IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO._____ /2026
@ SLP (CRL) NO.2867/2026

TASLEEM AHMED ...APPELLANT(S)

VERSUS

STATE GOVT. OF NCT OF DELHI

...RESPONDENT(S)

WITH

CRIMINAL APPEAL NO._____ /2026
@ SLP (CRL) NO.3867/2026

O R D E R

1. Leave granted.

2. Heard learned counsel for the parties.

3. During the course of hearing, learned counsel appearing for the State submitted that in cases dealing with

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NEHA GUPTA
Date: 2026.05.22
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Reason:

grant of bail under the Unlawful Activities (Prevention) Act, 1967, there appears to be a perceived divergence in the manner in which the decision of the three-Judge Bench in ***Union of India v. K.A. Najeeb*****, (2021) 3 SCC 713 (hereinafter referred to as "*K.A. Najeeb*")** , is being understood and applied by different Benches of this Court. Considering the above divergence of views, he seeks reference of the matter to an appropriate bench to settle the issues.

4. Shri S.V. Raju, Learned ASG, in support of his plea for reference drew our attention to various judgements dealing with the contours of grant of bail under special statutes when juxtaposed with the liberty enshrined under Article 21. He placed reliance inter alia, on ***Kartar Singh v. State of Punjab***[1]***, Shaheen Welfare Assn. v. Union of India***[2]***, P. Ramachandra Rao v. State of Karnataka***[3] and

1 (1994) 3 SCC 569.
2 (1996) 2 SCC 616.
3 (2002) 4 SCC 578.

others. He further at the outset submitted that the ratio laid down in ***Gulfisha Fatima v. State (Govt. of NCT of Delhi)***[4] has taken into consideration the ratios laid down in ***Kartar Singh*** and ***Shaheen Welfare*** and has rightly differentiated the roles of the accused persons while dealing with the grant of bail.

5. The issue, as projected before us, is not a narrow one concerning the bail prayer of the present appellants alone. It concerns the proper constitutional approach to be adopted where prolonged incarceration and delay in conclusion of trial are pressed as grounds for bail notwithstanding the statutory restraint contained in Section 43D(5) of the UAPA.

6. At the outset, we deem it appropriate to record that ***K.A. Najeeb (supra)*** is an authoritative pronouncement of a three-Judge Bench of this Court. It

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preserves the constitutional force of Article 21, while at the same time recognising the legislative policy underlying special statutes such as the UAPA.

7. In ***K.A. Najeeb (supra)***, this Court held that the presence of statutory restrictions such as Section 43D(5) of the UAPA does not per se oust the power of constitutional courts to grant bail where continued detention violates Part III of the Constitution. At the same time, the three-Judge Bench expressly recognised that at the commencement of proceedings courts are expected to appreciate the legislative policy against grant of bail; and that the rigour of such provision may melt down where there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence.

8. The ratio of ***K.A. Najeeb (supra)***, therefore, is neither a charter for indefinite incarceration under the

cover of Section 43D(5), nor a mathematical command that the mere passage of time, divorced from all surrounding circumstances, must automatically result in bail.

9. It is in this background that the decision in ***Gulfisha Fatima v. State (Govt. of NCT of Delhi) [hereinafter referred to as "Gulfisha Fatima"]*** requires to be understood. The said judgment proceeded on the very premise that ***K.A. Najeeb*** binds all Benches of lesser strength. It expressly recognised that Article 21 occupies a central place in the constitutional scheme; that the right to speedy trial is a facet of personal liberty; and that pre-trial incarceration cannot, by mere passage of time, assume the character of punishment. It further recognised ***K.A. Najeeb*** as a constitutional safeguard against unconscionable detention and recorded that there can be no second opinion on the proposition that statutory restrictions must yield in

an appropriate case. At this juncture, we deem it necessary to reproduce certain portions of ***Gulfisha Fatima*** below:

> *"32. In Union of India v. K.A. Najeeb2, 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."*
>
> ***"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."*

10. What ***Gulfisha Fatima (supra)*** declined to accept was a mechanical or solitary application of delay. The judgment held that the inquiry into delay is contextual and must take into account the nature of allegations, the statutory field, the stage of proceedings, the realistic trajectory of trial, the causes contributing to delay, the role attributed to the accused, the prima facie material, the availability of intermediate safeguards and the risks attendant upon release.

11. The said approach, in our considered view, does

not dilute Article 21. It gives Article 21 structured content in a field where the Constitution requires the Court to accommodate personal liberty, fair trial, societal security and the legislative judgment underlying a special statute. The judgment in ***Gulfisha Fatima*** understood the findings and ratio in ***K.A. Najeeb*** as a principled safeguard against unconscionable detention, and not as a mathematical formula of universal application.

12. In ***Gulfisha Fatima***, bail was granted to five of the seven appellants before the Court. Bail was declined to two appellants not because Article 21 was treated as subordinate to Section 43D(5), but because, upon an accused-specific evaluation, the Court found that their role, the prima facie material attributed to them, and the attendant concerns of trial integrity did not, at that stage, justify overriding the statutory embargo. Even in respect of those two appellants, liberty was reserved to renew the

prayer for bail upon completion of examination of protected witnesses or upon expiry of one year, whichever was earlier. That course itself shows that the judgment treated Article 21 as a continuing constitutional check and not as a spent or excluded consideration.

13. One circumstance in the present batch deserves particular notice. The present appellants themselves have placed reliance upon ***Gulfisha Fatima*** in support of their prayer for bail. This circumstance is not without significance. If ***Gulfisha Fatima*** had proceeded on the basis that Section 43D(5) eclipses Article 21, or that prolonged incarceration has no constitutional bearing in UAPA prosecutions, it could hardly have been invoked by accused persons seeking enlargement on bail. The very reliance placed upon it demonstrates that the said decision cannot be placed in a rigid or one-sided frame.

14. In a later decision in ***Syed Iftikhar Andrabi v.***

National Investigation Agency, Jammu[5] another coordinate Bench has expressed serious reservations on certain aspects of ***Gulfisha Fatima***, including the manner in which ***K.A. Najeeb*** was applied. The later decision has observed, *inter alia*, that ***Gulfisha Fatima*** adopts a narrower reading of ***K.A. Najeeb*** and that such reasoning amounts to a hollowing out of the constitutional force of the three-Judge Bench decision.

15. We do not propose to enter into any adjudication on the correctness of observations made by a coordinate Bench. Judgments of this Court are not to be answered by counter-observations from another Bench of equal strength. The discipline of precedent demands a higher institutional method.

16. However, where a coordinate Bench entertains reservations about the reasoning of an earlier coordinate

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Bench, particularly on the application of a binding three-Judge Bench decision, the proper course is well settled. The matter must ordinarily be placed before Hon'ble the Chief Justice of India for constitution of an appropriate Bench. A coordinate Bench cannot, by strong observations, effectively unsettle the ratio of an earlier coordinate Bench while continuing to sit in equal strength.

17. We deem it necessary to observe that disagreement between coordinate Benches, by itself, is neither unusual nor undesirable. The law has often grown through reasoned difference. What the discipline of precedent does not countenance, however, is a course by which an earlier coordinate Bench is subjected to reservations of a fundamental character, particularly on the alleged misapplication of a larger Bench decision, without the matter being placed before a Bench competent in strength to resolve the perceived conflict. A coordinate Bench may

distinguish an earlier decision, may explain its own understanding of the law, and may, in an appropriate case, express doubt. But where the doubt goes to the root of the legal principle applied, the matter cannot be left at the stage of criticism. A doubt expressed in emphatic terms is still a doubt; it is not a declaration of law. Unless resolved by a Bench of appropriate strength, it only introduces uncertainty in the administration of justice.

18. The obligation of judicial discipline is, therefore, not discharged by merely stating it. It lies in adopting the course which the institution requires. A Bench of equal strength cannot achieve, by language of reservation, what it cannot achieve by declaration of law. If the earlier view is thought to be inconsistent with a larger Bench decision, the proper course is reference. That course protects not merely the judgment doubted, but the authority of this Court itself. In matters touching personal liberty, national

security, statutory restrictions on bail and prolonged incarceration, uncertainty in the law is itself an institutional cost. We, therefore, consider it our duty not to add another competing formulation to the field, but to place the perceived conflict before a Bench of appropriate strength so that the law may speak with the clarity and authority expected of this Court.

19. It is possible for Benches of this Court to differ in emphasis. It is equally possible that two decisions may proceed on the same constitutional foundation but apply it differently to distinct factual settings. But where the difference is projected as one concerning the binding force of a three-Judge Bench decision, and where such difference is likely to affect pending trials under special statutes across the country, the matter cannot be left to uncertain application by courts.

20. We are also conscious that an unqualified reading

of the proposition that lapse of time by itself must compel bail in every case under the UAPA may have serious consequences. Such an approach may leave little room for courts to examine the nature of allegations, centrality of role, protected witnesses, risk of intimidation, possibility of reactivation of networks, nature of delay and whether such delay is attributable to the accused himself/herself, public order concerns and national security implications. On the other hand, an equally unqualified insistence on Section 43D(5) without regard to prolonged incarceration would imperil Article 21. The Constitution does not command either extreme. It is this precise issue that may warrant attention of the appropriate bench dealing with the issues.

21. The question, therefore, is not whether Article 21 survives Section 43D(5). It undoubtedly does. The true question is how Article 21 is to be applied in a statutory

field where Parliament has consciously imposed restrictions on bail in respect of offences alleged to affect the security of the State and the stability of civic life.

22. We clarify that nothing in this order is intended to whittle down, dilute, read narrowly, or detract from the authority of ***K.A. Najeeb***. On the contrary, the present reference is necessitated because ***K.A. Najeeb*** deserves application with the clarity, consistency and institutional fidelity which a binding three-Judge Bench decision commands. If a coordinate Bench has expressed reservations on the manner in which another coordinate Bench has applied ***K.A. Najeeb***, the proper answer is not further reservation. The proper answer is authoritative resolution.

23. We are, therefore, of the considered view that the issue requires consideration by Bench to be constituted by the Hon'ble Chief Justice of India. This is necessary not

merely for the present batch of matters, but to settle the correct approach to bail under special statutes where Article 21, prolonged incarceration and statutory restrictions intersect.

24. Having regard to the importance of the issue, we are of the view that the questions requiring consideration need not be confined to the correctness of any one decision. The controversy raises a broader question concerning the manner in which constitutional courts are to approach bail where prolonged incarceration is asserted in prosecutions governed by special statutes imposing restrictive bail conditions. In this background it would be imperative or in other words necessary for the appropriate bench that may be constituted by the Hon'ble Chief Justice of India, to clarify or expound the position of law laid down in K.A. Najeeb's case, particularly in the backdrop of the rigour of 43D (5) which imposes restriction

consciously and has received the assent of the Parliament, which obviously was brought in keeping in mind the valuable right enshrined in Article 21 of the Constitution of India.

25. Registry is directed to place the papers before Hon'ble the Chief Justice of India for constitution of an appropriate Bench to resolve the aforesaid issues.

26. We clarify that the present reference shall not be understood as an expression of final opinion on the merits of the prosecution case or on the guilt or innocence of the appellants. Nor shall the present order be read as affirming or disapproving any factual finding recorded in any earlier bail order. The reference is confined to the legal questions noticed above.

27. Having said so, we cannot lose sight of the fact that the present appellants have undergone substantial

incarceration; that the trial is not likely to conclude immediately; that the appellants themselves have invoked the principle of calibrated constitutional discretion recognised in ***Gulfisha Fatima***; and that the determination of the issues may consume further time. The appellants cannot be made to suffer continued incarceration merely because an important question of law has arisen for authoritative settlement. Without expressing any opinion on merits, and subject to stringent safeguards, we are inclined to grant interim bail to the appellants pending further orders.

28. Accordingly, the appellants are directed to be released on interim bail for six (6) months, subject to the following conditions:

a. Each petitioner shall execute a personal bond in the sum of Rs. 2,00,000 with two local sureties of the like amount to the satisfaction of the Trial Court.

b. The appellants shall surrender their passports, if any, before the Trial Court. If any petitioner does not hold a passport, an affidavit to that effect shall be filed before the Trial Court.

c. The appellants shall not leave the National Capital Territory of Delhi without prior permission of the Trial Court. Any application seeking permission to travel shall disclose the destination, duration, purpose of travel and complete contact details during such travel.

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

e. The appellants shall appear before the Trial Court on each date of hearing, unless exempted by the Trial Court for reasons to be recorded.

f. The appellants shall not contact, influence, threaten or communicate with any prosecution witness, protected witness, complainant or person acquainted with the facts of the case, directly or indirectly.

g. The appellants shall not tamper with evidence, electronic material, records, devices or documents relating to the case.

h. The appellants shall not make any public statement, including through print, electronic media or social media, touching upon the merits of the case, the evidence, the witnesses or the pending trial.

i. The appellants shall not participate in any activity

which may prejudice public order or the integrity of the trial.

j. The appellants shall report to the Investigating Officer once every fortnight, or at such interval as may be directed by the Trial Court.

k. In the event of breach of any condition, it shall be open to the State to seek cancellation of interim bail before the appropriate court.

29. The Trial Court shall be at liberty to impose any further condition as may be considered necessary in the facts of each case.

30. The Trial Court shall proceed with the trial with utmost expedition. The prosecution shall take all necessary steps to ensure production and examination of witnesses without avoidable adjournments. The accused shall also cooperate with the expeditious conduct of the proceedings. Any attempt to delay the trial after release on interim bail

shall be viewed seriously and may constitute a ground for cancellation of bail.

31. The Trial Court shall not be influenced by any observation made herein while considering any application that may arise independently in accordance with law.

32. List the matters after orders are passed by Hon'ble the Chief Justice of India on the administrative side.

.....J.
(ARAVIND KUMAR)

.....J.
(PRASANNA B. VARALE)

NEW DELHI;
MAY 22, 2026.

ITEM NO.66 COURT NO.14 SECTION II-D

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s).2867/2026

[Arising out of impugned final judgment and order dated 02-09-2025 in CRA No.1207/2024 passed by the High Court of Delhi at New Delhi]

TASLEEM AHMED Petitioner(s)

VERSUS

STATE GOVT. OF NCT OF DELHI Respondent(s)

IA No. 39423/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 39424/2026 - EXEMPTION FROM FILING O.T.

WITH
SLP(Crl) No. 3867/2026 (II-D)
IA No. 47111/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 47112/2026 - EXEMPTION FROM FILING O.T.
IA No. 47109/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

Date : 22-05-2026 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARAVIND KUMAR
HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Petitioner(s) : Ms. Rebecca John, sr. aDv.
Mr. Rajat Kumar, Adv.
Mr. Yash S. Vijay, AOR
Ms. Anushka Baruah, Adv.
Mr. Shikhar Aggarwal, Adv.

Ms. Joshua Tom Thomas, Adv.

Mr. Mehmood Pracha, Adv.
Mr. R. H. A. Sikander, AOR
Mr. Jatin Bhatt, Adv.
Mr. Sanawar, Adv.
Mr. Kshitij Singh, Adv.
Mr. Sikander Raza, Adv.
Ms. Nujhat Naseem, Adv.
Mr. Kumail Abbas, Adv.
Mr. Chirag Verma, Adv.

For Respondent(s) :
Mr. Suryaprakash V Raju, A.S.G.
Mr. Mukesh Kumar Maroria, AOR
Mr. Kanu Aggarwal, Adv.
Mr. Rajat Nair, Adv.
Mr. Annam Venkatesh, Adv.
Mr. Samrat Goswami, Adv.
Mr. Alok Dubey, Adv.
Mr. Dhruv Pande, Adv.
Ms. Sairica Raju, Adv.
Akshaja Singh, Adv.
Mr. Aryansh Shukla, Adv.
Mr. Satyarth Singh, Adv.
Mr. Shikhar Yadav, Adv.
Mr. S.N. Terdal (aor), Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

Accordingly, the appellants are directed to be released on interim bail for six (6) months, subject to the following conditions:

a. Each petitioner shall execute a personal bond in the sum of Rs. 2,00,000 with two local sureties of the like amount to the satisfaction of the Trial Court.

b. The appellants shall surrender their passports, if any, before the Trial Court. If any petitioner does not hold a passport, an affidavit to that effect shall be filed before the Trial Court.

c. The appellants shall not leave the National Capital Territory of Delhi without prior permission of the Trial Court. Any application seeking permission to travel shall disclose the destination, duration, purpose of travel and complete contact details during such travel.

d. The appellants shall furnish their

current residential addresses, mobile numbers and e-mail addresses to the Investigating Officer and to the Trial Court. They shall not change their residence or contact particulars without giving at least seven days' prior intimation to the Investigating Officer and the Trial Court.

e. The appellants shall appear before the Trial Court on each date of hearing, unless exempted by the Trial Court for reasons to be recorded.

f. The appellants shall not contact, influence, threaten or communicate with any prosecution witness, protected witness, complainant or person acquainted with the facts of the case, directly or indirectly.

g. The appellants shall not tamper with

evidence, electronic material, records, devices or documents relating to the case.

h. The appellants shall not make any public statement, including through print, electronic media or social media, touching upon the merits of the case, the evidence, the witnesses or the pending trial.

i. The appellants shall not participate in any activity which may prejudice public order or the integrity of the trial.

j. The appellants shall report to the Investigating Officer once every fortnight, or at such interval as may be directed by the Trial Court.

k. In the event of breach of any condition, it shall be open to the State to seek cancellation of interim bail before the

appropriate court.

. The Trial Court shall be at liberty to impose any further condition as may be considered necessary in the facts of each case.

List the matters after orders are passed by Hon’ble the Chief Justice of India on the administrative side.

(NEHA GUPTA) **(AVGV RAMU)**
COURT MASTER (SH) **COURT MASTER (NSH)**
(Signed order is placed on the file)