choking movement across the National Capital, disrupting essential services, and overwhelming the administrative capacity of the State.

229. The factual narrative placed on record repeatedly emphasises that the blockade points were not randomly selected. The prosecution alleges that they were deliberately located so as to (i) cut off major transit routes, (ii) bring protest activity from minority-dominated clusters into areas of mixed population, and (iii) ensure that disruption was not localised but city-wide. The pleaded movement of protesters from established sit-in sites to pre-designated choke points across North-East Delhi on 22nd and 23rd February 2020 is pressed as evidence of this systemic design.

230. At the bail stage, the Court does not pronounce on whether this design is ultimately proved. It asks whether the prosecution material, taken at face value, supports the allegation that the disruption was not episodic, but coordinated, sustained, and scalable. When viewed through that lens, the allegations of meetings, directions, replication of protest sites, and synchronised movement across locations assume a significance distinct from ordinary protest activity.

231. The Court is therefore unable, at this stage, to accept the characterisation of the events as mere public disorder incidental to protest. The prosecution case, as pleaded, is that the blockade strategy itself was the instrument of coercion, designed to paralyse civic life and generate confrontation. That distinction is material at the stage of applying Section 43D(5).

232. A further dimension of the prosecution case concerns communal harmony, which lies at the heart of public order in a plural society. The prosecution does not merely allege that violence occurred in areas of mixed population. It alleges that the movement of protest activity into such areas was itself deliberate, with the intent to trigger confrontation and skirmish.

233. The factual narrative already set out records the prosecution's assertion that protesters moved from predominantly minority clusters, where 24×7 sit-in protests were being held, into mixed-population areas at pre-selected times and locations. This movement is alleged to have been accompanied by stockpiling of potentially harmful materials, as per protected witness statements, and by preparations to escalate confrontation when police intervention or counter-mobilisation occurred.

234. At the bail stage, the Court cannot test whether the protected witness statements regarding stockpiling or inducement of local residents will ultimately withstand scrutiny. What the Court can do is to examine whether, if those statements are accepted as they stand, they support an allegation that the agitation was not confined to symbolic protest, but contemplated engineered confrontation along communal fault lines.

235. The prosecution case, taken cumulatively, pleads precisely this: that the blockade strategy was designed not merely to inconvenience, but to provoke, to polarise, and to create a breakdown of communal peace. Where such an allegation is supported, at least prima facie, by statements, chronology, and alleged coordination, the Court cannot trivialise it as an inevitable by-product of protest.

236. It is this pleaded design to fracture communal harmony, rather than the expression of dissent per se, which distinguishes the prosecution case from a narrative of innocent protest. Whether that design is ultimately proved is a matter for trial. Its prima facie articulation is sufficient to inform the bail-stage inquiry.

237. The prosecution further places the events within a broader security context. It alleges that the sustained and coordinated disruption of major arterial routes, combined with the timing of escalation, was intended to create a perception of instability in the National Capital, impair the functioning of essential services, and project an image of administrative paralysis.

238. The factual narrative records allegations of disruption to transport networks, obstruction of access to hospitals and medical facilities, interruption of public transport services including the metro, and interference with the normal functioning of civic institutions. The prosecution also alleges that the timing of escalation was calibrated to coincide with a period of heightened international attention, thereby magnifying the impact of the disruption.

239. At the bail stage, the Court does not determine whether these allegations ultimately satisfy the ingredients of a "terrorist act" under Section 15. What the Court examines is whether the prosecution has pleaded a case that goes beyond localised violence or protest-related disorder, and whether the alleged acts are capable, at least prima facie, of engaging the statutory conception of threats to security and public order at a national level.

240. When sustained blockades are alleged to be executed across multiple locations, when essential civic life is alleged to be paralysed, and when violence is alleged to erupt in a coordinated manner following such blockades, the Court

cannot, at this stage, rule out the applicability of the statutory framework merely because the acts are couched in the language of protest.

241. The appellant has urged that his conduct must be viewed through the prism of political dissent and constitutional protest. This Court reiterates that dissent and protest occupy a protected space in a constitutional democracy. That protection, however, does not extend to a pleaded design which, if accepted as true, involves systemic disruption, engineered confrontation, and preparatory steps towards violence.

242. The prosecution does not rely on a single speech, a single meeting, or a single blockade. It relies on a course of conduct, spread over weeks, involving repeated meetings, formation of coordinating bodies, issuance of directions, and alleged preparations for escalation. The Court cannot, at the bail stage, segregate this course of conduct into isolated benign fragments and assess each in abstraction.

243. To do so would amount to substituting a compartmentalised analysis for the cumulative approach mandated by law in conspiracy cases, particularly under a special statute. The correct inquiry is whether the material, taken as a whole, discloses a prima facie case that the accused was part of an agreement or design to engage in unlawful activity of the nature alleged. On the prosecution material placed before us, that inquiry must be answered in the affirmative.

244. Having regard to the prosecution material as placed, including the chronology of meetings, the alleged articulation and propagation of the chakka jam strategy, the operation of coordinating committees and groups, the protected witness statements alleging preparatory and escalation-related discussions, the pleaded movement of protest activity into mixed-population zones, and the alleged systemic disruption of civic life in the National Capital, this Court is satisfied that reasonable grounds exist for believing that the accusations against Umar Khalid are prima facie true.

245. The defence submissions, though weighty and articulated with care, would require this Court to adjudicate upon credibility, resolve factual disputes, and choose between competing inferences. That exercise lies beyond the permissible limits of a bail inquiry under Section 43D(5).

246. The statutory embargo is therefore attracted. The appeal filed by Umar Khalid in SLP (Crl.) No. 14165 of 2025 is dismissed. The prayer for bail is rejected.

247. It is clarified that the observations herein are confined to the consideration of bail and shall not influence the Trial Court in the adjudication of the matter on merits. The Trial Court shall endeavour to proceed with the trial expeditiously.

8. SHIFA UR REHMAN – APPELLANT IN SLP (CRL.) 14859 OF 2025

8.1. SUBMISSIONS ON BEHALF OF THE APPELLANT:

248. Learned Senior Counsel Sri Salman Khurshid for the appellant submitted that the impugned judgment dated 02.09.2025, whereby the High Court declined to enlarge the appellant on bail, suffers from a fundamental infirmity inasmuch as it overlooks the undisputed fact that the appellant has been in continuous custody since 26.04.2020. It was urged that the appellant has already undergone more than five years and six months of pre-trial incarceration, while the trial has not progressed beyond the stage of framing of charges. Learned senior counsel submitted that the prosecution case rests on an extraordinarily voluminous record, consisting of a main charge-sheet and two supplementary charge-sheets running into more than twenty thousand pages, with several hundred witnesses cited, rendering the likelihood of an early conclusion of trial wholly illusory. It was contended that the prolonged incarceration of the

appellant, in such circumstances, assumes a punitive character and offends the guarantee of personal liberty under Article 21 of the Constitution.

249. Learned Senior Counsel further submitted that the appellant is a person of clean antecedents and has never misused the liberty granted to him. Attention was invited to the fact that the appellant was granted interim bail on two occasions by the Special Court, on 25.11.2023 and 11.11.2024, and on both occasions he surrendered within time and strictly complied with all conditions imposed. It was emphasized that there is not even an allegation that the appellant attempted to abscond, tamper with evidence, or influence witnesses. Learned senior counsel submitted that the appellant did not contribute to the delay in the proceedings, having concluded his arguments on charge in a single sitting and having not sought unrelied documents, and therefore, continued detention cannot be justified on grounds traditionally recognised in bail jurisprudence.

250. It was then submitted that even on a prima facie appreciation of the prosecution material, the essential ingredients of the offences under Sections 2(o) and 15 of the Unlawful Activities (Prevention) Act are not made out qua the appellant. Learned senior counsel submitted that the appellant is not a member of the DPSG WhatsApp group, which forms the fulcrum of the alleged conspiracy. His inclusion in one JCC group was, at best, incidental and subject to a clear restriction that alumni members would neither chair meetings nor speak. It was contended that there is no material to indicate that the appellant incited violence, facilitated riots, or indulged in any act intended to threaten the unity, integrity, or sovereignty of the nation, and that participation in protests against a parliamentary enactment, by itself, cannot be elevated to the level of terrorist activity.

251. Learned Senior Counsel further submitted that the prosecution seeks to sustain continued incarceration of the appellant on the basis of statements recorded under Section 161 CrPC and certain call detail records, which, at this stage, do not constitute substantive evidence. It was urged that even the

statements of protected witnesses, read in their entirety, do not attribute any specific overt act of violence, financing, or conspiratorial role to the appellant. With regard to the allegation of a meeting dated 22.02.2020 at the AAJMI office, learned senior counsel submitted that the material does not establish either the presence or the participation of the appellant, as the statements refer generally to "office bearers" without singling him out.

252. It was lastly submitted that the principle of parity has been completely overlooked by the High Court. Learned senior counsel pointed out that co-accused, against whom allegations of equal or greater gravity were levelled, have been enlarged on bail, and that the role attributed to the appellant is neither distinguishable nor more serious so as to warrant continued detention. It was urged that denial of bail to the appellant alone, despite prolonged incarceration and parity with similarly placed co-accused, results in manifest inequality and is contrary to the settled principles governing bail under Article 21.

253. In conclusion, learned Senior Counsel submitted that statutory rigours cannot be permitted to eclipse constitutional guarantees, particularly where incarceration has become unduly long and the conclusion of trial is not foreseeable in the near future. It was urged that the appellant is the sole breadwinner of his family, comprising his elderly mother, wife, and two young children, and that continued detention would cause irreparable hardship without advancing the ends of justice. Learned Senior Counsel therefore prayed that this Court may be pleased to interfere with the impugned order and enlarge the appellant on bail on such terms and conditions as may be deemed appropriate.

8.2. SUBMISSIONS ON BEHALF OF THE RESPONDENT:

254. Learned ASG Sri S.V. Raju for the State submitted that the present case does not concern a mere protest or dissent, but a carefully planned and executed criminal conspiracy which culminated in large-scale violence, arson, and loss of

life during the North-East Delhi riots of February 2020. It was urged that the appellant, Shifa-ur-Rehman, was not a peripheral or incidental participant, but played a significant and decisive role in furtherance of the conspiracy. The State submitted that the impugned order correctly appreciates the gravity of the offences, the nature of the allegations, and the material collected during investigation, and therefore does not warrant interference.

255. Learned ASG Sri S.V. Raju further submitted that the appellant, being the President of the Alumni Association of Jamia Millia Islamia and a member of the Jamia Coordination Committee, functioned as a key financier and logistic facilitator of the protest sites which were subsequently escalated into violent "Chakka Jaam" and riot situations. Statements of several protected witnesses recorded under Section 164 CrPC consistently disclose that the appellant collected funds in cash, distributed money to organisers and participants, arranged daily wages, and ensured uninterrupted functioning of multiple protest sites across Delhi. These acts were not isolated but formed part of a concerted design to sustain and escalate unrest.

256. It was then submitted that the appellant was in continuous coordination with the principal conspirators, including Umar Khalid and other co-accused, during the relevant period. Call detail records and WhatsApp communications placed on record demonstrate sustained contact between the appellant and other conspirators at crucial stages. Learned counsel submitted that secret meetings were held at the AAJMI office, including the meeting dated 22.02.2020, where decisions were taken to intensify protests and trigger violence in North-East Delhi. The appellant's presence and role in these meetings is supported by sworn statements of protected witnesses and corroborative electronic material.

257. Learned ASG Sri S.V. Raju for the State further submitted that the plea of prolonged incarceration cannot be considered divorced from the seriousness of the offences and the statutory embargo under Section 43D(5) of the Unlawful Activities (Prevention) Act. At the stage of bail, the Court is only required to

assess whether the accusations are prima facie true and not to conduct a detailed evaluation of evidence. The material on record, including witness statements, documentary evidence, recoveries, seizure of fake bills, and evidence of cash transactions routed through the appellant, clearly satisfies the threshold of prima facie involvement. The delay in trial, it was urged, is attributable to the magnitude and complexity of the case involving multiple accused, voluminous records, and hundreds of witnesses.

258. It was also submitted that the plea of parity is misconceived and unsustainable. Bail jurisprudence mandates an assessment of individual role, and parity cannot be claimed mechanically. The appellant's role as the financial backbone of the conspiracy, ensuring funds and logistics for sustained protest and eventual violence, places him in a distinct and graver category. The State submitted that the appellant cannot equate himself with other accused who may have been granted bail on different factual considerations and on materially different roles.

259. Lastly, learned ASG Sri S.V. Raju submitted that the offences alleged strike at the very foundations of public order and societal peace. The riots were not spontaneous but the outcome of a calibrated plan executed under the guise of protest, resulting in loss of innocent lives, injuries to police personnel, and widespread destruction of property. Grant of bail in such circumstances would undermine the statutory object of the special enactment and erode public confidence in the administration of justice. The State, therefore, prayed that the appeal be dismissed and the impugned order refusing bail be upheld.

8.3. FINDINGS OF THE TRIAL COURT :

260. The Trial Court vide order dated 07.04.2022, passed in IA. No. 73/2021 in SC 163/2020 dismissed the bail application filed by the Appellant. The Court found that the material placed on record, including the charge-sheet, statements

of witnesses recorded under Sections 161 and 164 Cr.P.C., electronic evidence, and WhatsApp chats of coordinated groups, disclosed prima facie involvement of the accused in a deep-rooted and well-orchestrated criminal conspiracy relating to the North-East Delhi riots of February 2020. On a cumulative reading of the prosecution material, the Court held that the protests were not spontaneous but were deliberately planned, escalated into chakka-jam, and thereafter converted into organised violence, including attacks on police personnel and destruction of public and private property.

261. The Trial Court emphasised that at the stage of bail it was not required to undertake a meticulous examination of evidence or conduct a mini-trial. Applying the settled principles governing bail in cases under the Unlawful Activities (Prevention) Act, the Court held that the prosecution material must be taken at face value and assessed in its totality. On such assessment, the Court was satisfied that there existed reasonable grounds for believing that the accusations against the accused were prima facie true, thereby attracting the statutory restrictions on grant of bail.

262. The Trial Court rejected the submissions of the accused based on parity, absence of direct overt acts, and alleged exercise of the right to protest. It held that in a case of conspiracy, individual roles are not to be viewed in isolation and that it is sufficient if the material indicates conscious participation in the common design. The Court further held that claims of peaceful protest and lack of direct violence did not neutralise the prima facie case of involvement in a larger conspiratorial framework leading to riots.

263. A decisive ground for rejection of bail was the statutory embargo under Section 43D(5) of the Unlawful Activities (Prevention) Act, 1967, read with the restrictions under Section 437 Cr.P.C. In light of the gravity of the offences, the nature and scale of the alleged conspiracy, and the prima facie satisfaction regarding the accusations, the Trial Court held that it was legally barred from granting bail and accordingly dismissed the bail application.

8.4. FINDINGS OF THE HIGH COURT

264. The High Court in the impugned order held that the prosecution material, taken cumulatively, disclosed prima facie involvement of Shifa-ur-Rehman as a key financier and organiser in the execution of the larger criminal conspiracy culminating in the North-East Delhi riots. Being the President of AAJMI, he was alleged to have misused his position to facilitate and sustain multiple protest sites across Delhi by raising and disbursing funds, including cash transactions, and by allowing AAJMI premises to be used for JCC meetings, planning, and logistical coordination. Witness statements, recoveries of documents, and bank and cash-trail material were held to prima facie indicate that funds were mobilised not merely for peaceful protest but for sustaining chakka-jaams and their escalation. At the bail stage, the Court found that his role as a financial enabler and organiser was integral to the operationalisation of the conspiracy.

265. Applying the statutory embargo under Section 43D(5) of the UAPA, the Court held that there were reasonable grounds to believe that the accusations against Shifa-ur-Rehman were prima facie true, thereby barring bail. The pleas that AAJMI was a lawful organisation, that the funds were used only for legitimate protest expenses, that there was no direct incitement, and that parity existed with co-accused released on bail were rejected. The Court clarified that the role attributed to Shifa-ur-Rehman as a fundraiser and coordinator was qualitatively distinct and more serious, and that questions regarding source, quantum, and use of funds are matters for trial. Consequently, the bail appeal was dismissed.

8.5. DISCUSSION ON ROLE AND FINDINGS:

266. According to the charge-sheet, Shifa-ur-Rehman, stated to be the President of the Alumni Association of Jamia Millia Islamia (AAJMI), is alleged to have

played an active role in the funding and execution of the riots in Delhi. The charge-sheet alleges that Shifa-ur-Rehman was entrusted with significant responsibilities in furtherance of the alleged conspiracy hatched by Umar Khalid and Sharjeel Imam. It is further alleged that he collected funds and distributed the amounts so collected for the purpose of engaging women, children, and girls to assemble at protest sites, with the intent that the presence of such groups would deter the police from taking stringent action at the protest locations.

267. The charge-sheet further alleges that Shifa-ur-Rehman was closely associated with Umar Khalid, described as the principal conspirator, and that he remained in constant contact with him. It is alleged that Shifa-ur-Rehman also attended secret conspiratorial meetings. The charge-sheet records several instances of fund-raising activities conducted at the office of AAJMI in connection with the protests.

268. It is further alleged that Shifa-ur-Rehman, along with other co-accused, was instrumental in the establishment of 24×7 protest sites. According to the charge-sheet, he regularly visited these protest sites and instigated participants to organise chakka jams under the guise of peaceful protests. Call Detail Records (CDRs) are relied upon to assert his frequent presence at the protest sites.

269. Statements of protected witnesses "Alpha", "Bond", "James", and "Hector" are relied upon to allege that, in his capacity as President of AAJMI, Shifa-ur-Rehman was responsible for raising substantial funds to finance the protests. The charge-sheet further alleges that, in order to avoid detection and to leave no financial trail, Shifa-ur-Rehman fabricated false bills of expenditure in the name of AAJMI. Copies of the purportedly fabricated bills have been produced along with the charge-sheet. It is alleged that Shifa-ur-Rehman collected a minimum amount of Rs. 7–8 lakhs, the majority of which was received in cash.

270. The charge-sheet further alleges that Shifa-ur-Rehman was among the principal individuals responsible for sourcing and sustaining the protests. Apart

from his alleged role in funding, it is stated that he participated in a conspiratorial meeting held on 22.02.2020, wherein it was purportedly agreed that the protests should be escalated to the next stage by enforcing chakka jams and engineering violent riots.

271. According to the prosecution, the primary role attributed to Shifa-ur-Rehman was to provide financial and logistical support to all protest sites. The charge-sheet asserts that the funding and logistical assistance allegedly provided by him played an instrumental role in the riots that occurred in Delhi between 23.02.2020 and 26.02.2020, under the ostensible cover of protests against the CAA/NRC.

272. Upon a prima facie consideration of the material presently relied upon by the prosecution, the role attributed to Shifa-ur-Rehman does not disclose participation at the level of conceptualisation or strategic command of the alleged conspiracy. The allegations principally pertain to logistical facilitation, fund-raising, and coordination at identified protest sites, premised upon directions purportedly originating from persons situating themselves above him in the asserted hierarchy. In the absence of demonstrable material suggesting that he exercised autonomous decision-making authority over the alleged broader design, his continued incarceration as a pre-trial measure does not presently appear warranted.

273. The prosecution asserts that Shifa-ur-Rehman was associated with fund-raising activities and implementation of protest-site requirements however, the evidentiary material does not indicate that he retained control over the deployment of such funds, nor that he exercised selective discretion over strategic decisions concerning escalation. The record discloses that the appellant's actions were derivative in nature, aligned to instructions transmitted by others, and largely confined to sustaining logistics rather than shaping the trajectory of the protests. Such attribution, while relevant to trial, does not justify indefinite pre-

trial detention when weighed against the limited and executory nature of his alleged role.

274. The State's apprehension that the appellant may re-establish operational linkages or interfere with witnesses must be evaluated in light of present circumstances. There is no material to demonstrate that the appellant retains any functional capacity to mobilise resources or coordinate activities independent of the structures that, according to the prosecution itself, acted under higher-level guidance and have since ceased to exist in the form alleged. The risks articulated by the State can be effectively neutralised through conditions restricting public engagement pertaining to the case, prohibiting contact with witnesses, and mandating regular court attendance.

275. While the seriousness of the events culminating in violence during the relevant period cannot be discounted, this Court is mindful that gravity alone cannot eclipse the constitutional requirement of individualized examination of the necessity of pre-trial detention. The appellant's role, as narrated, is not linked to instigation of violence, procurement of weapons, or direct involvement in acts of physical aggression. In the absence of a proximate and continuing nexus between the appellant and the capacity to compromise the integrity of the proceedings, further incarceration would assume a punitive character incompatible with settled constitutional jurisprudence under Article 21.

276. The Court is also conscious that pre-trial detention serves limited and clearly defined purposes securing the presence of the accused, preventing obstruction of justice, and safeguarding public interest where demonstrable risk persists. In the present case, none of these objectives appear incapable of being achieved through calibrated restrictions short of incarceration. The absence of material suggesting an enduring organisational infrastructure capable of being reactivated through the appellant's efforts weighs significantly against the necessity of continued custody.

277. It is further noted that the prosecution's submissions rely substantially on the appellant's positional proximity to individuals alleged to have played a strategic role. Mere associative proximity, without corresponding evidence demonstrating capacity to exert influence or direction, does not satisfy the threshold required to curtail liberty at the post-investigative stage. The appellant's purported involvement in facilitative tasks, while forming part of the evidentiary matrix to be assessed at trial, cannot be a standalone basis for extending pre-trial detention where imposition of protective conditions offers an adequate safeguard.

278. Where the prosecution narrative itself draws a distinction between strategic architects and operational facilitators, judicial scrutiny at the bail stage must remain attentive to proportionality in attribution. The material presently relied upon depicts the appellant as a conduit within a hierarchically structured mobilisation, rather than as a node of independent initiative. Elevating such a role to one warranting prolonged custodial deprivation would risk diluting the constitutionally embedded principle that pre-trial restraint must correlate to demonstrated necessity rather than inferred association.

279. Finally, while the evidentiary record merits thorough adjudication at trial, the Constitution mandates that liberty be curtailed only where compelling grounds grounded in present necessity exist. The prosecutorial hypothesis of a broader conspiracy, though serious, cannot become a charter for undifferentiated incarceration of all alleged participants irrespective of their individual function or continuing capacity. In the circumstances disclosed, and given the availability of stringent safeguards to address the apprehensions raised, the balance of constitutional considerations favours the appellant's release on terms ensuring non-interference with the proceedings and adherence to all conditions imposed by the Court.

280. Having regard to the differentiated standing that the prosecution narrative itself assigns to the appellant, particularly when contrasted with the alleged principal conspirators Umar Khalid and Sharjeel Imam, and in view of the

absence of any present investigative requirement necessitating custodial detention, this Court finds that pre-trial liberty can be secured without prejudicing the administration of justice. Accordingly, subject to conditions designed to ensure his availability for trial, prevent any contact with prosecution witnesses, and restrain public commentary bearing upon the merits, the appellant is held entitled to be enlarged on bail. It is clarified that the observations herein are confined to the determination of bail and shall not be construed as expressing a view on the merits of the prosecution's case.

9. SALEEM KHAN – APPELLANT IN SLP (CRL.) NO. 15335/2025

9.1. SUBMISSIONS ON BEHALF OF THE APPELLANT:

281. Learned Counsel Sri Gautam Khazanchi appearing for the appellant submitted that the appellant, Mohd. Saleem Khan, aged about 54 years, is a permanent resident of Chand Bagh, Delhi, carrying on business, with deep roots in society, and has been in continuous judicial custody for over five years in FIR No. 59 of 2020 registered by the Crime Branch, Delhi, arising out of the North-East Delhi riots of February 2020 . It was submitted that the appellant has no criminal antecedents except three FIRs arising out of the same incident, and in two of those FIRs, namely FIR No. 60 of 2020 and FIR No. 136 of 2020, the appellant has already been granted regular bail by competent courts, on substantially the same material relied upon by the prosecution .

282. He further submitted that the gravamen of the allegation against the appellant in the present FIR is one of conspiracy under the UAPA, without any allegation of commission of a terrorist act, use of arms or weapons, funding of violence, delivery of inflammatory or hate speeches, or direct participation in acts of arson or rioting. Learned Senior Counsel submitted that the prosecution case itself records that the appellant is not a member of any of the WhatsApp groups

such as JCC, DPSG, MSJ or SOJ, which form the backbone of the alleged conspiracy narrative, and that the appellant has not sent a single message, directly or indirectly, in any of those groups . It was urged that there is no documentary evidence whatsoever in the form of messages, emails or call records to show any communication between the appellant and the so-called principal conspirators.

283. Learned Counsel submitted that the allegation of the appellant having attended so-called "secret meetings" is founded entirely on belatedly recorded statements of witnesses, recorded months, and in some instances nearly a year, after the arrest of the appellant. It was submitted that even these allegations are contradicted by the prosecution's own material, including CCTV footage, which does not show the presence of the appellant at the alleged meetings on crucial dates. These aspects, it was urged, are matters for trial and cannot be treated as conclusive at the stage of bail, particularly to justify prolonged incarceration .

284. He further submitted that the only overt allegation sought to be pressed against the appellant is that he allegedly turned away or dislocated a CCTV camera with the aid of a wiper. Learned Senior Counsel submitted that this very allegation formed part of FIR No. 60 of 2020, in which the appellant was granted regular bail by the High Court after a detailed consideration, holding that such footage by itself was insufficient to prolong incarceration and that the extent of conspiracy, if any, could only be determined at trial . It was submitted that the prosecution cannot be permitted to rely upon the same material repeatedly to justify continued detention of the appellant in multiple proceedings.

285. Learned Counsel further submitted that the appellant's conduct throughout has been exemplary. The appellant has been granted interim bail on six occasions by the Trial Court and the High Court for various humanitarian and family reasons, including medical needs of his children and family obligations. On each occasion, the appellant surrendered punctually, without seeking extension, and there is not a single allegation of misuse of liberty, tampering with evidence,

influencing witnesses, or attempting to evade the process of law. It was submitted that the appellant, therefore, fully satisfies the triple test governing grant of bail .

286. On the aspect of delay, learned Counsel submitted, briefly, that despite filing of the main charge-sheet and four supplementary charge-sheets, charges have not yet been framed, the prosecution proposes to examine more than 850 witnesses, and the trial is at the stage of arguments on charge, rendering early conclusion wholly illusory.

287. He lastly submitted that the principle of parity has been completely overlooked. Co-accused Devangana Kalita, Natasha Narwal and Asif Iqbal Tanha, against whom far graver and more direct allegations of conspiracy, mobilisation and instigation were levelled, have been granted bail by the High Court, which orders have been affirmed by this Hon'ble Court. The appellant, whose alleged role is demonstrably peripheral and significantly weaker, continues to remain incarcerated, resulting in manifest arbitrariness and unequal treatment.

288. Learned Counsel, therefore, prayed that this Court may be pleased to enlarge the appellant on bail on such terms and conditions as may be deemed fit, in the interest of justice, liberty and parity.

9.2. SUBMISSIONS ON BEHALF OF THE RESPONDENT:

289. Learned ASG Sri S.V. Raju appearing on behalf of the respondent submitted that the present case is not one of mere presence at a protest or passive association, but of deep and active participation in a well-orchestrated criminal conspiracy which culminated in large-scale violence, arson, destruction of public and private property, and loss of multiple innocent lives during the North-East Delhi riots of February 2020. It was submitted that the appellant, Mohd. Saleem Khan (Accused No. 14), played a pivotal local role in executing the conspiracy at Chand Bagh and adjoining areas, acting in coordination with members of the DPSG and other key conspirators.

290. It was submitted that the material on record, clearly establishes that the appellant was not a peripheral actor but an integral ground-level executor of the conspiracy. Protected witnesses VENUS and GOLD have categorically deposed that the appellant was one of the initiators and organisers of the Chand Bagh protest site from mid-January 2020 onwards, along with other accused persons, and that he actively participated in mobilising crowds, delivering inflammatory speeches, and sustaining the protest infrastructure, including arrangements for food, shelter and logistics .

291. Learned ASG further submitted that on the intervening night of 16–17 February 2020, at around 2:00 AM, a secret conspiratorial meeting was held at the Chand Bagh protest site, which was attended by the appellant along with other key accused including Athar, Shadab, Saleem Malik @ Munna, Gulfisha Fatima, Devangana Kalita and others. In this meeting, the roadmap for escalating peaceful sit-ins into disruptive chakka-jam at strategically chosen arterial roads was finalised, with the express objective of provoking confrontation with police and engineering riots. This meeting is corroborated by multiple protected witnesses including BRAVO, JOHNY and KILO, whose statements consistently name the appellant as a participant in the deliberations .

292. It was submitted that in furtherance of the conspiracy, another meeting was held in the intervening night of 20–21 February 2020 at Ayaz's office in Chand Bagh, which the appellant attended along with DPSG members. Protected witness PLUTO has deposed that during this meeting, explicit exhortations were made to "set Delhi on fire", that weapons, petrol and finances were ready, and that violence on a large scale was inevitable unless roads were blocked and clashes ensued. The appellant's presence and participation in this meeting are specifically spoken to by PLUTO in his statement under Section 164 CrPC .

293. Learned ASG Sri S.V. Raju submitted that the conspiracy moved from planning to execution on 22 February 2020, when, pursuant to these meetings, chakka-jam was first enforced at Jafrabad Metro Station by mobilising crowds

from Chand Bagh and Seelampur. This was followed by meetings convened and attended by the appellant on the night of 22 February 2020 at Ayaz's basement, where organisers of various protest sites were informed that chakka-jam had been successfully executed at Jafrabad and were directed to replicate the same in their respective areas. CCTV footage and witness testimonies establish the appellant's role in convening and attending these meetings.

294. It was further submitted that on 23 February 2020, the appellant, along with Athar, Shadab and Saleem Malik @ Munna, physically shifted the Chand Bagh protest from a side location to the main Wazirabad–Ghaziabad road, thereby enforcing chakka-jam at a critical arterial road and deliberately moving protests from Muslim-majority lanes to mixed-population areas to maximise confrontation. Protected witnesses BRAVO and HECTOR have deposed that this coordinated action directly led to escalation of violence, stone-pelting, arson and attacks on police personnel and civilians .

295. Learned ASG Sri S.V. Raju emphasised that when the conspirators realised that the scale of violence was being curtailed due to CCTV surveillance, another conspiratorial meeting was held on the night of 23 February 2020, wherein it was decided that CCTV cameras must be destroyed or disabled. Witness RADIUM has categorically stated that Athar informed the group that the task of breaking CCTV cameras had been assigned to the appellant and Saleem Malik @ Munna. In pursuance thereof, CCTV footage demonstrates that on 24 February 2020, multiple CCTV cameras in the area were systematically dislocated or covered, including one instance where the appellant himself is seen dislocating a CCTV camera .

296. It was submitted that once CCTV surveillance was neutralised, large-scale violence erupted on 24 February 2020, resulting in brutal attacks on police personnel, including the killing of Head Constable Ratan Lal, grievous injuries to senior police officers, and the murder of Intelligence Bureau officer Ankit Sharma, besides widespread arson and destruction. The State submitted that the

appellant is not only charged in the present conspiracy case but is also an accused in connected cases relating to murder and rioting, reflecting the gravity and continuity of his role .

297. On the issue of parity, learned ASG Sri S.V. Raju submitted that parity cannot be claimed in abstract, divorced from individual role. The appellant's role, as borne out from multiple independent protected witnesses, electronic evidence, CCTV footage and chain-of-command analysis, is materially distinct and far more direct than those accused who have been granted bail. The appellant functioned as a key local executor translating strategic conspiracy into physical action on the ground.

298. On delay, learned ASG submitted briefly that the complexity of the case, the multiplicity of accused, the scale of violence, and the volume of evidence, including hundreds of witnesses and electronic records, necessarily require time, and such delay cannot be used to dilute the statutory embargo under Section 43D(5) of the UAPA where a strong prima facie case exists.

299. Learned ASG therefore submitted that, on a cumulative assessment of the material, there are reasonable grounds for believing that the accusations against the appellant are prima facie true, that his release would pose a serious threat to public order and the integrity of the trial, and that the present case does not warrant exercise of discretion in favour of bail. The State accordingly prayed for dismissal of the appeal.

9.3. FINDINGS OF THE TRIAL COURT:

300. The Trial Court vide order dated 22.03.2022, passed in IA. No. 96/2021 in SC 163/2020 dismissed the bail application filed by the Appellant. The Trial Court found that the prosecution material disclosed prima facie involvement of the appellant in a large-scale, deep-rooted criminal conspiracy connected with the North-East Delhi riots of February 2020. On a holistic reading of the charge-

sheet, supplementary charge-sheets, CCTV analysis, witness statements (including protected witnesses), and WhatsApp group communications (DPSG/JCC), the Court held that the riots were not spontaneous but were systematically planned to escalate protests into chakka-jam and thereafter into organised violence, including attacks on police, destruction of CCTV cameras, arson, and use of deadly weapons. At the stage of bail, the Court emphasised that the individual role of the accused cannot be viewed in isolation and must be assessed in the context of the entire chain of conspiracy.

301. A decisive reason for rejection of bail was the statutory bar under Section 43D(5) of the Unlawful Activities (Prevention) Act, 1967, read with the additional restriction under Section 437 Cr.P.C. The Court applied the principles laid down in ***NIA v. Zahoor Ahmad Shah Watali*** (supra) and ***Thwaha Fasal v. Union of India (supra)***, holding that if, on a perusal of the charge-sheet and case diary, there exist reasonable grounds for believing that the accusations are prima facie true, the accused cannot be released on bail. The Court recorded that the prosecution material, taken at face value, crossed this statutory threshold, thereby attracting the embargo on bail.

302. The Trial Court rejected the defence contentions relating to delay in arrest, clean antecedents, alleged absence of independent public witnesses, and claims that the accused was merely a spectator or a peaceful protester. It held that criminal conspiracy is rarely proved by direct evidence and is ordinarily established through circumstantial evidence, conduct of the accused, and the cumulative effect of surrounding circumstances. Alleged contradictions in witness statements, admissibility of evidence, and the defence plea that the accused was not part of WhatsApp groups or meetings were held to be matters for trial, not for determination at the bail stage.

303. Finally, the Trial Court underscored the gravity and societal impact of the offences, noting the loss of life, large-scale damage to public and private property, and serious threat to public order. It reiterated that at the bail stage, the Court is

not required to conduct a mini-trial or weigh evidence meticulously, but only to assess broad probabilities. Taking a cumulative view of the prosecution material and the statutory restrictions under UAPA and Cr.P.C., the Court concluded that the appellant had failed to dislodge the prima facie case against him, and consequently held that he was not entitled to bail, leading to dismissal of the bail application.

9.4. FINDINGS OF THE HIGH COURT:

304. The High Court in the impugned order found that the prosecution material prima facie established Mohd. Saleem Khan's role as a local executor of the conspiracy, particularly in relation to events at Chand Bagh during 23–24 February 2020. He was alleged to have participated in secret meetings where plans were discussed to escalate protests into violence and, significantly, to have acted upon instructions to disable government-installed CCTV cameras. The Court noted that CCTV footage and witness statements prima facie showed Saleem Khan physically dislocating CCTV cameras, which was considered a crucial preparatory act enabling rioters to operate with impunity. His role was thus viewed as facilitating the transition from protest to large-scale violence, including the attacks that resulted in deaths and grievous injuries to police personnel.

305. Invoking Section 43D(5) of the UAPA, the Court held that the accusations against Saleem Khan met the threshold of prima facie truth, creating a statutory bar to bail. The arguments that he was not a member of major WhatsApp groups, that he had already been granted bail in other FIRs (including one relating to CCTV damage), or that the evidence was insufficient, were rejected. The Court clarified that the present proceedings concerned a larger conspiracy FIR under the UAPA, and that acts such as disabling CCTV cameras assumed grave significance in that context. Issues relating to overlap of FIRs, alleged double

jeopardy, and evidentiary weaknesses were held to be matters for trial, leading to dismissal of his bail appeal.

9.5. DISCUSSION ON ROLE AND FINDINGS:

306. Mohd. Saleem Khan is alleged by the prosecution to be one of the principal local actors who actively participated in the conspiracy and the violent protests that took place during the last week of February 2020.

307. According to the charge-sheet, Mohd. Saleem Khan was part of the group that established a 24×7 protest site at Chand Bagh. The members associated with the said protest site are alleged to have played a significant role in instigating and engineering the riots that occurred during the last week of February 2020. The statements of protected witnesses "VENUS" and "GOLD" are relied upon to disclose and corroborate the role attributed to Mohd. Saleem Khan in the orchestration of the riots.

308. It is further alleged that on 17.02.2020, Mohd. Saleem Khan attended a meeting held during the night hours at the Chand Bagh protest site, which was attended by members of the Delhi Protest Support Group (DPSG). As per the charge-sheet, approximately twenty persons attended the said meeting, including Saleem Khan. During the meeting, a roadmap for the execution of the final phase of the alleged conspiracy namely, the escalation of chakka jams into disruptive chakka jams and the organisation of violence and riots was purportedly outlined by co-accused Athar Khan.

309. According to the prosecution, there was a clear and cogent understanding among the key participants who attended the said meeting that the protest sites, then located on side lanes in Muslim-dominated areas, were required to be shifted and converted into chakka jams at carefully selected locations on arterial and busy roads situated in proximity to areas of mixed population. The stated objective of such relocation was to engineer riots and to paralyse the normal movement of

traffic and the flow of public life. It is further alleged that the enforcement of chakka jams, which would inevitably necessitate police intervention, was intended to be followed by confrontation with, and attacks upon, police personnel and members of the public, as well as damage to and destruction of public property through the use of firearms, deadly weapons, arson, and other means during the engineered riots. In support of these allegations, reliance is placed on the statement of protected witness "BRAVO".

310. The prosecution further alleges that Mohd. Saleem Khan attended another meeting held during the intervening night of 20/21.02.2020 at the office of one Ayaz in Chand Bagh, Delhi. According to the prosecution, the plan allegedly conspired by the participants of the meetings held on 17.02.2020 and between 20.02.2020 and 22.02.2020 was executed by protesters from Chand Bagh, including Mohd. Saleem Khan, when they moved from the protest site to the Jafrabad Metro Station on the evening of 22.02.2020. Statements of protected witnesses are relied upon to assert the presence of Saleem Khan at the protest held at Jafrabad Metro Station. It is further alleged that Saleem Khan invited persons to attend a conspiratorial meeting held at Chand Bagh on 22.02.2020, which allegedly culminated in the protest of 23.02.2020 on the main road near the Mazar and the enforcement of a chakka jam on the Wazirabad–Ghaziabad Road.

311. It is further alleged that on the night of 23.02.2020, after riots had erupted in North-East Delhi but were perceived to have fallen short of the intended scale of violence, a conspiratorial meeting was convened at the residence of one Mukhtyar in Chand Bagh by DPSG members Athar and Shadab Ahmad. The meeting is stated to have been attended by absconding accused Suleman Siddiqui and Ayub. During the said meeting, Athar is alleged to have conveyed that Nadeem Khan was dissatisfied with the limited escalation of violence due to the presence of CCTV cameras and had instructed that the cameras be covered and destroyed. It is alleged that Athar thereafter assigned Saleem Khan and Salim

Malik alias Munna the task of damaging the CCTV cameras, while Shadab Ahmad stated that similar acts would be carried out through his own team.

312. The charge-sheet further relies upon reverse mapping of accused persons arrested for grave offences committed during the North-East Delhi riots, which is stated to trace their actions back to a clandestine conspiratorial meeting held at Chand Bagh on the intervening night of 16/17.02.2020, thereby revealing a clear chain of command. Several accused persons involved in offences of murder, rioting, arson, and attempts to murder, including those linked to the killings of Head Constable Ratan Lal, Rahul Solanki, and Ankit Sharma,are stated to have either attended the said meeting or remained in regular contact with its participants, particularly DPSG members Athar Khan, Shadab Ahmad, Gulfisha Fatima, and Khalid Saifi. The mapping is relied upon to demonstrate coordinated roles, including the destruction of CCTV cameras, assignment of specific targets, financing of weapons and ammunition, and operational execution, culminating in the framing of charges against key conspirators in multiple FIRs pertaining to mass violence and attacks on police personnel.

313. At the present stage of consideration, the allegations against Mohd. Saleem Khan primarily situate him as a local operative associated with meetings at the Chand Bagh protest site, allegedly tasked with site-level mobilisation in furtherance of directions issued by others. The record does not prima facie disclose autonomous authority over the larger conspiracy, nor any material to suggest that he occupied a position from which strategic escalation or coordination across protest sites could be directed. In view of the differentiated role attributed to him, this Court finds that his continued pre-trial detention requires a more narrowly tailored justification than what is presently demonstrated.

314. While the prosecution places reliance on his alleged attendance at meetings preceding the escalation of protests into chakka jams, the material does not disclose that Saleem exercised control over either the initiation of such meetings

or formulation of their outcomes. The attribution is largely derivative, reflecting execution of tasks discussed by others and limited to coordination within the Chand Bagh–Jafrabad cluster. The evidentiary foundation relied upon, even if taken at its highest, does not presently establish that Saleem possessed independent command capacity or strategic discretion warranting ongoing incarceration solely on the basis of his associative presence at key locations.

315. The assertion that Saleem participated in the destruction of CCTV cameras and in facilitating the movement of protestors to designated sites raises matters for trial, however, pre-trial detention cannot be perpetuated merely because violent acts are alleged in proximity to his presence, unless a direct and continuing ability to influence or repeat such conduct is shown. There is no material before this Court indicating that he presently retains access to organisational resources, communication networks, or mobilising power that could enable interference with the administration of justice. The legitimate concerns of the State can be sufficiently guarded by supervision and tailored restrictions.

316. It is settled that the seriousness of the alleged acts, while relevant, does not displace the constitutional requirement that pre-trial detention serve a demonstrable and continuing necessity. In the absence of any plea or evidence that Saleem's custodial presence is required for further investigation, and given that the prosecution narrative itself delineates him as an executor rather than an originator or planner of the alleged conspiracy, this Court is unable to conclude that the threshold of necessity under Article 21 remains satisfied. The balance between individual liberty and collective security therefore tilts in favour of conditional release.

317. The Court is cognisant that the architecture of the prosecution case relies on a theory of layered participation, wherein actions undertaken at individual protest sites are said to feed into a broader conspiratorial framework. Even assuming this structure to be correct for the limited purpose of bail, the role attributed to Saleem does not presently transcend the operational. His alleged

activities do not indicate that he functioned as a conduit between the principal architects and secondary actors beyond his immediate geographical sphere. In the absence of such interlinking conduct, imputing to him a continuing capacity to destabilise public order would be speculative rather than evidentiary.

318. Furthermore, the prosecution has not demonstrated that witnesses associated with the Chand Bagh protest remain vulnerable to intimidation or inducement at the hands of Saleem. In these circumstances, the apprehension of evidence tampering must be founded on concrete risks rather than on the mere gravity of the offences alleged.

319. The Court also notes that prolonged incarceration without demonstrable necessity risks conflating punitive detention with preventive detention, contrary to the settled constitutional position that the former cannot be imposed before conviction save to secure legitimate trial-related objectives. A restrictive reading of personal liberty is impermissible where targeted conditions could be imposed. The imposition of such calibrated measures achieves the dual purpose of safeguarding societal interests and upholding constitutional fidelity.

320. Lastly, the overarching narrative advanced by the prosecution emphasises the systemic nature of the alleged conspiracy. However, systemic allegations require systemic evidence an associative presence or execution of logistical tasks, without more, does not justify a presumption of continuing threat in the post-investigative stage. Judicial scrutiny at the bail stage must remain sensitive to the distinction between contextual participation and autonomous agency. In the present facts, this distinction militates against further curtailment of Saleem's liberty, and reinforces the principle that deprivation of liberty cannot be sustained without distinct and ongoing justification anchored in necessity rather than inference.

321. Having considered the differentiated attribution of roles among the accused, this Court notes that the prosecution places Umar Khalid and Sharjeel Imam at the apex of the alleged conspiracy, whereas Saleem is projected as a site-

level participant whose presence and conduct derive meaning primarily from directives purportedly issued by others. This structural distinction, coupled with the absence of ongoing investigative necessity and the availability of strict conditions to minimise any risk to the proceedings, persuades the Court that continued incarceration of Saleem would not be proportionate. Accordingly, he is held entitled to be released on bail subject to conditions enumerated below. Nothing herein shall be construed as an opinion on guilt or innocence.

10.MEERAN HAIDER – APPELLANT IN SLP (CRL.) 14132 OF 2025

10.1. SUBMISSIONS ON BEHALF OF APPELLANT:

322. Learned Senior counsel Sri Siddharth Aggarwal for the Appellant submits that the Appellant has been in continuous judicial custody since 01.04.2020 and has, as on date, undergone incarceration of over five years and five months as an under-trial prisoner in the present case. It is urged that investigation qua the Appellant stands concluded, as admitted by the prosecution before the Trial Court in August 2024, and that he is not required for any further custodial interrogation. It is contended that despite filing of multiple charge-sheets over a period of more than four years, the trial has not commenced and there is no realistic likelihood of its conclusion in the near future, particularly in view of the initially cited 960 witnesses and over 1200 relied-upon documents, even if the prosecution now claims that the witness list would be pruned.

323. It is further urged that the Appellant has been arrested exclusively in the present FIR and is not in custody in any other case. Learned counsel submits that the Appellant is a well-educated individual, aged about 34 years, having completed B-Tech, MBA and M-Phil, and has continued his academic pursuits even while in custody. It is contended that the Appellant satisfies the triple test for grant of bail, inasmuch as he is not a flight risk, has deep roots in society, has cooperated with the investigation throughout, and there is no allegation of tampering with evidence or influencing witnesses. Reliance is placed on the fact

that when interim bail was granted for a short duration in August 2024, the Appellant strictly complied with all conditions.

324. On the aspect of parity, learned Senior Counsel submitted that several co-accused who were allegedly part of the core conspiracy, including those who were members of the principal WhatsApp groups relied upon by the prosecution, present in alleged secret meetings, or physically present at riot-affected areas, have been granted bail. It is argued that the Appellant stands on a better footing, as he is not alleged to have participated in any of the two secret meetings relied upon by the prosecution, was not present at any riot site, and there is no CCTV footage, recovery of weapons, or physical evidence connecting him to acts of violence. It is contended that parity is pressed strictly on factual comparison and not on any alleged dilution of statutory standards under the UAPA.

325. Learned Senior Counsel further submitted that even according to the prosecution's own case, as reflected in the charge-sheet, the Appellant has been categorised as having a comparatively lesser role, being placed in the third category out of four classes of accused. It is urged that this categorisation itself contradicts the finding in the impugned judgment that the Appellant played a "significant role" in the alleged conspiracy. It is argued that the High Court failed to reconcile this internal inconsistency in the prosecution's own material.

326. On merits, it was submitted that the principal allegation against the Appellant relates to financing. Learned Senior Counsel contended that even as per the prosecution, the alleged contribution attributed to the Appellant is between Rs.2.33 lakhs and Rs.2.86 lakhs, out of an alleged total expenditure of approximately Rs.1.60 crores, constituting less than two percent of the total. It was urged that notwithstanding this, the Appellant has been described as a "key fundraiser", which is wholly disproportionate and unsupported by evidence. It is further submitted that the Appellant has furnished a detailed explanation for the small sums reflected in the diary/register seized from him, stating that the amounts pertained to his proposed election campaign, personal expenses

following the death of his mother and his father's medical treatment, and for providing food and water at protest sites. It is contended that no finding has been returned on this explanation.

327. Learned Senior Counsel submitted that the Appellant is not alleged to have been a member of the principal WhatsApp groups such as DPSG or MSJ, which are claimed by the prosecution to be central to the alleged conspiracy. It is urged that no incriminating message authored by the Appellant has been placed on record, read out, or relied upon. It is further submitted that mere membership of WhatsApp groups, absent any unlawful object or inciting content, cannot attract liability under the UAPA.

328. It was also submitted that none of the speeches attributed to the Appellant are provocative or inciteful. Learned Senior Counsel contended that the transcripts placed on record show that the speeches emphasise constitutional values, secularism, democracy and peaceful protest. It is urged that the specific allegation that the Appellant delivered a provocative speech on 22.02.2020 at Nizamuddin is demonstrably false, as no transcript of such speech has been placed on record by the investigating agency.

329. Learned Senior Counsel further submits that the Appellant was not present at any of the riot-affected sites, was not part of the alleged meetings at Chandbagh or Seelampur, and that there is no CCTV footage, still photograph, or recovery linking him to acts of violence. It is urged that statements recorded under Sections 161 and 164 CrPC do not disclose any overt act attributable to the Appellant that would constitute offences under the UAPA.

330. It was contended that the prolonged incarceration of the Appellant violates his right to life and personal liberty under Article 21 of the Constitution, particularly when he has already undergone more than half of the maximum sentence prescribed for several of the alleged offences. Learned Senior Counsel submitted that continued detention in the face of an indeterminate trial timeline amounts to punitive incarceration without adjudication of guilt.

331. On the embargo under Section 43D(5) of the UAPA, it was urged that the prosecution material, even if taken at face value, does not disclose a prima facie case of the Appellant's involvement in terrorist acts or conspiracy, and therefore the statutory bar is not attracted. It was submitted that the High Court has mechanically applied the embargo without undertaking the requisite prima facie evaluation of the material specific to the Appellant.

332. In conclusion, learned Senior Counsel submitted that the cumulative effect of prolonged custody, completion of investigation, absence of direct evidence, comparative parity with co-accused on bail, and lack of any likelihood of early trial, warrants grant of bail to the Appellant, and that denial thereof would result in grave and irreparable prejudice.

10.2. SUBMISSIONS ON BEHALF OF THE RESPONDENT:

333. Learned ASG Sri S.V. Raju for the State submits that the present case does not arise from an isolated incident or a spontaneous law-and-order situation, but from a deep-rooted, premeditated and carefully orchestrated criminal conspiracy which culminated in large-scale violence in North-East Delhi in February 2020. The investigation in FIR No. 59 of 2020 has revealed that the conspiracy was executed in a phased manner beginning from December 2019, with the deliberate objective of converting protests into permanent sit-in sites, escalating them into disruptive chakka-jam, and thereafter triggering targeted violence. It is submitted that the acts forming part of this conspiracy were intended to create widespread fear, disrupt normal civic life and destabilise public order, thereby attracting the stringent provisions of the Unlawful Activities (Prevention) Act, 1967.

334. It was urged that the Appellant, Meeran Haider, Accused No. 3, was not a marginal or passive participant but an active conspirator from the inception. His involvement surfaces even during the first phase of riots in December 2019, prior to the February 2020 violence, and thus demonstrates continuity and depth of

participation. The State submits that the material on record clearly establishes that the Appellant was embedded within the organisational framework executing the conspiracy. He was a member of United Against Hate, a component of the Delhi Protest Support Group, and also a core member of the Jamia Coordination Committee, which functioned as the operational arm of the conspiracy. Statements of protected witnesses recorded under Section 164 CrPC name the Appellant as a regular participant in daily meetings and secret meetings concerning protest sites, mobilisation and logistics, thereby prima facie establishing his knowing and voluntary involvement.

335. Learned ASG Sri S.V. Raju submitted that the role of the Appellant was operational, supervisory and managerial in nature. He functioned as an organiser and administrator of multiple permanent protest sites, entrusted with their maintenance, coordination and continuity in furtherance of the common design. Electronic material recovered during investigation, including chats from the Appellant's own device, shows him identifying protest locations, assigning responsibilities and coordinating personnel across sites. It is further submitted that the Appellant actively participated in mobilisation and escalation, exhorting protestors to engage in chakka-jam and to confront police personnel, thereby facilitating the transition from protest to violence. These acts, it is urged, were integral to the execution of the conspiracy and cannot be characterised as protected dissent or lawful protest.

336. On the issue of financing and strategy, learned counsel submits that the Appellant actively collected, handled and channelled funds meant for sustaining protest sites and riot-related activities. Multiple witnesses examined under Sections 161 and 164 CrPC have stated that they handed over money to the Appellant during the relevant period, and cash recoveries were effected from concealed locations within his residence. The State submits that the explanation now sought to be offered regarding the source and purpose of these funds raises disputed questions of fact which cannot be adjudicated at the stage of bail. It is

further urged that the Appellant was privy to core strategic decisions of the conspirators, including internal role allocation and narrative management, and that he remained in real-time communication with key conspirators and foot-soldiers during the critical period of 22–24 February 2020, monitoring execution and participating in coordinated attempts to shift blame and public perception once violence had erupted.

337. Learned ASG Sri S.V. Raju finally submited that the absence of the Appellant from the physical site of rioting or the lack of recovery of weapons is immaterial in a conspiracy of this nature, where roles are distributed and liability attaches equally to planners, organisers, financiers and supervisors. The plea of parity is misconceived, as the Appellant is not similarly situated to co-accused who have been granted bail, his role being distinct in nature and gravity. It was urged that prolonged incarceration by itself cannot override the statutory embargo under Section 43D(5) of the UAPA once the accusations are prima facie true. At the stage of bail, the Court is not required to conduct a detailed evaluation of defence explanations. Learned ASG Sri S.V. Raju submitted that the material on record clearly discloses the Appellant's active and central involvement in the conspiracy, attracting the statutory bar to bail, and that any grant of bail at this stage would defeat the object of the special statute and undermine the administration of justice.

10.3. FINDINGS OF THE TRIAL COURT:

338. The Trial Court vide order dated 04.12.2024 in IA. No. 208/2024 in S.C. 163 of 2020, rejected the second bail application filed by the Appellant on the ground that, the order dated 05.04.2022 in IA No. 94/2021, dismissing the applicant's first bail application was passed after a detailed consideration of the facts and merits, wherein the Court, upon perusal of the charge sheet and accompanying documents, found the allegations against the applicant to be prima

facie true. The Court also rejected the contention that prolonged trial by itself warranted bail, held that the statutory embargo under Section 43(D) of the UAPA as well as Section 437 Cr.P.C. was applicable, and consequently found the applicant not entitled to bail. Since the said dismissal occurred after filing of the charge sheet and the stage of the case remains unchanged, the Court holds that entertaining the present bail application on the same grounds, notwithstanding submissions regarding changed circumstances and reliance on judgments, would amount to an impermissible review of the earlier order dated 05.04.2022. having noted the order of the trial court rejecting 2nd bail application, it becomes imperative for us to set out the reasons for dismissal of the 1st bail application of the appellant which is given in the subsequent paragraphs.

339. The Trial Court held that the material placed on record disclosed prima facie involvement of the appellant in a large-scale, deep-rooted and well-orchestrated criminal conspiracy culminating in the North-East Delhi riots of February 2020. On a holistic reading of the charge-sheet, its annexures, case diary, witness statements under Sections 161 and 164 Cr.P.C., WhatsApp chats (including DPSG/JCC), speeches, and other documentary and electronic material, the Court found that the protests against CAA/NRC were not organic but were strategically planned to escalate into chakka-jam and thereafter into widespread violence, targeting police, public order, and property. At the bail stage, the Court emphasized that it was not required to conduct a detailed trial-like evaluation, and that the prosecution material, taken at face value, sufficiently connected the appellant to the conspiracy.

340. A decisive ground for rejection was the statutory embargo under Section 43D(5) of the Unlawful Activities (Prevention) Act, 1967, read with Section 437 Cr.P.C. Relying extensively on ***NIA v. Zahoor Ahmad Shah Watalli*** (supra) and ***Thwaha Fasal v. Union of India***[12], the Court reiterated that if, upon perusal of

[12] (2022) 14 SCC 766.

the charge-sheet and case diary, there are reasonable grounds for believing that the accusations are prima facie true, bail must be refused. Applying this standard, the Court concluded that the prosecution material crossed the statutory threshold and therefore the bar under Section 43D(5) squarely operated against the appellant.

341. The Trial Court rejected the defence contention that the appellant's acts were protected by Articles 19(1)(a) and 19(1)(b) of the Constitution as peaceful protest or dissent. It held that while the right to protest is sacrosanct, the charge-sheet portrays a conspiracy under the guise of protest, aimed at paralysing civic life, blocking arterial roads, provoking confrontation, and ultimately triggering communal violence. The Court further held that issues relating to interpretation of speeches, credibility of witnesses, admissibility of documents, alleged absence from riot sites, and claimed lack of direct overt acts are matters for trial, and cannot dilute the prima facie satisfaction required at the bail stage in a UAPA case.

342. Lastly, the Trial Court noted the gravity and societal impact of the offences, the scale of violence, loss of life, and damage to public and private property, and reiterated that conspiracy is seldom proved by direct evidence and must be assessed cumulatively. Taking a holistic view of the material, the Trial Court held that the appellant's role could not be examined in isolation and that the prosecution had established reasonable grounds to believe that the accusations were prima facie true. In view of the statutory restrictions under UAPA and the additional bar under Section 437 Cr.P.C., the Court concluded that the appellant was not entitled to bail, and accordingly dismissed the bail application.

10.4. FINDINGS OF THE HIGH COURT:

343. The High Court in the impugned order found that the prosecution material prima facie established Meeran Haider's role as an active executor and fundraiser

within the conspiracy, closely working with other conspirators and alleged masterminds. He was alleged to be a core JCC member, part of multiple WhatsApp groups receiving directions from DPSG, and to have played a key role in mobilising protestors, managing protest sites, and raising and disbursing funds. The Court noted recoveries of cash, registers recording monetary transactions, bank-account analysis, call-detail records, and witness statements suggesting that funds were received and utilised for sustaining protests and for escalating chakka-jaams into violence. He was also alleged to have exhorted protestors to collect weapons and intensify confrontations with police, which, at the bail stage, was sufficient to connect him to the execution of the conspiracy.

344. Invoking Section 43D(5) of the UAPA, the High Court held that the accusations against Meeran Haider met the threshold of prima facie truth, creating a statutory bar to bail. The arguments based on completion of investigation, alleged change in circumstances, long incarceration, parity with co-accused granted bail, and claimed benign use of funds were rejected. The Court emphasised that funding and mobilisation form a critical preparatory stage of a conspiracy, and that the role attributed to Meeran Haider was distinct from those released on bail. Holding that evidentiary assessment and credibility issues must be tested at trial, the Court concluded that no case for bail was made out and dismissed the appeal.

10.5. DISCUSSION ON ROLE AND FINDINGS:

345. As per the charge-sheet, Meeran Haider, stated to be a member of United Against Hate (UAH), along with students of Jamia Millia Islamia University, is alleged to have played a significant role in the implementation of the protests that ultimately culminated in violence. The charge-sheet alleges that Meeran Haider was one of the core members of the Jamia Coordination Committee (JCC) and

that he participated in clandestine meetings convened in relation to the establishment and management of protest sites. According to the charge-sheet and the statement of protected witness "Bond", Meeran Haider, Shifa-ur-Rehman, Arib Hassan, Asif Iqbal Tanha, Saiful Islam, and Safoora Zargar were the principal members of the JCC.

346. The charge-sheet further alleges that Meeran Haider acted as an organiser of several protest sites. Chats exchanged between Meeran Haider and Tasleem, dated 20.01.2020, are relied upon to show that Meeran Haider was responsible for managing eight protest sites as part of the alleged conspiracy. It is further alleged that he instigated participants at these sites to enforce chakka jams and thereafter to escalate the same into violent riots by attacking members of the general public and police personnel.

347. Statements of witnesses Akib Aman and "Platinum" are relied upon to allege that Meeran Haider collected funds for organising the protests that took place during the first two months of 2020. According to protected witness "Robert", Meeran Haider collected funds and contributed the same to the corpus of AAJMI through its General Secretary, Areeb, for the purpose of facilitating riots.

348. The charge-sheet further records the recovery of an amount of ₹1,45,000 allegedly belonging to Meeran Haider, which is stated to have been kept by his sister, Shahjeen Khatoon, at his behest. Witness Shahjeen Khatoon is stated to have testified that the said amount was recovered upon the arrest of Meeran Haider. It is further alleged that Meeran Haider acted directly under the directions of Sharjeel Imam.

349. It is further alleged that on 22.02.2020 at approximately 22:17 hours, Tasleem Ahmed sent a message from Jafrabad to Meeran Haider reporting the commencement of a chakka jam. According to the charge-sheet, this communication indicates that Meeran Haider was responsible for coordinating certain protest sites.

350. On the night intervening 22.02.2020 and 23.02.2020, during the occurrence of the riots, Meeran Haider is alleged to have ensured the participation of Jamia students in the protests by circulating messages on WhatsApp groups. It is further alleged that after each chakka jam was executed, Meeran Haider would receive reports confirming the success of the particular blockade.

351. On 24.02.2020, following alleged threats by certain members of the DPSG to expose those responsible for the violence, the charge-sheet states that Umar Khalid called Meeran Haider to inform him about the next course of action.

352. A prima facie appraisal of the prosecution material indicates that the role ascribed to Meeran Haider is fundamentally that of an organiser and coordinator of designated protest sites within the Jamia network, acting largely upon instructions communicated through alleged higher-level actors. The record does not presently disclose that he possessed autonomous decision-making authority over the alleged overarching design, nor that he exercised strategic control over the escalation of protests. His alleged participation does not, on its face value, justify the continued curtailment of his liberty at the pre-trial stage.

353. The allegation that Meeran Haider coordinated protest sites and facilitated participation of students, including the organisation of resources, is materially distinct from assertions of conceptual leadership or command. Insofar as the evidentiary substratum does not presently establish that he exercised meaningful discretion over the initiation of violence or the transition of protests into chakka jams, this Court is unable to hold that prolonged incarceration is necessary solely to reflect the gravity of the charge.

354. The apprehensions expressed by the State regarding the possibility of Meeran Haider re-mobilising student populations or exerting influence over former protest networks cannot be accepted in the abstract. No material has been placed to show that such organisational structures continue to operate or that the appellant retains access to resources or networks capable of compromising the integrity of the proceedings. The risks invoked by the prosecution can be

effectively mitigated through stringent conditions prohibiting contact with prosecution witnesses, restricting participation in public assemblies touching the subject matter, and securing regular attendance before the trial court.

355. It is a settled principle that the seriousness of the allegations, though relevant, does not obviate the constitutional requirement that deprivation of liberty must be necessary for legitimate investigative or trial-related objectives. The prosecution does not assert that custodial interrogation of Meeran Haider is required at this stage, nor that his continued detention is indispensable for securing further evidence. Absent such necessity, the Court must ensure that preventive detention does not incrementally assume a punitive character, particularly where the role attributed to the appellant is situational and derivative rather than originating or directive.

356. The Court further recognises that the evidentiary framework relied upon does not, at this stage, attribute to the appellant any independent role in securing financial resources or channelling funds towards the alleged conspiracy beyond logistical facilitation incidental to protest management. The distinction between episodic facilitation and sustained financial stewardship bears directly on the question of continuing necessity, for it is only the latter that might prima facie justify custodial restraint on the ground of potential resource-based reactivation. In the absence of such linkage, the appellant's liberty cannot be curtailed merely on apprehensions rooted in past associations.

357. Moreover, the records placed before the Court indicate that critical electronic communications, organisational documents, and statements of witnesses forming the backbone of the prosecution narrative have already been secured. No plea has been advanced asserting that further custodial presence of the appellant is necessary to extract residual evidence or confront him with newly discovered material. Where the investigatory stage has effectively matured and the appellant's participation appears circumscribed by directive structures no

longer demonstrably operational, the constitutional presumption of liberty must regain primacy.

358. The Court also takes note that the prosecutorial depiction of a multi-layered mobilisation architecture requires careful calibration when translated into determinations of pre-trial necessity. If layered participation is accepted as the structural premise, proportionality requires that liberty restrictions correspond to the specific layer of agency attributed to the appellant. To conflate operational responsibility with command responsibility at the bail stage would risk imposing a regime of undifferentiated incarceration antithetical to the principle that liberty may only be withheld where contemporaneous and individualised grounds compel such curtailment.

359. In these circumstances, the Court finds that the objectives of securing the integrity of the trial, preventing witness influence, and guarding against re-mobilisation can be achieved through targeted restrictions rather than continued custody. Conditions such as periodic reporting, prohibition on participation in assemblies relating to the subject matter, and restraints on electronic communication with identified individuals are proportionate safeguards that align constitutional fidelity with legitimate State interests. Accordingly, subject to the imposition of such conditions, the balance of considerations favours enlargement on bail, without this Court expressing any view on the ultimate culpability of the appellant.

360. In light of the differentiated hierarchy of roles disclosed by the prosecution narrative wherein Umar Khalid and Sharjeel Imam are alleged to occupy a central, directive position, and Meeran Haider is alleged to have acted within an executory framework shaped by their directions this Court is persuaded that continued incarceration of the appellant is not proportionate to the limited attribution presently established. Accordingly, subject to conditions ensuring his presence during trial, non-interference with witnesses, and a restraint on public commentary touching the merits of the case, the appellant is held entitled to be

enlarged on bail. It is clarified that the observations herein are limited to the determination of bail and shall not prejudice the trial in any manner.

11.SHADAB AHMED - APPELLANT IN SLP(CRL.) NO. 17055/2025

11.1. SUBMISSIONS ON BEHALF OF APPELLANT:

361. Learned Senior Counsel Sri Siddharth Luthra for the appellant submitted that the appellant has been in continuous custody since 20.05.2020 in FIR No. 59 of 2020, Police Station Crime Branch, arising out of the alleged larger conspiracy relating to the North-East Delhi riots. It was urged that the appellant has undergone incarceration for more than five years and six months, while the case has not progressed beyond the stage of arguments on charge. The prosecution has cited about 835 witnesses and placed over 1,000 documents on record, apart from filing four supplementary charge-sheets, and the delay in commencement of trial is wholly unrelated to the conduct of the appellant.

362. Learned Senior Counsel submitted that the appellant's implication in the present FIR is founded primarily on FIR No. 60 of 2020, Police Station Dayalpur, relating to the death of Head Constable Rattan Lal, and FIR No. 136 of 2020, Police Station Dayalpur, relating to the burning of a Maruti showroom. It was pointed out that the appellant has already been granted bail in both these cases, the High Court having granted bail in FIR No. 60 of 2020 on 03.09.2021 and the Trial Court having granted bail in FIR No. 136 of 2020 on 21.12.2020, and therefore the continued incarceration of the appellant in the present case, which substantially rests on the same factual foundation, is wholly unjustified.

363. It was further submitted that even as per the prosecution case, the alleged mobilisation and violence at Chand Bagh occurred between noon and about 1:00 PM on 24.02.2020. The appellant's Call Detail Records, which form part of the charge-sheet, conclusively establish that the appellant was present at his residence in Jagatpuri till 12:19 PM and reached the vicinity of the alleged place of

occurrence only at 1:13 PM, after the incident had concluded. In the absence of any CCTV footage, video recording or independent electronic material showing the appellant's presence or participation, the belated witness statements alleging instigation or violence are generic and omnibus and stand contradicted by the electronic evidence.

364. Learned Senior Counsel submitted that the prosecution has repeatedly shifted its stand to fill lacunae, initially alleging physical presence and instigation on 24.02.2020 and subsequently introducing a theory of an alleged meeting on 23.02.2020, sought to be supported by statements recorded more than a year after the incident. Reliance was placed on the decision of this Court in ***Dilawar Balu Kurane v. State of Maharashtra***, ***(2002) 2 SCC 135***, to submit that such delayed and shifting versions erode the credibility of the prosecution case. It was lastly urged that the appellant is entitled to bail on the ground of parity, as similarly situated co-accused, namely Asif Iqbal Tanha, Natasha Narwal and Devangana Kalita, have already been granted bail, and that continued detention of the appellant would be wholly disproportionate and unjustified.

11.2. SUBMISSIONS ON BEHALF OF THE RESPONDENT:

365. Learned ASG Sri S.V. Raju for the State submitted that the appellant is a key conspirator and local executor of the larger criminal conspiracy which culminated in the organised and targeted violence in North East Delhi in February 2020. The material on record establishes that the appellant was an active member of the DPSG network and worked in concert with other core conspirators to escalate protests into disruptive chakka-jaam and thereafter into violent riots, particularly at Chand Bagh, pursuant to conspiratorial directions issued through meetings and coordinated communications.

366. It was submitted that the prosecution has placed cogent and consistent material showing the appellant's participation in a series of conspiratorial

meetings, including meetings at the Indian Social Institute, Lodhi Road, and secret night meetings held on 16/17 February, 20/21 February and 23 February 2020 at Chand Bagh. These meetings were convened to finalise the roadmap for converting sit-in protests into disruptive chakka-jaam on arterial roads and thereafter engineering violence. Protected witnesses, including Jupiter, Silver, Gold, Bravo and Johny, have deposed that the appellant attended these meetings, issued directions to protest organisers, delivered inflammatory speeches and coordinated execution at the Chand Bagh protest site.

367. Learned ASG Sri S.V. Raju submitted that the reliance placed on Call Detail Records is wholly misconceived and ignores the settled law governing criminal conspiracy. Physical presence at the precise moment of violence is not determinative where the material establishes planning, coordination and assignment of roles. The evidence on record shows that in the conspiratorial meeting held on the night of 23.02.2020, the appellant undertook to get CCTV cameras covered or destroyed through his team. This is corroborated by protected witness Radium and supported by CCTV footage and forensic analysis showing systematic dislocation and covering of government cameras between 12:05 PM and 12:45 PM on 24.02.2020, immediately preceding the coordinated attack on the police at about 1:00 PM.

368. It was lastly submitted that the gravity of the offences, including murder of Head Constable Ratan Lal, brutal attacks on police officers, large-scale arson and destruction of public property, coupled with the appellant's central and operational role in the conspiracy, disentitle him to the discretionary relief of bail. The plea of parity is untenable, as the appellant's role is distinct and supported by a continuous chain of prima facie evidence. The State therefore prayed that the application for bail be rejected.

11.3. FINDINGS OF THE TRIAL COURT:

369. The Trial Court vide order dated 13.10.2022, passed in IA. No. 101/2022 in SC 163/2020 rejected the bail application filed by the Appellant. The Trial Court held that the charge-sheet and accompanying material disclosed prima facie involvement of the appellant in a large-scale, deep-rooted and meticulously planned criminal conspiracy which culminated in the North-East Delhi riots of February 2020. On a holistic assessment of the prosecution case, including witness statements, protected witness testimonies, WhatsApp chats of DPSG/JCC, and CCTV analysis, the Court found that the protests were not organic or spontaneous but were strategically designed to escalate into chakka-jam and thereafter into organised communal violence. The appellant's role was not to be viewed in isolation, and his participation in key meetings and coordination with other conspirators formed part of the larger conspiracy.

370. A decisive reason for rejection of bail was the statutory embargo under Section 43D(5) of the Unlawful Activities (Prevention) Act, 1967, read with the additional restriction under Section 437 Cr.P.C. Relying extensively on ***NIA v. Zahoor Ahmad Shah Watali (supra)*** and ***Thwaha Fasal v. Union of India (supra)***, the Court reiterated that at the bail stage, it is sufficient if there are reasonable grounds for believing that the accusation is prima facie true, and that the degree of satisfaction required is lighter than at the stage of trial or discharge. Applying this standard, the Court concluded that the prosecution material, taken at face value, clearly crossed the statutory threshold, thereby barring the grant of bail.

371. The Court rejected the defence submissions that the appellant was merely a volunteer at a peaceful protest site, that DPSG was not a banned organisation, or that there was no direct evidence such as CCTV footage showing him committing violent acts. It held that criminal conspiracy is rarely proved by direct evidence and is ordinarily established through circumstantial evidence, conduct,

and the cumulative effect of surrounding circumstances. Alleged inconsistencies in witness statements, delay in recording statements, admissibility of electronic evidence, and claims of false implication were held to be matters for trial, and could not be examined in depth at the bail stage.

372. Finally, the Court underscored the gravity, scale, and societal impact of the offences, noting the loss of lives, including that of a police officer, grievous injuries to several public servants, and extensive damage to public and private property. It reiterated that conspiracy cases require a holistic view of the entire chain of events, and that the appellant had failed to dislodge the prima facie case established by the prosecution. In view of the statutory restrictions under UAPA and Cr.P.C., and the serious nature of the allegations, the Court held that the appellant was not entitled to bail and accordingly dismissed the bail application.

11.4. FINDINGS OF THE HIGH COURT:

373. The High Court in the impugned order held that the prosecution material, when assessed cumulatively, disclosed prima facie involvement of Shadab Ahmed as an active participant in the execution phase of the larger criminal conspiracy culminating in the North-East Delhi riots. He was alleged to be a member of the DPSG WhatsApp group, a regular attendee of key conspiratorial meetings (including those held at Chand Bagh in February 2020), and one of the organisers managing the Chand Bagh–Mustafabad protest site. The Court noted that witness statements and electronic evidence prima facie indicated his role in mobilising protestors, coordinating chakka-jaams, and concurring with plans to escalate protests into violence, including discussions relating to arson, attacks on police, and destruction of public property. His role, though not that of a mastermind, was held to be integral to the operationalisation of the conspiracy.

374. Applying the statutory embargo under Section 43D(5) of the UAPA, the Court held that there were reasonable grounds for believing that the accusations

against Shadab Ahmed were prima facie true, thereby barring the grant of bail. The Court rejected pleas based on lack of direct overt acts, alleged contradictions in protected witness statements, parity with co-accused enlarged on bail, and the fact that he had been granted bail in other FIRs arising out of the riots. It was clarified that the present case related to a larger conspiracy under the UAPA, distinct from other FIRs, and that evidentiary inconsistencies and credibility issues are matters for trial. Consequently, the bail appeal was dismissed.

11.5. DISCUSSION ON ROLE AND FINDINGS:

375. It was alleged that accused Shadab Ahmad and Athar Khan, both stated to be members of the Delhi Protest Support Group (DPSG) and participants in the DPSG WhatsApp group, functioned as local operatives executing the larger conspiracy allegedly orchestrated by the principal conspirators to engineer riots under the guise of protests. According to the prosecution, the plan involved a calibrated escalation of peaceful sit-ins into chakka jams, which were thereafter intensified into disruptive blockades accompanied by violence. It is further alleged that both Shadab Ahmad and Athar Khan regularly attended DPSG meetings held at the Indian Social Institute, along with members of the Jamia Coordination Committee (JCC) and leaders of various protest sites across Delhi. At these meetings, the progress of the alleged conspiracy was reviewed and operational directions were issued, including through the DPSG WhatsApp group. Documentary material relied upon by the prosecution is stated to indicate that twelve such meetings were held between December 2019 and February 2020.

376. Shadab Ahmad and Athar Khan are further alleged to have played an active role in executing the protest plan at Chand Bagh as devised by DPSG members. Statements of protected witnesses “Silver”, “Gold”, “Venus”, and “Saturn” are relied upon to support the prosecution case regarding the execution of the plan and the specific role attributed to Shadab Ahmad therein.

377. It is further alleged that Shadab Ahmad was present at a meeting held at the Chand Bagh protest site at approximately 02:00 a.m. on 17.02.2020. According to the prosecution, this meeting played an instrumental role in shaping the protests that occurred between 22.02.2020 and 24.02.2020. Call Detail Record (CDR) analysis is relied upon to place Shadab Ahmad at the said meeting. Statements of protected witnesses "Bravo", "Johnny", "Lambda", and "Kilo" are also relied upon to describe the planning undertaken at, and the participation of Shadab Ahmad in, the meeting held on 17.02.2020.

378. The charge-sheet further alleges that Shadab Ahmad also participated in another meeting held during the intervening night of 20.02.2020 and 21.02.2020. As noted hereinabove, the said meeting is alleged to have played a significant role in the protests and incidents of violence that took place on 22.02.2020 and 23.02.2020.

379. According to the prosecution, the aforesaid meetings of 17.02.2020 and 20/21.02.2020 were crucial in the execution of the protests that culminated in violence on 22.02.2020 and 23.02.2020. Pursuant to these meetings, protesters are alleged to have carried out violent acts at the Jafrabad Metro Station. Statements of protected witnesses "Echo" and "Sodium" are relied upon to corroborate the occurrence of, and deliberations at, the conspiratorial meeting held on 20.02.2020 and 21.02.2020.

380. It is further alleged that on the night of 22.02.2020, DPSG members Shadab Ahmad and Athar Khan convened a meeting at the basement of one Ayaz in Chand Bagh, which was attended by organisers of various protest sites in North-East Delhi as well as persons who were later arrested in connection with riot-related cases. At the said meeting, it is alleged that they informed the attendees that the Jafrabad chakka jam had been successfully executed in furtherance of the conspiracy and directed them to replicate the same in their respective areas to trigger riots. Thereafter, on 23.02.2020, Shadab Ahmad, Athar Khan, and others are alleged to have shifted the Chand Bagh protest to the main Wazirabad–

Ghaziabad Road, resulting in a disruptive chakka jam, attacks on police personnel and civilians, and extensive damage to public and private property. As the violence allegedly did not escalate to the desired level, another conspiratorial meeting is stated to have been held that night at the residence of one Mukhtyar, where it was decided to destroy CCTV cameras to facilitate further violence. Specific tasks for disabling the cameras were allegedly assigned to identified members, with CCTV footage relied upon to corroborate the presence and coordination of the accused.

381. The charge-sheet further relies upon reverse mapping of persons arrested for grave offences committed during the North-East Delhi riots, which is stated to trace a clear chain of command to a clandestine meeting held at Chand Bagh at around 02:00 a.m. on 17.02.2020. According to the prosecution, several key perpetrators of murders, rioting, arson, and other serious offences were either present at the said meeting or remained in regular contact with its participants, particularly DPSG members Shadab Ahmad, Athar Khan, Gulfisha Fatima, and Khalid Saifi. The mapping is relied upon to allege coordinated roles in the commission of murders, acts of rioting and arson, destruction of CCTV cameras, assignment of specific targets, and financing of weapons and ammunition, culminating in the framing of charges against core conspirators in FIR No. 60/2020 relating to mass violence and the killing of Head Constable Ratan Lal. It is further alleged that, after the alleged role of DPSG in the riots came to light, members were instructed to delete WhatsApp chats, following which Shadab Ahmad and Athar Khan were removed from the DPSG group after executing their purported roles in organising the riots in North-East Delhi.

382. Upon a prima facie assessment of the material relied upon by the prosecution, the role attributed to Shadab Ahmad appears to be that of a site-level executor associated with Chand Bagh and related protest clusters, whose presence at certain meetings is alleged to have facilitated operational coordination following directions emanating from others. The evidence presently placed on

record does not disclose that he occupied an authoritative position in conceptualising the alleged conspiracy or that he exercised independent control over its strategic formulation. His alleged association with chakka jam planning, while relevant to trial, does not by itself sustain the continued deprivation of liberty at the pre-trial stage in the absence of material showing autonomous command or unilateral decision-making authority.

383. The prosecution narrative stresses Shadab's attendance at late-night meetings and his participation in conveying instructions to organisers of protest sites. However, even taken at its highest, this depiction situates him as a conduit for information and coordination rather than as an architect of escalation. The allegations neither establish that he devised the strategy to engineer violence nor that he exercised discretion over the location, timing, or modality of the alleged unlawful acts. The attributed conduct is derivative and execution-centred, and the evidentiary record does not presently disclose that he shaped or altered the trajectory of the protests in a manner warranting further custodial curtailment.

384. The State expresses apprehension that Shadab's enlargement on bail may enable reactivation of dormant networks or interference with witnesses. However, there is no cogent material to suggest that he presently retains the organisational capacity or influence necessary to mobilise individuals or resources independent of the structures that, by the prosecution's own account, operated under a hierarchical command led by others. The risks articulated can be effectively addressed by imposing conditions restraining his interaction with co-accused and witnesses, restricting participation in assemblies concerning the subject matter, and ensuring regular attendance before the trial court.

385. The Court remains mindful that the alleged acts culminated in serious violence yet, the gravity of the incident cannot be the sole criterion to perpetuate detention when the individual's attributed role is operational rather than directive. The prosecution has not demonstrated that Shadab's custodial presence is required for ongoing investigation or that further evidence is contingent upon his

continued incarceration. In the absence of such necessity, indefinite pre-trial detention would assume a punitive character inconsistent with constitutional guarantees of personal liberty under Article 21, particularly where the alleged conduct is neither shown to be ongoing nor presently repeatable in a manner jeopardising the proceedings.

386. The Court further notes that the documentary and electronic evidence forming the backbone of the prosecution case has already been secured and subjected to forensic processes, and no submission has been advanced suggesting that Shadab's custodial presence is indispensable for recovery of additional material. The absence of any pending investigative step requiring his confrontation or custodial interrogation weighs significantly against continued deprivation of liberty, for pre-trial detention cannot be justified merely to await the vicissitudes of trial when the evidentiary record is substantially crystallised.

387. Moreover, while the prosecution advances the thesis of layered participation culminating in coordinated disruptions across multiple sites, it is incumbent upon the Court to maintain proportionality between the attributed layer of involvement and the nature of liberty restriction imposed. Insofar as Shadab is alleged to have functioned at an executory tier without demonstrated autonomy over escalation or violence, extending pre-trial detention would risk conflating operational participation with strategic authorship, contrary to the requirement that liberty be curtailed only upon individualised and contemporaneous necessity.

388. The Court is also persuaded that calibrated conditions can adequately address the State's concerns regarding potential interference with the administration of justice. In the absence of material demonstrating that measures would be insufficient, continued incarceration cannot be sustained.

389. In these circumstances and bearing in mind that the constitutional presumption favours liberty unless its curtailment is demonstrably necessary for legitimate and current purposes of investigation or trial, the Court finds no

compelling grounds to justify the further confinement of Shadab Ahmad. The differentiated hierarchy of roles articulated by the prosecution underscores that his alleged conduct, while forming part of the evidentiary matrix for trial, does not presently establish a continuing threat warranting custodial restraint. Subject to strict compliance with conditions imposed by the Court, enlargement on bail remains the proportionate course.

390. Having regard to the differentiated nature of involvement disclosed by the prosecution itself where Umar Khalid and Sharjeel Imam are alleged to have conceptualised and directed the overarching plan, whereas Shadab Ahmad is alleged to have acted as a local-level facilitator of decisions taken elsewhere. This Court finds that the threshold of necessity for continued detention is not fulfilled in his case. Conditional release can sufficiently secure the interests of justice. Accordingly, subject to stringent conditions as imposed below, the appellant is held entitled to be enlarged on bail. These observations are confined to the adjudication of bail and shall not be construed as expressing a view on the merits.

12.GULFISHA FATIMA – SLP (CRL.) NO. 13988/2025

12.1. SUBMISSIONS ON BEHALF OF THE APPELLANT:

391. Learned Senior Counsel Sri Abhishek Manu Singhvi for the Appellant submitted that the impugned judgment of the High Court declining bail suffers from a fundamental error in approach, inasmuch as it proceeds on broad generalisations about the nature of the alleged conspiracy while completely losing sight of the specific role attributed to the present Appellant. It was urged that the Appellant has remained in custody since April 2020, now for more than five and a half years, without charges even being framed, and that the denial of bail in such circumstances amounts to a punitive pre-trial incarceration wholly alien to settled constitutional principles.

392. He further submitted that on a plain reading of the charge sheets and the material relied upon by the prosecution, no overt act of violence is attributed to the Appellant at any protest site. The allegations, at the highest, pertain to participation in and organisation of protests in the Seelampur–Jafrabad area, which, as borne out from the record itself, remained peaceful, with no recoveries, no injuries, no MLCs and no contemporaneous evidence of rioting or use of weapons. It was emphasised that the Appellant was not a member of the alleged conspiratorial WhatsApp groups such as DPSG, which the prosecution itself projects as the backbone of the conspiracy narrative.

393. Learned Senior Counsel submitted that the High Court has gravely erred in rejecting the Appellant's claim of parity. Co-accused Devangana Kalita and Natasha Narwal, who are alleged to have played a more proximate role in the supposed conspiracy and were admittedly members of DPSG, have been on bail since June 2021, which bail was affirmed by this Hon'ble Court. The role attributed to the Appellant is not only similar but demonstrably lesser, and yet she continues to remain incarcerated. The finding that parity is unavailable is thus unsupported by the record and internally inconsistent with the prosecution's own case.

394. He further submitted that the statutory embargo under Section 43D(5) of the UAPA cannot be read in isolation or as a charter for indefinite detention. This Hon'ble Court has repeatedly held that where there is no likelihood of the trial concluding within a reasonable time, constitutional courts are duty-bound to intervene to protect personal liberty. In the present case, with nearly a thousand witnesses cited, voluminous documentary material, and arguments on charge still pending, there is no realistic prospect of trial commencing, let alone concluding, in the near future.

395. Learned Senior Counsel also submitted that the impugned judgment proceeds on conjectures rather than evidence, particularly while relying on belated and uncorroborated statements of protected witnesses, recorded months

after the alleged events, without independent support from call records, recoveries, or contemporaneous material. The High Court, it was urged, has selectively relied upon incriminatory fragments while ignoring exculpatory material, thereby falling into a clear error of law at the stage of bail.

396. He lastly submitted that the continued incarceration of the Appellant, a young woman, despite the absence of any direct allegation of violence, despite clear parity with co-accused already enlarged on bail, and despite extraordinary delay in the progress of the case, results in a manifest violation of Article 21 of the Constitution. It was therefore prayed that this Hon'ble Court may be pleased to set aside the impugned judgment and enlarge the Appellant on bail, on such terms and conditions as this Hon'ble Court may deem fit in the interests of justice.

12.2. SUBMISSIONS ON BEHALF OF THE RESPONDENT:

397. Learned ASG Sri S.V. Raju submitted that the role of Gulfisha Fatima, Accused No. 5, is clearly delineated in the charge sheets and supporting material, which establish her as a key local executor of the larger criminal conspiracy. She was not a passive protestor but was entrusted with operational responsibility of the Seelampur–Jafrabad protest site, owing to her status as a local resident with deep community access. The prosecution case is that directions issued by principal conspirators were channelled through Gulfisha Fatima for on-ground execution at this site, making her an indispensable link in the conspiracy chain .

398. It was further submitted that Gulfisha Fatima actively participated in conspiratorial meetings, including the meeting held on 23.01.2020 at Yameen House, Seelampur, attended by Umar Khalid, Natasha Narwal and Devangana Kalita, where instructions were issued for stockpiling red chilli powder, acid, bottles and sticks. Witnesses examined under Section 164 CrPC have specifically named Gulfisha Fatima as being present in this meeting. Her presence is not

incidental but forms part of the preparatory stage of the conspiracy, preceding the escalation of protests into violence.

399. Learned ASG Sri S.V. Raju submitted that Gulfisha Fatima also attended the clandestine meeting held in the intervening night of 16/17.02.2020 at Chand Bagh, where the final roadmap for escalating chakka-jam into violent riots was discussed. Witnesses have deposed that representatives of North-East Delhi protest sites, including Gulfisha Fatima, were present and agreed to intensify road blockades and orchestrate violence. This meeting constitutes the immediate precursor to the events of 22.02.2020 and 23.02.2020 and directly links Gulfisha Fatima to the execution phase of the conspiracy.

400. It was further submitted that pursuant to these meetings, Gulfisha Fatima actively mobilised women protestors, used coded language to communicate instructions, and facilitated distribution of stones, chilli powder and other material at the Jafrabad protest site. Statements of witnesses recorded under Section 164 CrPC specifically attribute to her the act of instigating women protestors and providing them with materials used to attack police personnel and civilians. These acts are not symbolic or peripheral but constitute direct participation in chakka-jam and the subsequent violent riots on 22.02.2020 and 23.02.2020, leading to registration of FIRs for serious offences including attempt to murder and murder.

401. Learned ASG Sri S.V. Raju further submitted that Gulfisha Fatima remained in continuous contact with other co-accused persons, including Athar Khan, Natasha Narwal, Devangana Kalita and Tasleem Ahmad, and that real-time updates from the Seelampur–Jafrabad site were communicated to principal conspirators. The prosecution has also relied upon witness statements indicating that Gulfisha Fatima received funds from co-accused Tahir Hussain for utilisation in riots. At the stage of bail, these materials clearly satisfy the threshold of "prima facie true" under Section 43D(5) of the UAPA.

402. He lastly submitted that the plea of parity raised by Gulfisha Fatima is wholly misconceived, as her role as a local executor and facilitator at a critical protest site distinguishes her from other accused who have been granted bail. The gravity of her specific acts, her proximity to the execution of violence, and the statutory embargo under Section 43D(5) of the UAPA disentitle her from any discretionary relief. It was therefore prayed that the appeal filed by Gulfisha Fatima be dismissed and the order declining bail be affirmed.

12.3. FINDINGS OF THE TRIAL COURT:

403. The Trial Court vide order dated 16.03.2022 passed in IA. No. 72/2021 in SC 163/2020 dismissed the bail application filed by the Appellant. The Trial Court held that the allegations against the appellant disclosed prima facie involvement in a large-scale and deep-rooted criminal conspiracy culminating in the North-East Delhi riots of February 2020. On a holistic reading of the charge-sheet, case diary, witness statements, and electronic material, the Court found sufficient material indicating that the protests were not spontaneous but were engineered, escalated into chakka-jam, and thereafter into targeted violence, with prior meetings, coordinated roles, and preparatory acts. At the stage of bail, the Court emphasized that it was not required to conduct a meticulous appreciation of evidence, and that the prosecution material, taken at face value, revealed the appellant's complicity in the conspiracy.

404. A central reason for rejection was the statutory bar under Section 43D(5) of the Unlawful Activities (Prevention) Act, 1967. Applying the law laid down in ***National Investigation Agency v. Zahoor Ahmad Shah Watalli (supra)***, the Court held that once there are reasonable grounds for believing that the accusation is prima facie true, bail must be refused. The Court found that the material collected by the investigating agency satisfied this threshold, and therefore the

embargo under Section 43D(5) squarely operated against the appellant, in addition to the rigour of Section 437 Cr.P.C. applicable to serious offences.

405. The Court also rejected the appellant's arguments seeking bail on parity with co-accused who had been granted bail by the High Court. It held that parity cannot be claimed mechanically, particularly in conspiracy cases where roles may differ, and when the statutory bar under UAPA applies. The Court further noted that the High Court orders relied upon by the appellant did not dilute the obligation of the trial court to independently assess whether the accusations against the present appellant were prima facie true under Section 43D(5). Consequently, parity was held to be inapplicable.

406. Lastly, the Trial Court found no merit in the defence contentions regarding alleged infirmities in witness statements, admissibility of electronic evidence, or claims of false implication. Relying on settled law, it held that questions of admissibility, credibility, and contradictions are matters for trial, not for determination at the bail stage. Considering the gravity of offences, the nature of the conspiracy, the material indicating coordinated violence, and the statutory restrictions on grant of bail, the Court concluded that the appellant was not entitled to bail, and accordingly dismissed the bail application.

12.4. FINDINGS OF THE HIGH COURT:

407. The High Court in the impugned order held that the prosecution material, when viewed cumulatively, disclosed prima facie involvement of Gulfisha Fatima in the execution of the larger criminal conspiracy culminating in the North-East Delhi riots of February 2020. She was alleged to have actively managed and guided multiple protest sites in the Seelampur–Jafrabad area, including the creation of a 24×7 sit-in at Madina Masjid, Seelampur, and the establishment of additional local protest points. The Court noted material indicating her participation in conspiratorial meetings, her role in mobilising women protestors,

creation and administration of WhatsApp groups for coordination, use of code words to signal chakka-jaams, and alleged involvement in stockpiling materials for violence. These acts, assessed on broad probabilities, were held sufficient at the bail stage to connect her to the execution of the conspiracy rather than mere presence at protests.

408. Applying the rigour of Section 43D(5) of the UAPA, the Court held that there were reasonable grounds for believing that the accusations against Gulfisha Fatima were prima facie true, thereby creating a statutory bar to bail. The pleas of parity with co-accused granted bail, absence of recoveries, alleged lack of direct incitement, and prolonged incarceration were rejected. The Court clarified that her role, particularly in local mobilisation, coordination of protest sites, and alleged instigation of violence, was distinct from that of the co-accused released on bail, and that issues of credibility and evidentiary weight must be tested at trial. In view of the seriousness of the allegations and the statutory embargo, the bail appeal was dismissed.

12.5. DISCUSSION ON ROLE AND FINDINGS:

409. Gulfisha Fatima, stated to be a member of the organisation Pinjra Tod, is a local resident of Seelampur and, as per the charge-sheet, is alleged to have been one of the principal executors of the plan purportedly hatched by Umar Khalid and Sharjeel Imam. The protest site at the 66 Foot Road, Seelampur, is stated to have been assigned to Gulfisha Fatima along with Natasha Narwal and Devangana Kalita, both of whom are alleged members of the Delhi Protest Support Group (DPSG) and its associated WhatsApp group. Gulfisha Fatima is alleged to have been responsible for coordinating the Seelampur/Jafrabad protest site. It is further alleged that directions issued by DPSG were conveyed to Gulfisha Fatima by Natasha Narwal and Devangana Kalita for implementation at

the ground level. Being a resident of the locality, Gulfisha Fatima is stated to have facilitated access to the area and to have instigated local residents to participate in the protests. The charge-sheet further alleges that on 26.12.2019, Gulfisha Fatima created a WhatsApp group titled "Warriors" for the purpose of mobilising women and inciting them to engage in violence.

410. On 15.01.2020, Gulfisha Fatima is alleged to have been among the key individuals who initiated a women- and child-centric protest site at Seelampur near Madina Masjid, in accordance with the alleged plan of the conspirators. She, along with Devangana Kalita, is stated to have attended a conspiratorial meeting convened by Umar Khalid on 23.01.2020 at a purportedly secret office located at Yameen House, Seelampur. As noted hereinabove, in the said meeting, Umar Khalid is alleged to have issued directions for stockpiling red chilli powder, acid, bottles, and sticks. It is further alleged that pursuant to the said meeting, Gulfisha Fatima stockpiled chilli powder, wooden sticks (dandas), acid, bottles, and other materials, and that she used coded language to transmit directions of the conspirators to the protesters. Statements of protected witness "Echo" are relied upon in the charge-sheet in support of these allegations.

411. On 17.02.2020, Gulfisha Fatima is alleged to have attended a meeting held at the Chand Bagh protest site during the night hours, which is stated to have been attended by members of DPSG. According to the charge-sheet, approximately twenty persons attended the said meeting, including Gulfisha Fatima. At the said meeting, a roadmap for execution of the final phase of the alleged conspiracy namely, escalation of chakka jams into disruptive chakka jams and the organisation of violence and riots- is stated to have been outlined by co-accused Athar Khan. The charge-sheet relies upon electronic evidence to assert the presence of Gulfisha Fatima at the said meeting.

412. The charge-sheet further alleges that on 22.02.2020, Gulfisha Fatima not only instigated women to participate in the protests but also actively participated

in the protest held at the Jafrabad Metro Station. In connection with the riots that occurred at the said location, FIR No. 48/2020 is stated to have been registered.

413. It is further alleged that on 23.02.2020, in furtherance of the conspiracy, approximately 300 women from the Jahangirpuri area were first transported to Shaheen Bagh and thereafter taken to the Jafrabad chakka jam site, where DPSG members, namely Natasha Narwal, Devangana Kalita, and Gulfisha Fatima, are alleged to have supplied stones and red chilli powder to them for use in attacks on police personnel and non-Muslims, thereby instigating violence. The charge-sheet further alleges that leaders of the Pinjra Tod group associated with the Chand Bagh protest site were actively orchestrating the riots. Statements of protected witnesses "Helium" and "Sierra" are relied upon to substantiate the alleged role of Gulfisha Fatima in the incidents of violence.

414. According to the charge-sheet, Gulfisha Fatima is alleged to have been one of the leading executors of the orchestrated violence that occurred on 23.02.2020, which is stated to have resulted in loss of innocent lives and extensive damage to public property.

415. The charge-sheet further alleges that Gulfisha Fatima was financially supported by co-accused Tahir Hussain in furtherance of the alleged conspiracy.

416. At this stage, a prima facie evaluation of the material placed on record indicates that Gulfisha Fatima's alleged role, though not insignificant, is confined to the operational execution of directions purportedly transmitted through other actors. The prosecution narrative does not attribute to her any determinative authority in conceptualising or directing the alleged conspiracy; rather, she is projected as a ground-level facilitator at Seelampur/Jafrabad. Where the evidentiary foundation itself distinguishes between those who are alleged to have architected the larger design and those alleged to have acted upon instructions, this Court is persuaded that her role remains materially distinct from that of the principal conspirators.

417. The allegation that Gulfisha Fatima mobilised local women and coordinated protest-site logistics, though relevant to the prosecution's case, does not presently disclose that she exercised independent command, resource control, or strategic oversight over multiple protest sites. The prosecution itself asserts that directions were conveyed to her by others higher in the asserted hierarchy. In these circumstances, this Court finds that the level of attributed agency and control does not justify continued incarceration once the investigative purpose stands substantially fulfilled.

418. The apprehension that her release may lead to interference with witnesses or revival of the alleged operational network is considerably attenuated by the absence of material suggesting that she retains any autonomous capacity to mobilise persons or resources in the current circumstances. It is undisputed that the structures relied upon by the prosecution both formal or informal no longer exist in their asserted form, and the appellant's present ability to exert influence is neither pleaded with specificity nor supported by contemporaneous material. The imposition of stringent conditions can sufficiently safeguard against any residual risk.

419. It bears reiteration that the gravity of the incidents in question, though serious, cannot eclipse the constitutional demand for individualized assessment of necessity in pre-trial detention. Prolonged incarceration premised solely on the seriousness of allegations, absent a proximate and continuing nexus between the appellant and present threats to the administration of justice, would amount to a punitive measure inconsistent with settled principles. In view of her alleged executory role and absence of demonstrable present capacity to influence proceedings, continued custody does not meet the threshold of necessity.

420. This Court is cognisant of the appellant's status as a woman and the settled principle that gender, while not conferring immunity from criminal law, remains a relevant consideration in determining the necessity of continued pre-trial detention. The appellant has remained in custody for a substantial period, and

there is no material to indicate that her release would pose an irremediable risk that cannot be addressed by restrictive conditions. The law does not envisage incarceration as a measure of deterrence at the pre-trial stage, particularly where the individual concerned is a woman with no prior criminal antecedents and whose alleged actions stem from a ground-level facilitating role.

421. The allegations attributed to the Appellant i.e. assignment of protest sites, coordination of local mobilisation, participation in meetings of DPSG members, and logistical execution of protest activities are substantially identical to the allegations against co-accused Natasha Narwal and Devangana Kalita, who allegedly conveyed DPSG directions to the Appellant and jointly coordinated the Seelampur/Jafrabad protest sites.

422. Once bail has been granted to co-accused who stand on the same factual and legal footing in terms of alleged roles, meetings, communications, and purported execution on the ground, continued incarceration of the Appellant violates the settled principle of parity.

423. The prosecution's evidentiary foundation against the Appellant including statements of protected witnesses , alleged electronic presence in meetings, reliance on WhatsApp groups, and alleged mobilisation of women mirrors the nature and quality of evidence relied upon against co-accused Natasha Narwal and Devangana Kalita, who were enlarged on bail despite similar reliance on anonymous witness testimony, electronic traces of presence, and allegations of mobilisation and logistical facilitation.

424. In the absence of any distinguishing material against the Appellant, denial of bail would constitute hostile discrimination vis-à-vis similarly situated co-accused, offending Article 14 and the doctrine of parity. Accordingly, and keeping in view the differentiated footing on which the prosecution itself places Gulfisha Fatima as compared to the alleged masterminds Umar Khalid and Sharjeel Imam, this Court is of the considered view that further detention is not warranted at this stage. Subject to conditions ensuring regular attendance before the trial court,

restrictions on contact with prosecution witnesses, and abstention from public commentary relating to the case and further conditions enumerated hereinbelow., the appellant is held entitled to be enlarged on bail. Nothing stated herein shall be treated as an expression on merits or an assessment of guilt.

425. The appellant's continued detention must also be weighed against the constitutional imperative to ensure that the administration of criminal justice does not operate in a manner that disproportionately burdens women, especially where the investigative agency has concluded its inquiry against her and no custodial interrogation is sought. While gender alone cannot dictate the outcome, it forms a legitimate factor in the proportionality assessment under Article 21, and in the present factual matrix where the appellant's alleged participation lacks the strategic centrality attributed to the principal conspirators this consideration reinforces the conclusion that her pre-trial liberty can be secured through appropriate conditions rather than prolonged incarceration.

13. FINAL CONCLUSION AND OPERATIVE DIRECTIONS

426. The present batch of appeals has required the Court to engage with questions that lie at the intersection of personal liberty and collective security. The guarantee of liberty enshrined under Article 21 of the Constitution is of foundational importance, and no constitutional court can be unmindful of the gravity of restraining liberty before guilt is adjudicated. At the same time, the Constitution does not conceive liberty in isolation. The security of the community, the integrity of the trial process, and the preservation of public order are equally legitimate constitutional concerns. When bail is sought in prosecutions governed by a special statute, the Court is required to undertake a difficult and sensitive balancing exercise, conscious that neither liberty nor security admits of absolutism.

427. While undertaking this exercise, the Court cannot proceed on any consideration except restricting the contours of inquiry confining to law. Where Parliament has prescribed a distinct statutory threshold for the grant of bail, and where the prosecution places prima facie material suggesting organised and deliberate activity affecting public order and security of the Nation, the Court cannot turn a Nelson's eye to such material merely because incarceration is prolonged or liberty is invoked in the abstract. Equally, where continued detention is not shown to be necessary to serve a legitimate purpose recognised by law, the Court must not hesitate to restore liberty, subject to stringent conditions that safeguard the larger public interest.

428. The position of law that emerges may be stated with clarity. The right to personal liberty enshrined under Article 21 is of seminal importance, and prolonged pre-trial incarceration is a matter of serious constitutional concern. At the same time, where Parliament has, in the context of a special statute, conditioned the grant of bail upon the satisfaction of a defined statutory threshold, a constitutional court cannot treat such restraint as avoidable. Section 43D(5) of the Unlawful Activities (Prevention) Act, 1967, represents a legislative judgment that offences alleged to implicate the security of the State warrant a distinct bail regime. The constitutional role of the Court, therefore, is neither to mechanically enforce the statutory embargo nor to neutralise it by invocation of liberty as straight-jacket formula, but to apply it with disciplined scrutiny. Where the prosecution material, taken at face value, discloses reasonable grounds for believing the accusation to be prima facie true, the statutory restraint must ordinarily operate. Where it does not, liberty must prevail. Article 21 thus commands the manner of application of the statute; it does not dissolve the statutory condition itself.

429. It is in this constitutional and statutory framework that the individual appeals have been examined based on facts obtained. The Court has consciously avoided a collective or uniform approach. Each appellant has been assessed on

the basis of the role attributed, the nature of material relied upon, and the stage of the proceedings, strictly within the limited compass of adjudication for grant of bail.

13.1. ACCUSED IN RESPECT OF WHOM BAIL IS DECLINED

430. This Court is satisfied that the prosecution material, taken at face value as required at this stage, discloses a prima facie attribution of a central and formative role by the appellants in appeals arising out of SLP (Crl.) No. 14165 of 2025 and SLP (Crl.) No. 14030 of 2025 i.e., Umar Khalid and Sharjeel Imam in the alleged conspiracy. The material suggests involvement at the level of planning, mobilisation, and strategic direction, extending beyond episodic or localised acts. The statutory threshold under Section 43D (5) of the Unlawful Activities (Prevention) Act, 1967, therefore stands attracted qua these appellants.

431. While the period of incarceration undergone by these appellants is substantial and has been duly considered, the Court is not persuaded that, on the present record, continued detention has crossed the threshold of constitutional impermissibility so as to override the statutory embargo. The complexity of the prosecution, the nature of evidence relied upon, and the stage of the proceedings do not justify their enlargement on bail at this juncture as noticed in detail in the discussion made hereinabove. Hence, the appeals arising out of SLP (Crl.) No. 14165 of 2025 and SLP (Crl.) No. 14030 of 2025 stands rejected.

432. We reiterate that courts are under a constitutional obligation to ensure that criminal proceedings, particularly those involving prolonged pre-trial incarceration, should progress with utmost expedition and the accused are not left to languish in jail. At the same time, the Court is mindful that pre-trial detention, even when justified by statute, cannot be permitted to continue without regard to the progress of the trial. The restraint on liberty contemplated by law must

proceed alongside a meaningful advancement of the prosecution. In the present case, having regard to the reliance placed upon protected witnesses, this Court considers it appropriate to provide a defined point for consideration of their prayer for grant of bail. We are of the opinion that on the completion of the examination of the protected witnesses relied upon by the prosecution, or upon the expiry of a period of one year from the date of this order, whichever is earlier, these two appellants would be at liberty to renew their prayer for grant of bail before the jurisdictional Court. In the event of such prayer being made it shall be considered on its own merits, having regard to the stage then reached in the proceedings before the Trial Court, and without being influenced by the impugned orders or the present order. This course gives effect to the statutory discipline embodied in Section 43D(5) of UAPA while ensuring that the constitutional guarantee under Article 21 operates as a continuing check against continued incarceration without there being any substantial progress of the trial.

13.2. ACCUSED IN RESPECT OF WHOM BAIL IS GRANTED

433. The appeals arising out of SLP (Crl.) No. 13988 of 2025 (Gulfisha Fatima), SLP (Crl.) No. 14132 of 2025 (Meeran Haider), SLP (Crl.) No. 14859 of 2025 (Shifa-ur-Rehman), SLP (Crl.) No. 15335 of 2025 (Mohd. Saleem Khan), and SLP (Crl.) No. 17055 of 2025 (Shadab Ahmed) are allowed as the Court is of the view that, having regard to the role attributed, the nature of the material relied upon, and the present stage of the proceedings, continued incarceration is not shown to be indispensable to the conduct of a fair trial, provided strict safeguards are imposed. The grant of bail in their favour does not reflect any dilution of the seriousness of the allegations, nor does it amount to a finding on guilt. It represents a calibrated exercise of constitutional discretion, structured to preserve both liberty of the individual and security of the nation.

13.3. CONDITIONS GOVERNING RELEASE ON BAIL

434. The appellants granted bail shall be released subject to the following conditions, which are imposed not as matters of form, but as substantive safeguards in the interest of national security, public order, and the integrity of the trial process.

i. Each of the appellants shall execute a personal bond in the sum of ₹2,00,000/- (Rupees Two Lakhs only) with two local sureties of the like sum to the satisfaction of the Trial Court.

ii. The appellants shall remain within the National Capital Territory of Delhi and shall not leave its territorial limits without prior permission of the Trial Court. Any request for travel shall disclose reasons and such prayer/request shall be considered by the Trial Court strictly on its merits

iii. The appellants shall surrender their passports, if any, before the Trial Court. Where no passport exists, an affidavit to that effect shall be filed. We direct the respondent to intimate all the immigration authorities in the country not to permit their exit from the country in any manner whatsoever, without express permission from the Trial Court.

iv. The appellants shall furnish their current residential addresses, contact numbers, and e-mail addresses to the Investigating Officer as well as to the Trial Court. The appellants shall not change their place of residence or contact particulars without giving at least seven days' prior written intimation to the Investigating Officer and the Trial Court.

v. Each of the appellants, namely Gulfisha Fatima, Meeran Haider, Shifa-ur-Rehman, Mohd. Saleem Khan, and Shadab Ahmed, shall personally appear twice a week, that is on Monday and

Thursday between 10:00 a.m. and 12:00 noon, before the Station House Officer, Police Station Crime Branch, Delhi Police, Office of the Commissioner of Police, Police Headquarters, Jai Singh Marg, New Delhi – 110001 and mark their attendance. The Station House Officer shall maintain a separate register of attendance in respect of each of these appellants and shall furnish a monthly compliance report to the Trial Court, which shall be placed on the main record of the case.

vi. The abovenamed appellants shall not directly or indirectly contact, influence, intimidate or attempt to contact any witness or any person connected with the proceedings, nor shall they associate with or participate in the activities of any group or organization linked to the subject matter of the present FIR/ final report.

vii. The appellants shall not make or publish or disseminate any information, statement, article or post whether in print, electronic or social media concerning the present case or its participants till conclusion of the trial.

viii. The appellants shall not participate in any programme or address or attend any gathering, rally or meeting, whether physically or virtually till conclusion of the trial.

ix. The appellants shall not circulate any post either in electronic form or physical form or circulate any hand bills, posters, banners, etc in any form whatsoever.

x. The appellants shall fully cooperate with the trial and shall appear on every date of hearing unless exempted for reasons to be recorded by the Trial Court to its satisfaction and they shall not exhibit any conduct that has the effect of delaying the proceedings.

xi. The appellants shall maintain peace and good behaviour throughout and in the event of any offence committed during the pendency of the trial, the prosecution would be at liberty to seek for revocation of the bail granted by filing such application before the Trial Court and in the event of such application being filed the Trial Court shall consider it on its own merits.

435. In case of breach of any of the afore-stated conditions imposed or in the event of appellants having misused the liberty granted, it shall be open to the Trial Court to cancel the bail which would be necessarily after affording opportunity of hearing to the appellants.

13.4. CONCLUDING OBSERVATION

436. Before we conclude, it bears reiteration that a principle lies at the heart of constitutional adjudication in matters of this nature. The Constitution guarantees personal liberty, but it does not conceive liberty as an isolated or absolute entitlement, detached from the security of the society in which it operates. The sovereignty, integrity, and security of the nation, as well as the preservation of public order, are not abstract concerns rather they are constitutional values which Parliament is entitled to protect through law. Where a special statutory framework has been enacted to address offences perceived to strike at these foundations, courts are duty-bound to give effect to that framework, subject always to constitutional discipline.

437. In the application of such law, the Court does not proceed on identity, ideology, belief, or association. It proceeds on role, material, and the statutory threshold governing the exercise of jurisdiction. Criminal law does not mandate identical outcomes merely because allegations arise from the same transaction.

Those alleged to have conceived, directed, or steered unlawful activity or terrorist activity stand on a different legal footing from those whose alleged involvement is confined to facilitation or participation at a different level. To disregard such distinctions would itself result in arbitrariness.

438. The present decision reflects this constitutional method. It neither endorses the prosecution case nor prejudges the guilt of any accused. It applies the law as it stands, recognising that individual liberty must be protected, but that it must also withstand the legitimate demands of national security and collective safety. This balance is not a matter of preference rather it is a matter of constitutional duty.

439. Before parting, it is necessary to reiterate the limited nature of the present determination. The Court has not examined the merits of the prosecution case beyond the confines mandated at the stage of consideration of an application seeking bail, nor has it expressed any opinion on the ultimate culpability of any of the accused. All observations are confined to the material presently on record and to the statutory and constitutional standards governing pre-trial liberty under a special enactment.

440. Having regard to the nature of the prosecution and the period of incarceration already undergone, it is considered appropriate to direct that the Trial Court shall proceed with the matter with due expedition and shall endeavour to ensure that the examination of witnesses, particularly the protected witnesses relied upon by the prosecution, is taken up and carried forward without delay.

441. The prosecution shall take all necessary steps to secure the presence of its witnesses on the dates fixed and the parties shall refrain from seeking adjournments except for reasons which are unavoidable. The Trial Court shall be at liberty to regulate the proceedings in accordance with law so as to ensure that the trial is not unnecessarily prolonged, while at the same time safeguarding the rights of all parties.

442. It is clarified that these directions are issued in furtherance of the obligation to ensure a fair and timely trial and shall not be construed either as an expression on the merits of the prosecution case or as a constraint on the discretion of the Trial Court in the conduct of the proceedings.

443. The Trial Court shall remain free to adopt such measures as are permissible in law to ensure that the trial proceeds with continuity and at a reasonable pace, consistent with the requirement of fairness and the orderly administration of criminal justice.

444. There would be something amiss in this judgment, if we do not place on record the able and arduous assistance rendered by learned Senior Counsels led by Shriyuths Kapil Sibal, Abhishek Manu Singhvi, Salman Khurshid, Siddharth Luthra, Siddhartha Dave, Siddharth Aggarwal and learned Advocate Gautam Khazanchi and their team of lawyers appearing for appellants including the painstaking efforts put in by Sri. Tushar Mehta, learned Solicitor General of India and Sri. S.V. Raju, learned Additional Solicitor General of India and their team appearing for respondent – State, the Law Clerks-cum-Research Associates for assisting this Court in rendering this judgment expeditiously in the background of voluminous records, lengthy arguments and catena of judgments relied upon.

……., J.
[ARAVIND KUMAR]

……., J.
[N.V. ANJARIA]

New Delhi;
January 05th, 2026.