



2025:DHC:6022-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 24th JULY, 2025

IN THE MATTER OF:

+ **CRL.A. 480/2024**

MOHD RIZWAN ASHRAF

.....Appellant

Through: Mr Abhinav Sekhri & Ms.Deeksha
Dwivedi, Advs.

versus

NATIONAL INVESTIGATION AGENCYRespondents

Through: Mr. Gautam Narayan, Sr. Adv., SSP
alongwith Ms.Zeenat Malick Adv PP.
Ms Asmita Singh, Mr Tushar Nair,
Mr. Anirudh Anand, Mr Punishk
Handa, Mr. Abheet Mangleek,
Ms.Disha Joshi, Ms. Gunita Dandon
with Mr. Manoj Yadav Inspector for
NIA

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

JUDGMENT

SUBRAMONIUM PRASAD, J.

1. The present Criminal Appeal under Section 21 of the National Investigation Agency Act, 2008 has been filed by the Appellant, challenging the Orders dated 24.02.2024, 26.02.2024 & 11.03.2024, passed by the Learned Additional Sessions Judge, Patiala House Courts, Delhi (hereinafter referred to as the "***Ld. Trial Court***"), in RC 29 of 2023.

2. *Vide* Order dated 24.02.2024, the Ld. Trial Court had extended the period of detention of the Appellant and his co-accused under Section 43D(2) of the Unlawful Activities (Prevention) Act, 1967 (hereinafter



referred to as **UAPA**) by 25 days, i.e. from 26.02.2024 to 22.03.2024. Thereafter *vide* Order dated 26.02.2024, the Ld. Trial Court has remanded the Appellant to the judicial custody while re-affirming the order dated 24.02.2024 and *vide* Order dated 11.03.2024, the Ld. Trial Court has dismissed the default bail application of the Appellant under Section 167 of the Criminal Procedure Code, 1973 (hereinafter referred to as the “**Cr.P.C**”)

3. The facts leading up to the present Criminal Appeal are as follows :

- a. On 17.07.2023, FIR No. 175/2023 was registered at Police Station Kothrud, Pune, Maharashtra under Sections 468, 379, 511 and 34 of the Indian Penal Code, 1860 (hereinafter referred to as “**IPC**”), Section 3 read with Section 25 and Section 4 read with Section 25 of the Indian Arms Act, 1959 (hereinafter referred to as the “**Arms Act**”) and Section 37(1)(3) and 135 of the Maharashtra Police Act, 1951(hereinafter referred to as the “**Police Act**”) against three individuals, namely Mohammad Imran Yousuf Khan, Mohd. Yunus Saki and Mohd. Shahnawaz. Imran Yousuf Khan and Mohd. Yunus Saki were arrested whereas Mohd. Shahnawaz fled and could not be arrested.
- b. FIR No. 175/2023 was transferred to ATS Mumbai, Maharashtra and on 22.07.2023 ATS Kalachowky, Mumbai re-registered the case as FIR No. 6/2023(hereinafter referred to as the “**Mumbai FIR**”) under the same Sections as FIR 175/2023, and Sections 13,15,16(1)b, 18 and 20 of the Unlawful Activities (Prevention) Act, 1963 (hereinafter referred to as “**UAPA**”) were added to the case after investigation revealed that accused persons had experimented with explosives in Pune, Kolhapur



and Satara districts in Maharashtra and were associated with the Islamic State of Iraq and Syria (hereinafter referred to as “*ISIS*”).

- c. Subsequently, the case was transferred to the National Investigation Agency (hereinafter referred to as the “*NIA*”) and re-registered as RC 05/2023/NIA/MUM (hereinafter referred to as the “*Mumbai case*”)
- d. On 18.09.2023, FIR No 243/2023 was registered at Police Station Special Cell, Delhi (hereinafter referred to as the “*Delhi FIR*”), on the basis of information that one Shahnawaz Alam, who was wanted in FIR No. 06/2023, was moving with one Rizwan and they were conspiring to commit terrorist acts in Delhi and adjoining areas.
- e. Based on the investigative developments in the Mumbai case and information received during investigation in the Delhi FIR, raids were conducted at various places in Delhi and Uttar Pradesh on 30.09.2023 and 01.10.2023. These raids culminated in the arrest of accused Mohd. Shahnawaz (wanted in the Mumbai case), Arshad Warsi and Mohd. Rizwan (hereinafter referred to as the “*Appellant*”).
- f. The Appellant and Arshad were arrested on 01.10.2023 and their co-accused accused Shahnawaz was arrested on 02.10.2023. Thereafter, the accused persons were produced before the Ld. Trial Court and taken into police custody in different phases from 02.10.2023 to 25.10.2023. Thereafter, their custody was extended from time to time.



- g. On 19.10.2019 the Ministry of Home Affairs, Government of India, *vide* order No.11011/84/2023-NIA, directed the NIA to take over investigation, pursuant to which the Delhi FIR was re-registered as RC No. 29/2023/NIA /DLI (hereinafter referred to as the “**Delhi case**”) under Section 120B of the IPC, Sections 18 and 20 of UAPA and Sections 4 and 5 of the Explosive Substances Act, 1908 (hereinafter referred to as “**ESA**”)
- h. On 07.11.2023, the MHA order and FIR were formally placed before the NIA Court and case records were handed over by Delhi Police to NIA on 22.11.2023.
- i. The main allegations against the Appellant and his co-accused is that they are propagating the ideology of ISIS and radicalising impressionable youth. Furthermore, the Appellant and his co-accused are alleged to be procuring arms, ammunitions and explosives for ISIS and using social media platforms to promote ISIS and set up bases in Delhi.
- j. NIA asserts that further investigation has led to the recovery of multiple mobile phones, SIMs, messaging apps like WhatsApp and Telegram and identified several ISIS operatives that culminated in searches at about 42 locations in Maharashtra.
- k. On 09.12.2023, based on the disclosure statements of the Appellant and his co-accused, 15 other accused persons were arrested. This search and arrest led to the recovery and seizure of large sums of cash, arms and ammunition as well as digital materials.



- l. The custody of Shahnawaz Alam, the Appellant and Mohammad Arshad Warsi was extended periodically and on 09.12.2023, the Ld. Trial Court granted a 60 day extension for completion of investigation under Section 43D(2)b of the UAPA and thereby extended the time for filing of charge-sheet by 60 days, pushing the deadline from the 90th day i.e. 29.12.2023 to the 150th day i.e. 27.02.2024.
 - m. Thereafter, on 12.02.2024, a second extension of 30 days was sought by NIA. *Vide* order dated 24.02.2024, the Ld. Trial Court extended the Appellant's judicial custody by 25 days till 22.03.2024. On the same date the Appellant had filed a default bail application under Section 167(2) of the Cr.P.C read with Section 43D of UAPA, which was dismissed by order dated 11.03.2024, by the Ld. Trial Court.
 - n. Aggrieved by the orders dated 24.02.2024, 26.02.2024 and 11.03.2024 the Appellant has preferred the present appeal seeking default bail.
4. The learned Counsel for the Appellant has vehemently contested the impugned orders passed by the Ld. Trial Court extending the custody of the Appellant on a number of grounds. The first limb of the argument advanced by the learned Counsel for the Appellant is that the impugned orders, have been passed in a mechanical and perfunctory manner. He contends that the impugned orders do not indicate as to whether any individual assessment of the role of the Appellant, in the Delhi case, was undertaken by the Ld. Trial Court. Furthermore, he asserts that the reasons submitted by the Respondent before the Ld. Trial Court, do not disclose any "specific reasons" for seeking



extension of the custody of the Appellant. He, therefore, submits that the Respondent has failed to establish a tangible link between the demands of the investigation and the requirement for the prolongation of custody of the Appellant. In a similar vein, the learned Counsel for the Appellant has submitted that the reasons disclosed by the Respondent to the Trial Court in order to justify the custody of the Appellant do not meet the threshold of “compelling reasons”.

5. The learned Counsel for the Appellant has also submitted that a perusal of the applications submitted by the Respondent seeking extension of custody of the Appellant would reveal that these applications are mere repetitions of prior applications seeking custody of the appellant filed by the Respondent. The allegations contained in the Delhi case have been taken at their face value by the Ld. Trial Court. This, he submits, is indicative of non-application of mind by the Trial Court and therefore the impugned order is liable to be set aside.

6. The learned Counsel for the Appellant has submitted that given the scheme of UAPA, the accused is not furnished with a copy of the grounds that are placed before the Trial Court, therefore it becomes incumbent upon the Trial Court to ensure that there is strict compliance with the statutory mandate of Section 43D(2) of UAPA. He argues that an order granting extension of custody of any accused person must reflect a judicious exercise of this discretion vested to the Trial Court. In the facts of the present case this discretion ought to be exercised even more carefully since the Ld. Trial Court had already granted an additional 60 days extension of custody to the Respondent and therefore the additional request for prolongation of detention ought to be subjected to a higher threshold by the Court. A perusal



of the impugned order dated 24.02.2024 would indicate that far from the higher threshold, the order of the Trial Court would be unable to withstand appellate scrutiny.

7. The learned Counsel for the Appellant has also submitted that the Trial Court has failed to conduct an individualised assessment of the progress of investigation *qua* the Appellant. Further, the reasons submitted by the investigation agencies are generic, non-specific and even cryptic. For instance, the Respondent has submitted before the Trial Court that the trail of funds and ISIS literature, which was purportedly shared by the Appellant needs to be looked into and studied. He states that this argument does not justify the extension of the custody of the Appellant. He has also submitted that the Respondent has failed to meet the threshold to demonstrate that the continued custody of the Appellant is necessary for completion of investigation and therefore an extension ought not to have been granted to the Respondent.

8. The learned Counsel for the Appellant has submitted that the Ld. Trial Court has not taken into consideration the submissions of the Appellant while examining the Public Prosecutor's Report with respect to the aspect of extension of the custody of the Appellant. Furthermore, he points out that the investigation *qua* the appellant is substantially complete in view of the fact that in the Mumbai case charges have been filed by NIA-Mumbai on 04.11.2023, whereafter, on 09.12.2024 about 15 people were arrested from Maharashtra. He submits that the Ld. Trial Court has nowhere dealt with the fact as to whether pending investigation in the Delhi case had already been completed or not, nor has it dealt with the overlapping similarities between the two. Therefore, there were no cogent grounds for extension of custody of



the Appellant by the Ld. Trial Court.

9. The second limb of the argument advanced by the by the Appellant concerns the failure of the Respondent to demonstrate necessity for continued detention under Section 43D(2)b of the UAPA. It has been urged that in the impugned orders, the Ld. Trial Court has failed to appreciate as to whether the continued detention of the Appellant was necessary for completion of the investigation. In particular, reliance has been placed upon para 8 of the impugned order dated 24.02.2024, which according to the Appellant fails to demonstrate any tangible link between continued custodial detention of the accused in achieving the purported investigative aims and the Trial Court has gravely erred in exercising its discretion under Section 43D(2) UAPA.

10. The learned Counsel for the Appellant has pleaded that there is no time limit prescribed under any law for investigative agencies to conclude investigation. Parliament has, however, placed a time limit on how long accused persons can be detained in custody as under trials during investigation. Expiry of that time limit does not result in closing right of agencies to investigate crime. Instead on expiry of that time limit a vested right is created for the accused to be released on bail.

11. The learned Counsel for the Appellant has placed reliance upon the judgment of the Apex Court in Hitendra Vishnu Thakur vs. State of Maharashtra, (1994) 4 SCC 602, which draws a distinction between the grounds for extension of the period of investigation and the right of the accused to get default bail. Additionally, he submits that as far as default bail is concerned the gravity of offence is irrelevant and the delay on the part of prosecuting agency to file a charge-sheet within the prescribed period or



extended period of investigation should not be influenced by the merits or the gravity of the case.

12. The learned Counsel for the Appellant places reliance on the impugned order dated 24.02.2024 and submitted before this Court that the Trial Court has given considerable weightage to the gravity of the offence while extending the pre-charge arrest. Thus, he argues, that the Order of the Ld. Trial Court is in contravention to the dictum laid down by the Apex Court in Hitendra Thakur (supra).

13. The third ground advanced by the learned Counsel for the Appellant is that there has been a flagrant disregard of the statutory and constitutional safeguards and in view thereof, the impugned orders are liable to be set aside. It has been submitted on behalf of the learned Counsel for the Appellant that the Trial Court has completely overlooked there is no necessity of continued detention of the Appellant. Further, the discretion vested in the Trial Court has not been exercised by it correctly while discerning if the investigation was indeed incomplete in the present case.

14. The learned Counsel for the Appellant has submitted that ascertaining whether an investigation is complete or incomplete is not beyond the pale of judicial review, particularly when it has a direct bearing on deciding whether an accused must be detained in custody. He submits that in cases where the status of investigation is a relevant factor to decide the rights of an individual under Article 21, the Court ought to scrutinize the same and a circumscribed judicial review of the completeness or incompleteness of investigation is permissible when an individual's personal liberty is at stake. Reliance has been placed on the decision of a co-ordinate bench of this



Court in Zeeshan Qamar vs State NCT of Delhi, 2023 SCC OnLine Del 1114.

15. The learned Counsel for the Appellant has argued that the right to bail under Section 167(2) of Cr.P.C is extinguished upon a police report under Section 173(2) of Cr.P.C being filed. Section 173 specifies that such a report is filed upon completion of an investigation. Time and again, courts have been invited to decide, and have decided, whether a police report filed evinces a complete investigation, or is it a document filed while the investigation is incomplete, only to frustrate the right under Section 167(2). The police report is routinely followed by multiple supplementary reports under Section 173(8) Cr.P.C, buttressing the suspicion that the first report was a 'preliminary' one, filed only to stop the clock.

16. Learned Counsel for the Appellant builds this argument and submits that since courts have held it appropriate to scrutinise whether an investigation is complete when it involves Article 21, judicial scrutiny of whether an investigation is incomplete in similar circumstances cannot be excluded. As Section 43D(2), UAPA only modifies application of Section 167(2), Cr.P.C., it would be controlled by the same legal considerations as found relevant by courts to decide claims under Section 167(2) Cr.P.C. Judging whether the investigation is complete or incomplete is one such factor and, therefore, the need to scrutinise the status of investigations is greater in cases under Section 43D(2) UAPA as the resulting deprivations of Article 21 rights are far greater. Refusing scrutiny outright of whether investigation is pending would transform an extraordinary power to extend custodial detention beyond 90 days at the investigation stage into a routine one.



17. The learned Counsel for the Appellant has referred to the position under Section 167(2) wherein the Apex Court has held that a police report may be deemed to be “complete” if it contains sufficient material to enable the court to take cognizance of the alleged offence. An agency is not required to demonstrate that all aspects and perspectives of an investigation were concluded; as such a view would obfuscate the agency’s power to continue investigations under Section 173(8) Cr.P.C. The learned Counsel for the Appellant builds this argument further by arguing that the same standard applies to police reports filed in cases under the UAPA, and the investigating agency retains liberty to file further supplementary reports against the same accused even after the first report is filed after granting extension under Section 43D(2), UAPA. The same process was followed in the present case as well. Thus, the same standard must govern the determination of whether an investigation is incomplete i.e., if sufficient material to take cognizance has been gathered or not.

18. The learned Counsel for the Appellant submits that in the present case the Trial Court has failed to consider as to whether the investigation was in fact incomplete or was there enough material to take cognizance of offence. Furthermore, he contends that the Trial Court did not consider the submissions of the Appellant that there was, *ex-facie*, sufficient material available with the Respondent to file a police report. He contends that sufficient material was in fact in existence and the same is indicative from the fact that the Respondent had already filed a police report against common accused persons in the connected RC No. 5/23. He argues that a perusal of the same would indicate that the Respondent had filed a police report against common accused persons in the connected RC i.e. RC No.



05/23. Furthermore, a perusal of the police report would indicate that the allegations against the Appellant have been investigated and several aspects of the purportedly incomplete investigation had also been considered by the agency.

19. The learned Counsel for the Appellant has placed reliance on the impugned order dated 24.02.2024, passed by the Ld. Trial Court. The learned Counsel for the Appellant submits that the said order grants an extension of 25 days to the Respondent to complete the investigation and records similarities and overlaps between the investigation in RC No. 5/23 and RC No. 29/23.

20. It is further submitted on behalf of the Appellant that there has been a non-application of judicial mind by the Ld. Trial Court to the submissions advanced by the Appellant and to the issues flagged for consideration in the Public Prosecutor's report. The Appellant asserts that considerable emphasis was placed on the linkage between RC 5/23 and RC 29/23. Further, he asserts that both these RCs emanate from the same source i.e. FIR No.06/2023 registered in PS ATS, Kalachowky, Mumbai and the order issued under Section 6 of the NIA which culminated in the registration of RC 29/23 makes specific references to the Maharashtra case and conceives of these cases as a part of a larger conspiracy. The fact that the same agency had already filed a police report as against one of the accused in the larger conspiracy requires specific consideration by the Ld. Trial Court. It was required to examine whether the Prosecutor's Report had sufficiently explained the points of similarity and difference between the two sets of proceedings, to assess whether investigation was, in fact, 'incomplete' in RC 29/23 or was such a plea not borne out from the record. Therefore, as the



order dated 24.02.2024 is ex facie contrary to law, it follows that the subsequent orders remanding Appellant to further judicial custody on 26.02.2024 and dismissing his application for bail under Section 167(2) Cr.P.C. on 11.03.2024 are also without any legal basis and deserve to be set aside by this Hon'ble Court, and the Appellant ought to be directed to be released forthwith from custody.

21. *Per contra*, the learned SPP appearing for the NIA has vehemently contended that further detention in custody of Appellant and his co-accused beyond the period of 150 days is necessary. He has also submitted that the investigation has revealed that the accused persons, prior to their arrest, had been actively attempting to recruit impressionable youngsters by brainwashing them and propagating the ideology of ISIS through social media applications like Whatsapp, Telegram, etc. The learned SPP has further pointed out that the Appellant and co-accused were in constant contact with other co-accused through various encrypted communication applications employing sophisticated technologies including VPNs.

22. It is further submitted on behalf of the learned Special Public Prosecutor that the grounds of arrest were duly communicated to the Appellant and the co-accused. It is contended that they are active members of ISIS and pose a clear threat to national security, integrity and sovereignty of India. The accused have been recruiting youths, training them in arms, raising funds, planning bomb attacks and establishing international linkages. These acts, according to the Prosecution, demonstrate their continued commitment to promote and further the activity of the banned terrorist organization.

23. It has been emphatically contended that as the present case poses a



grave threat to the territorial integrity, sovereignty and security of India, the extension of custody was not only justified but necessary. Accordingly, the order of the Ld. Trial Court extending custody from 29.12.2023 to 28.03.2024 is stated to have been rightfully passed.

24. It is also submitted that due to the complexity and nation-wide scale of the conspiracy as well as involvement of cross border dimensions, certain crucial aspects of the investigation remained pending at the time when the extension was sought, and granted by the Ld. Trial Court. The nature and scale of the offences made it impractical to complete the investigation in the initial 60 days i.e. till 27.02.2024. Consequently, a further extension for a further period of 30 days from 27.02.2024 till 28.03.2024 was sought, and the Ld. Trial Court *vide* its order dated 24.02.2024, allowed the extension of custody by 25 days.

25. The learned SPP has refuted the submissions advanced by the learned Counsel for the Appellant regarding the entitlement to default bail under Section 167(2) of the Cr.P.C. . He submits that the framework under the UAPA, and more particularly Section 43D(2) is clear and unambiguous as it allows for extension of judicial custody up to 180 days. The Ld. Trial Court has extended the custody of the Appellant and his co-accused after a thorough assessment and proper perusal of the Public Prosecutor's report.

26. It has further been submitted that the Appellant's claim for statutory bail is devoid of any merit. The learned SPP has asserted that all mandatory requirements under Section 43D(2) have been duly complied with. It is submitted that the aforementioned Section mandates filing of a report by the Public Prosecutor while seeking extension of custody beyond 90 days, and this requirement was complied with. The custody of the Appellant and his



co-accused have been periodically extended in accordance with Section 43D(2) of UAPA read with Section 167(2) of Cr.P.C. It has also been contended that all applications for extension of time have been moved in accordance with law and the allegations raised by the Appellant are an attempt to mislead this Court.

27. The learned SPP has submitted that the only situation in which statutory bail would have been granted to the Appellant is if charges had not been filed within the stipulated period i.e. initially within 90 days and upon extension, within 180 days. In this regard, the learned SPP contends that the claim of default bail is untenable, as the Ld. Trial Court was pleased to extend the time to completion of investigation and detention in custody of the accused person, pursuant to a valid and detailed report submitted by the Public Prosecutor under Section 43D(2) of the UAPA.

28. The learned SPP has also submitted that at the time when the request for extension of custody was made, new facts had emerged during investigation based on statements of witnesses. As a result several raids were conducted across 42 locations in Maharashtra, which culminated in the arrest of approximately 15 other co-accused persons on 09.12.2023. Therefore, according to the learned SPP, the orders of the Ld. Trial Court do not warrant any interference and the present appeal is liable to be dismissed.

29. Heard learned Counsels for the parties and perused the material on record.

30. The sum and substance of the Appellant's challenge to the impugned orders of the Ld. Trial Court can be broadly summarised under four broad heads. Firstly, the learned Counsel for the Appellant has contended that the Ld. Trial Court has mechanically extended the custody of the Appellant,



without undertaking an individualised assessment of the necessity of such an extension or ascertaining as to whether there are any compelling reasons for the same. Second, he has argued that the prosecution has failed to demonstrate why the continued detention of the Appellant was necessary for the purpose of investigation. Third, it has been argued on behalf of the Appellant that there has been a flagrant disregard of the statutory safeguards. Finally, the learned Counsel for the Appellant has submitted that the investigation, insofar as it concerns the Appellant, stands concluded, and in the facts and circumstances of the present case further extension of custody is neither warranted nor legally justified. It is these four arguments that, according to the learned Counsel for the Appellant, go to the root of the matter.

31. This Court in *Zeeshan Qamar* (supra), while dealing with the essentials requirements which are to be dealt with by a Trial Court at the stage of extension of remand of an accused under proviso to sub-section (2)b to Section 43D of UAPA has held as under:

"46. Therefore, the essential requirements to be seen by the learned Special Court at the stage of extension of remand of the accused for further period to complete the investigation under the proviso to sub-section (2)(b) to Section 43-D of the UAPA are:

(i) Reasons evidencing the personal satisfaction of the Public Prosecutor as regards the progress of investigation made based on the investigation carried out.

(ii) Reasons indicating why the investigation could not be completed within the period of 90 days.

(iii) Further investigation required to be carried out for which, extended period of time is necessary.



47. All these three essential ingredients must form part of the Public Prosecutor's report, based whereon the satisfaction to extend the period of remand has to be exercised by the Special Court.

32. Impugned order dated 24.02.2024 goes to the root of the matter.

Relevant portion of the impugned order read as under:

“7. Ld. SPP for NIA has filed a very detailed report in the present matter which is of about 90 pages. In the said report, details have been given regarding the progress in the present matter and facts of the case have also been encapsulated in brief by Ld. SPP. The progress of investigation by NIA during the extended period of 60 days has been mentioned separately. The progress made in the investigation during this period is not submitted in a general form rather details are given in chronological order and specific details of investigation carried out in that period have also been given. Perusal of the progress report shows that NIA has fully utilized the period for which extension was granted by earlier order. The details of this progress are important from the perspective that it may lend credibility to the prayer of NIA on the ground that NIA is not seeking extension of time for namesake.

8. Specific and categorical reasons have also given for seeking further detention in custody and further time for completion of investigation against above named accused. That extension of time is sought to analyze the extracted data of digital device (s) recovered from accused. It is argued and reported that the said data contains huge number of images, videos, files etc related to ISIS which needs to be thoroughly examine. It is also contended that above named accused had visited several places and carried out certain acts regarding which investigation is at crucial stage. That the mechanism of fund raising for ISIS is under investigation and further time is required to take this



investigation to logical ends. That reply of certain communication made to certain offices is also awaited and the said replies are important to unearth the larger plot of ISIS in Indian sub-continent. The certain accused/suspects are absconding and to trace them further time is required. That verification of documents relating to accused is underway. That investigation in respect of the vehicles used during the commission of offence is also underway. Certain other points are also cited in the report wherein the investigation is required to be carried out. The grounds set out in the report of Ld. Special PP have been given in detail but the details are not culled out in the present order as it might prejudice the investigation at this stage. The reasons are also not culled out in detail by drawing analogy from position to law that it is not considered as appropriate stage for disclosing the investigation, which is demonstrated from the position that copy of report of Ld. PP of NIA will not be shared with accused. However, I have gone through the report carefully and is satisfied that the grounds set out by Ld. SPP for NIA in the present report are such which warrant approval of the prayer seeking extension of time for completion of investigation and to authorize further detention of accused in custody during that period. A blanket extension of as many days as have been sought by NIA cannot be granted. Therefore, in view of the above discussion, facts and circumstances of the present case, further extension of 25 days since expiry of extended period of 60 days, is granted. Application stands disposed of accordingly. Copy dasti.”

33. A perusal of the foregoing paras and material on record shows that the Ld. Trial Court has passed a reasoned order after due consideration of the statutory safeguards as prescribed under Section 43D(2) of the UAPA. In the foregoing paras of the impugned order dated 24.02.2024, whereby the



custody of the Appellant was extended by 25 days, it is *evident* that the Ld. Trial Court has meticulously dealt with the Public Prosecutor's Report submitted before it and has also recorded its satisfaction regarding the necessity of further investigation. The Report, which is about 90 pages long, has demonstrated the progress of the investigation in a detailed, chronological and specific manner. The Ld. Trial Court has categorically observed that the investigation progressed substantially during the previous extensions granted by it.

34. This Court has perused the entire material on record. The material on record indicates that the three accused, including the Appellant herein, are active members of the ISIS. They are propagating the ideology of the ISIS and trying to recruit youth for furtherance of the objectives of ISIS in banned organisations. At the time when the remand orders were being considered, material was being unearthed to establish that the accused, including the Appellant herein, were conducting *recce* at various Indian cities including, but not limited to, Delhi, Mumbai, Ahmedabad, Surat etc for terrorist activities. In fact, the material on record also indicates that apart from India, conspiracy was also being hatched in other countries. A money trail from Maldives was also being investigated. Material on record indicates that investigation was also underway to find out about other associates of the accused. Substantial cash and arms have been seized from A3 and explosive material has been seized from the Appellant herein and a report from the FSL was being obtained. Certain incriminating *videos*, communications and chats have been recovered from certain persons showing the complicity of the accused for furtherance of the activities of the ISIS. Certain magazines of ISIS organisation have also been found which were being translated on



the instructions of the handlers which have been shared with the Appellant herein on Telegram App through encrypted mode and the details of which were to be investigated. This Court is satisfied that the Ld. Trial Court has applied its mind to the grounds which have been set forth. The Ld. Trial Court has categorically observed that the investigation progressed substantially during the extensions that had been granted by it and the investigation had not been stagnant. The order of the Ld. Trial Court extended custody not as a matter of routine but based on credible material outlining the investigative steps requiring completion. The guidelines laid down in Zeeshan Qamar (supra) have been addressed and duly complied with in the impugned order.

35. The PP's Report also states that that mobile handsets were recovered at the instance of the Appellant, in connection with the Mumbai RC. The report also indicates that these devices were used by the co-accused for unlawful activity and was being forensically examined. The data extracted from these devices comprises of images, *videos* and other files and due to the sheer volume of the data, and at the time when the impugned order was passed, it was still undergoing analysis for potential relevance to the Delhi RC.

36. The Report has also stated that the agency was engaged in verifying links between various accused and across jurisdictions, with some individuals yet to be traced or examined. At the time when extension of custody was sought, a large amount of cash was recovered and a trail of funds which needed to be investigated. The Report has also suggested that there was apprehension that if the custody of the Appellant and his co-accused is denied then there is a high likelihood that the Appellant and his



accomplices would escape from the clutches of law and destroy material evidence, threaten witnesses and damage the case of the prosecution.

37. This Court has also perused the Report prepared by the learned Public Prosecutor before the Ld. Trial Court. The Public Prosecutor's Report indicates that at the time when extension of custody of the Appellant was sought, investigation was being conducted on a day to day basis. Further, the Respondent was making concerted efforts to collect crucial *evidence*. The Public Prosecutor's Report also suggests that Appellant and his co-accused are allegedly active members of the banned terrorist organization ISIS, with a purported nexus to its unlawful activities. It has also been asserted that the Appellant and the co-accused convened meetings and actively supported the organization in furtherance of unlawful activities. On this basis, the report urges that continued detention of the accused persons is essential to national security.

38. This Court is therefore of the opinion that the Trial Court's order of detention of the Appellant is not mechanical in nature. The Appellant could not have been released on account of ongoing investigation as releasing them at a crucial stage would have impeded the investigation.

39. Resultantly, the appeal is dismissed, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

HARISH VAIDYANATHANSHANKAR, J

JULY 24, 2025

Rahul/ VR