IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JANUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE H.P.SANDESH

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO.1475 OF 2025 [21(NIA)]

BETWEEN:

SHAHID KHAN
S/O. ANWAR KHAN
AGED ABOUT 40 YEARS
RESIDING AT NO.13/2
BISMILLA MANJIL, NEAR MEHARAJ MOSQUE
SHIVAJI ROAD, LASHKAR MOHALLA
SHIVAMOGGA - 577 202.

…APPELLANT

(BY SRI MOHAMMED TAHIR, ADVOCATE)

AND:

THE STATE OF KARNATAKA
BY K.G. HALLI P.S., BENGALURU
REPRESENTED BY SPECIAL PUBLIC PROSECUTOR
ADVOCATE GENERAL OFFICE
HIGH COURT COMPLEX
OPPOSITE TO VIDHANA SOUDHA
BENGALURU-560 001.

…RESPONDENT

(BY SRI P. PRASANNA KUMAR, SPECIAL P.P.)

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THIS CRIMINAL APPEAL IS FILED UNDER SECTION 21(4) OF THE N.I.A ACT READ WITH SECTION 25 OF UAP ACT, PRAYING TO SET ASIDE THE ORDER DATED 2-5-2025 AT ANNEXURE-A AND CONSEQUENTLY, APPRECIATE THE REGULAR BAIL APPLICATION FILE BY THE APPELLANT/ACCUSED NO.14 AT ANNEXURE-F AND SET THE APPELLANT INTO THE LIBERTY IN SPECIAL CASE NO.744 OF 2023 FOR OFFENCES PUNISHABLE UNDER SECTIONS 153A AND 120B OF IPC AND SECTIONS 17 AND 18 OF UAP ACT, PENDING ON THE FILE OF HON'BLE XLIX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, (SPECIAL COURT FOR THE TRIAL OF NIA CASES), CCH-50, BENGALURU.

THIS CRIMINAL APPEAL HAVING BEEN HEARD AND RESERVED ON 13-1-2026, COMING ON FOR PRONOUNCEMENT, THIS DAY, ***VENKATESH NAIK T. J.,*** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE VENKATESH NAIK T)

The appellant/accused No.14 has filed this appeal under Section 21(4) of The National Investigation Agency Act, 2008 (for short, 'NIA Act') read with Section 25 of The Unlawful Activities (Prevention) Act, 1967 (for short, 'UAP Act') challenging dismissal of his bail application dated 2.5.2025 in Special Case No.744 of 2023 on the file of XLIX Additional City Civil and Sessions Judge (Special Court for trial of NIA Cases), CCH-50, Bengaluru.

2. The appellant and nineteen other accused are being prosecuted in Special Case No.744 of 2023 for the charges for the offences punishable under Sections 153A and 120B of the Indian Penal Code, 1860 (for short, 'IPC') and under Sections 13, 17, 18, 18A, 18B and 22B of UAP Act on the basis of the charge-sheet filed in Crime No.328 of 2022 by Kadugondanahalli Police.

3. The allegations against the accused are as follows:

(i) Accused Nos.1 to 19 being the office bearers, members and cadres of the Popular Front of India/accused No.20 (for short, 'PFI') had extreme religious views. They were enraged by laws like Citizens Amendment Act, 2019 (for short, 'CAA'), National Register of Citizens Laws (NRC), Hijab and Babri Masjid judgment, and laws passed by the duly elected Government of India. They entered into conspiracy to radicalise Muslim youth towards terrorist acts with intention to create enmity between various sections of the society on the line of religious disharmony and to create unrest in the nation by indulging into terrorist activities, to eliminate duly elected prominent leaders of the Hindu Religion, to strike terror amongst the members of the Hindu Religion, to defy the Government established by law, to threaten the unity, integrity and sovereignty of India and to wage internal war against the Government of India. Through PFI, they planned to radicalise Muslim youth by indoctrination form service teams of such youths, train them in handling arms and indulge in violent acts like murder, bomb blast, etc.

(ii) Accused Nos.1, 3, 11 and 12 along with other accused were involved in murder of Praveen Nettaru, a Hindu

leader. On 28.11.2021, the appellant conspired with accused Nos.1, 4, 6, 7, 11 and 13 and one Mr.Shaheed Nazir and again on 06.01.2022, the appellant conspired with other accused Nos.1, 6, 11, 12, 13 and 19 to organise terrorist activities. Accused No.1 was the State President of PFI, accused No.3 was associated with PFI organisation in various capacities in 2017, accused No.7 was working as State Secretary of PFI from 2022, accused No.11 was working as State Executive Committee Member since 2019, accused No.13 was working as State General Secretary from April 2022 and accused No.14 was working as District President of Davanagere Zone from 2019. All the aforesaid accused were participating in various capacities for functioning, organising and recruiting Muslim youth for the purpose of activities of unlawful association, i.e. PFI. They were involved in organising various meetings, events, training camps, etc. to strengthen the aforesaid cause of Islam by stating that by 2047, India should be ruled by Muslims or it should become Islamic Country. They were propagating that Hindus have destroyed Babri Masjid and indulged in atrocities against the Islamic religion. Accused were involved in networking the likeminded people of their mission through social media and by organising meetings at various places.

Accused used Freedom Educational and Charitable Trust located at Mittur, Bantwala Taluk, Dakshina Kannada District, etc. for the purpose of unlawful activities and conspiracy to commit terrorist acts. During such meetings, they used to impart training to several Muslim youth. They had involved in fund raising for the purpose of those activities. By such means, between 2011 and 2022, the accused raised a sum of Rs.9,10,81,649/- for their illegal activities in Karnataka, Kerala and Tamil Nadu, etc. thereby, they have committed the aforesaid offences.

4. The appellant was arrested on 22.09.2022. The trial Court by the impugned order rejected the bail application holding that there are reasonable grounds to believe that he has committed the offences alleged against him. The trial Court further held that having regard to the material available on record with regard to *prima-facie* proof of commission of offences under the provisions of UAP Act, the Court is barred from granting bail in view of Section 43D of UAP Act. Challenging the said order, the above appeal is filed.

5. Sri Mohammed Tahir, learned counsel appearing for the appellant/accused No.14, submits that as on the date of

registration of an F.I.R., PFI was neither a scheduled organisation, nor an unlawful association and therefore, Section 16 of UAP Act does not attract. He further submits that the allegations against the appellant are that he was training the service team and raising funds. The offences under Sections 18, 18A and 18B of UAP Act carry punishment of imprisonment upto five years. There are 707 witnesses in the charge-sheet and charges are yet to be framed. There is no sufficient material to presume that the appellant has committed the offences alleged against him and ultimately, if he is acquitted, liberty lost by him cannot be compensated. He further submits that accused Nos.2, 4, 5, 9, 10, 15, 16, 17 and 19 have already been granted bail.

6. Learned counsel further contended that though allegations under Sections 17 and 18 of UAP Act are narrated in the charge-sheet, sanction is granted only in respect of Section 17 of UAP Act. So the trial Court cannot give any findings in respect to Section 17 of UAP Act or can frame charge-sheet under Section 17 of UAP Act. More importantly, Section 17 of UAP Act deals with raising funds for the terrorist activities. He further contended that the trial Court has given vague reason stating that the requirements of law is the prosecution sanction

and granting sanction against particular accused is not limited, and these observations clearly overturned the legal position and same is contrary to law. He further contended that the Police have illegally seized cash from the appellant, in fact, said cash is his legitimate funds earned from his real estate business and therefore, the Investigating Officer has not followed the mandatory provisions of Section 25/Chapter V of UAP Act, which made the allegations against the appellant weak and fabricated and hence, no offence is made out under Section 17 of UAP Act. He has further contended that the appellant has spent more than two years and four months in judicial custody and with the voluminous charge-sheet; the trial cannot be concluded in the near future. Therefore, the detention of the appellant/accused No.14 is not at all necessary as bail is a rule and jail is an exception. Thus, the learned counsel prayed to allow the appeal and to grant bail to the appellant.

7. In support of his contentions, the learned counsel for the appellant relied on the following judgments:

a. *Mohammad Tapseer @ Mohammed Tafseer v. State of Karnataka*[1]

[1] Special Leave to Appeal (Crl.) No.12446 of 2025 dated 31.10.2025

b. *Vernon v. State of Maharashtra and another*[2]
c. *R. Dineshkumar Alias Deena v. State represented by Inspector of Police and others*[3]
d. *Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav and Another*[4]
e. *Athar Parwez v. Union of India*[5]

8. Sri P. Prasanna Kumar, learned Special Public Prosecutor appearing for the respondent-State, vehemently contended that the appellant/accused No.14 previously approached the trial Court seeking bail and the same was rejected on 21.02.2024 and the appellant has not indicated any change in law or circumstances to justify the filing of successive bail application before the trial Court and without any such change, successive bail application was not maintainable before the trial Court. He further contended that during the course of investigation, the Investigating Officer collected material evidence indicating that the appellant was an active worker of the unlawful organisation, PFI. The appellant and other co-accused actively participated in operations, organisational

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[2] (2023) 15 SCC 56

[3] (2015) 7 SCC 497

[4] (2004) 7 SCC 528

[5] 2024 SCC OnLine SC 3762

framework and recruitment drives of PFI. The appellant has taken part in organising multiple meetings, public events and training camps with the objective of enhancing radical Islamic ideology across the globe. The investigation material clearly reveals that the appellant and others have propagated the narrative that "*India has been under Hindu Rule since independence and blamed the Hindu community in the demolition of Babri Masjid and for perpetrating violence against members of Muslim community*". He further contended that the appellant and others disseminated the content suggesting that laws such as, CAA and NRC, were enacted with the intent to marginalise Muslims and therefore, the appellant and others purportedly advocated for the establishment of Islamic community in India by the year 2047, drawing parallels with the historic Islamic governance. The investigation report further reveals that the Freedom Educational and Charitable Trust, located in Mittur, Bantwala, Dakshina Kannada District, etc. were used as a front for unlawful activities aimed to facilitate larger conspiracy to commit the terrorist acts. Several training camps were allegedly conducted at the said location, where selected individuals were indoctrinated and trained, and eventually formed covert service team. The appellant and other

co-accused were engaged in mobilising funds to support these unlawful activities, which were utilised from weapon training and other illegal activities. Further, during the course of investigation, a significant amount of cash was recovered from the residence of the appellant, which further corroborated the financial link to the conspiracy. There is reasonable ground to believe that the accusations made against the appellant are *prima-facie* true and therefore, in view of statutory bar under Section 43D(5) of UAP Act, the bail application filed by the appellant before the trial Court was not maintainable and hence, the trial Court has rightly rejected the bail application of the appellant and thus, the appeal is also not maintainable. Thus, he prayed to dismiss the appeal.

9. In support of his contentions, the learned Special Public Prosecutor has relied on the following judgments:

a. *Girish Sharma and Others v. State of Chhattisgarh and Others*[6]

b. *Vinod Ramnani and Another v. Station House Officer and another*[7]

[6] (2018) 15 SCC 192

[7] 2020 SCC OnLine Kar 1269

10. Considering the submissions made by both side and examining the material available on record, the point that arises for determination of this Court is as under:

> *Whether the impugned order of rejection of bail suffers from any arbitrariness, or illegality warranting interference at the hands of this Court?*

11. Admittedly, the appellant/accused No.14 has filed successive bail petitions before the trial Court. It is trite law that personal liberty cannot be taken away, except in accordance with the procedure established by law. Personal liberty is a constitutional guarantee. It is also trite law that person's bail application once rejected is not precluded from filing a subsequent application for grant of bail, if there is a change in the fact situation. At the same time, the issues which had been canvassed earlier would not be permitted to be re-agitated on the same grounds, as the same would lead to speculation and uncertainty in the administration of justice and may lead to forum hunting. The Hon'ble Apex Court in various judicial pronouncements held that successive bail applications are not barred *per se*. They can be entertained only if there is demonstrable change in circumstances since the prior rejection.

12. In the instant case, the appellant has taken several grounds amongst others and some grounds were urged in the earlier applications. Now, the learned counsel for the appellant relies upon three new contentions viz., 1.Non-compliance by the Investigating Officer with the procedure under Chapter V of UAP Act during seizure. 2. Absence of sanction under Section 18 of UAP Act. 3. Delay in commencement of trial.

13. Learned counsel for the appellant would contend that Section 18 of UAP Act has been invoked against the appellant and the Government has not accorded sanction for prosecution under the said provision. Therefore, the trial Court cannot frame charge or proceed against the appellant for the offence punishable under Section 18 of UAP Act. It is contended that the appellant is charge-sheeted for being member of PFI and his alleged acts do not attract the definition of terrorists act. Therefore, UAP Act does not apply to him. It is further contention of the learned counsel for the appellant that there are no allegations against the appellant or committing any act of murder, or any offence punishable with death or imprisonment for life, as contemplated under Section 17 of UAP

Act and on that count also, the provisions of UAP Act does not gets attracted.

14. Hence, it is just and necessary to analyse Section 45 of UAP Act which governs the requirement of sanction for taking cognizance of offences:-

> *"45. **Cognizance of offences**.-[1(1)] No court shall take cognizance of any offence-*
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> *(i) under Chapter III without the previous sanction of the Central Government or any officer authorised by the Central Government in this behalf;*
>
> *(ii) under Chapters IV and VI without the previous sanction of the Central Government or, as the case may be, the State Government, and 2[if] such offence is committed against the Government of a foreign country without the previous sanction of the Central Government.*
>
> *3[(2) Sanction for prosecution under sub-section (1) shall be given within such time as may be prescribed only after considering the report of such authority appointed by the Central Government or, as the case may be, the State Government which shall make an independent review of the evidence gathered in the course of investigation and make a recommendation within such time as may be prescribed to the Central Government or, as the case may be, the State Government.]"*

Perusal of the above proposition of law and the facts of the present case goes to show that though the prosecution has made allegations against the appellant that he committed the offences under Sections 17 and 18 of UAP Act, admittedly, no sanction has been accorded in respect of Section 18 of UAP Act.

15. A plain reading of Section 45 of UAP Act makes it clear that the bar against taking cognizance applies to offences covered under Chapter IV and VI of UAP Act, unless prior sanction is obtained from the appropriate Government. The term 'cognizance' refers that, it has to be taken in respect of offences and not against an individual. Thus, Section 45 of UAP Act mandates that sanction is pre-condition for the Court to take cognizance of an offence and not necessarily tied to a particular accused. Thus, the absence of sanction in respect to particular accused specifically does not by itself preclude the framing of charges or continuation of the proceedings, if cognizance has been taken for the offences alleged.

16. Learned counsel for the appellant would further contend that during the course of investigation, cash was seized from the residence of the appellant, but the Investigating Officer has not followed the procedure under

Section 25 of UAP Act regarding forfeiture and seizure of property, including cash and therefore, the offence under Section 17 of UAP Act is not attracted in the present case. A perusal of Chapter V of UAP Act lays down a procedure relating to the seizure of property and cash, and that Section 25 of UAP Act specifically outlines the steps to be followed. In the present case, the Investigating Officer did not strictly comply with the procedure prescribed under Section 25 of UAP Act at the time of seizure. However, the failure to follow this procedural formality does not, by itself, constitute a sufficient ground for granting bail to the appellant, particularly, when there is material on record connecting him to the offence under Section 17 of UAP Act. Any procedural lapse in the seizure of cash may, at best, be treated as an irregularity and does not go to the root of the case of the prosecution. There are specific allegations and supporting material to show that the appellant has been involved in raising funds for the commission of terrorist activities. The ingredients of Sections 17 and 18 of UAP Act are complied or not is a matter of trial. Hence, at this juncture, the Court cannot conduct a mini-trial.

17. Further, in this appeal, the appellant has also filed I.A. No.2 of 2025 under Section 482 of the Code of Criminal

Procedure, 1973 (for short, 'Cr.P.C.') to summon the case-diary from the date of registration of F.I.R. to till date, to use the same as an aid in this appeal, which is arising out of the bail rejection order dated 02.05.2025.

18. Learned counsel for the appellant would contend that the material collected by the Investigating Officer is vague and lacks clarity and in order to consider this appeal, all the materials collected by the Investigating Officer right from registration of F.I.R. till filing of the charge-sheet are necessary for the purpose of deciding the appeal in effective manner and relevant for proper appreciation of facts, contradictions or inconsistencies in the investigation. He further highlighted that the entries of case-diary will reflect the case of the prosecution, of the beginning, at the time of seizure, time of remand, visit of the Investigating Officer, material collected during investigation and statement of the witnesses, etc. which aid to render justice. He further contended that some protected witnesses are summoned several times and forced to give statements, which is contrary to mandate of Section 306 of Cr.P.C. Hence, he prays to summon the case-diary.

19. *Per contra*, the learned Special Public Prosecutor for the respondent-State vehemently contended that I.A. No.2 of 2025 filed by the appellant is barred by law and is not maintainable.

20. We have perused Section 172(2) of Cr.P.C., which states that a criminal Court can send the case-diary of a case under trial to use the case-diary, not as evidence, but to aid inquiry, or trial. However, the appellant is not entitled to call for the case-diary to examine the same. More importantly, the appellant has no *locus* to file the said application. In similar appeals filed by the co-accused, summoning case-diary was not done and this Court having considered the material collected by the Investigating Officer and evaluating the credibility of the case of the prosecution, disposed off said appeals. Whereas, the appellant has filed I.A. No.2 of 2025 to summon the case-diary, which is not permissible and it cannot be summoned at the instance of the appellant and it is only for the purpose of reference of the Court and if the Court requires, it can be called for and look into the same, and the same cannot be made available to the accused. Therefore, there are no merits in the application and hence, the application filed by the appellant to summon the case-diary is dismissed.

21. Considering the material available on record and the fact that the trial Court has dealt with all aspects of the material in its order and has rightly rejected the bail application of the appellant, the same does not require interference at the hands of this Court. Accordingly, we proceed to pass the following

O R D E R

i. The appeal is ***dismissed***.

ii. I.A. No.2 of 2025 filed under Section 482 of the Code of Criminal Procedure, 1973, is also dismissed.

iii. Consequently, pending interlocutory applications, if any, stand dismissed.

Sd/-
(H.P.SANDESH)
JUDGE

Sd/-
(VENKATESH NAIK T)
JUDGE

KVK / MN