

IN THE COURT OF SPECIAL COURT NIA FOR GR. BOMBAY  
AT MUMBAI  
ORDER BELOW EXHIBIT NO. 377  
IN  
SPECIAL CASE NO. 414 OF 2020  
ALONGWITH  
SPECIAL CASE NO. 871 OF 2020

**Dr.Anand Teltumbde**

Age: 70 years.

R/a: Goa Institute of

Management, Sanquelim, Goa-403 505.

... Applicant/

Accused No.10.

Vs.

**The State of Maharashtra**

(Through National Investigation Agency)

... Complainant

Learned Advocate Mr. Sudeep Pasbola for accused No.10.

Learned S.P.P. Mr. Prakash Shetty a/w PP Mr. B. Vishal Goutham for  
NIA.

**CORAM : HIS HONOUR THE SPECIAL JUDGE (NIA)**

**SHRI. Dinesh E. Kothalikar (C.R.No.25)**

**DATED : 12<sup>th</sup> July, 2021.**

(DICTATED AND PRONOUNCED IN OPEN COURT)

**ORAL ORDER**

The applicant/accused No.10, who has been arrested on the accusation for commission of offences punishable under Sections 121, 121-A, 124-A, 153-A, 505 (1) (b), 115, 120-B, 201 read with 34 of the Indian Penal Code, 1872 and Sections 13, 16, 17, 18, 18-B, 20, 38, 39 and 40 of the Unlawful Activities (Prevention) Act, 1967, has preferred instant application for bail under Section 439 of Code of Criminal Procedure, 1973.

**INTRODUCTION:**

In nutshell the case of the prosecution may be stated thus,

2. The applicant has been arrested in connection with C.R. No.4 of 2018 registered with Vishrambagh Police Station, Pune, on the basis of the first information report lodged on 8th January 2018 by Mr. Tushar Ramesh Damugade for the offences punishable under Sections 153-A, 505(1)(b), 117, 34 of Indian Penal Code.

3. It has been alleged that there was a programme at Shaniwar Wada, Pune on 31st December 2017 organized by Elgar Parishad. The informant had attended the programme at about 2.00 pm. He had found that few speakers, singers and other performers were present on the stage. The informant knew members of Kabir Kala Manch. He had read about them on social media and in the newspapers. Some performers have performed short plays, dances and sung songs. According to the informant, the performances were provocative in nature and had effect of creating communal disharmony. He has claimed that the speeches which were delivered, were also provocative. Further, few objectionable and provocative books were kept for sale at the venue. The banned organization Communist Party of India (Maoist) was in-sighting violence by creating communal disharmony. The members of Kabir Kala Manch spread hatred through their songs, plays and speeches causing enmity between different communities. As a result, there were instances of violence, arson and stone pelting near Bhima-Koregaon.

**INVESTIGATION:**

4. As the investigation has proceeded further, Section 120-B of IPC

was added on 6th March 2018. Thereafter the investigation was transferred to Crime Branch, Pune.

5. According to prosecution, during the investigation, search was conducted on 17th April 2018 at the residential premises and work places of the co-accused Rona Wilson, Surendra Gadling, Sudhir Dhavale, Sagar Gorkhe, Ramesh Gaychor, Jyoti Jagtap and others. It is alleged that during the search documents were recovered from their respective computers/laptops/pen drives/memory cards etc. Different documents were found to have been created or kept in the respective computers/laptops/pen drives/memory cards/devices on different dates. Those articles were sent to the Forensic Science Laboratory for analysis. The cloned copies were received by the investigating agency. According to prosecution, from the seized and recovered material, it was revealed that other persons are also part of criminal conspiracy. Based on investigation the provisions of Sections 13, 16, 17, 18, 18-B, 20, 38 39 and 40 of Unlawful Activities (Prevention) Act, 1967 have been added on 17th May 2018.

6. According to the prosecution search was conducted at the residence of co-accused Shoma Sen and Mahesh Raut, at the place of residence or work place of applicant, P. Varavara Rao, Arun Ferreira, Sudha Bharadwaj and Vernon Gonsalves. Accused Surendra Gadling, Rona Wilson and Sudhir Dhavale were arrested on 6th June 2018. According to the prosecution, based on incriminating material, other persons were added as accused, viz. P. Varavara Rao, Arun Ferreira, Vernon Gonsalves, Sudha Bharadwaj, applicant-Anand Teltumbade and Stan Swamy. Charge sheet was filed against arrested accused for the

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offences punishable under Sections 121, 121-A, 124-A, 153-A, 505(1) (b), 117, 120-B read with 34 of Indian Penal Code and under Sections 13, 16, 17, 18, 18-B, 20, 38, 39 and 40 of UAP Act.

**INVOLVEMENT OF THE APPLICANT:**

7. The applicant's involvement was disclosed and he was arraigned as an accused on 22nd August 2018. The applicant had preferred applications for pre-arrest bail, but the same were rejected. The applicant had surrendered before the investigation officer on 14.04.2020. Since then, he is in custody.

**CONTENTION RAISED BY THE APPLICANT:**

8. The applicant has filed present application for bail, on the grounds that he is having brilliant academic record. He holds the qualification of B.E. in Mechanical Engineering from VNIT-Nagpur, MBA from Indian Institute of Management, Ahmedabad, D. Litt from Karnataka State University, Mysore. He was the Executive Director of Bharat Petroleum and Managing Director and CEO of Petronet India Limited up to 2010. He was invited as a Professor of Management by IIT, Kharagpur. He is widely respected. He is invited by number of Universities abroad for giving lectures. He has written extensively in all leading newspapers, magazines, organizational pamphlets and booklets and lectured widely in India. He has authored several books. He was associated with People's struggle particularly labour class. He is associated with committee for protection of democratic rights. He participated in fact finding teams. He has contributed to the respected social science journal, Economic and Political Weekly and written columns. His recent

book is Radical in Ambedkar, Republic of Caste. He has received prestigious awards. Presently he is Senior Professor, Big Data Analytics, Goa Institute of Management, at Goa. He was invited to join the board of Governors of the Goa Institute of Management on 15.01.2020.

9. He has further claimed that, he despite hailing from a poor family, is known as world renowned Dalit Scholar. However, the casteists forces in the society could not digest this fact and he has been falsely implicated in this case. He has further claimed that there are no reasonable grounds for believing that the accusation against the applicant are true. There is no material to show that the applicant is the member of CPI (M). He would further claim that the book written by the applicant titled as "Anti Imperialism And Annihilation of Caste" indicates that he is critique of Maoist ideology, which negatives the contention of the prosecution.

10. So far as the meet of RDF is concerned, it was held on 22.04.2012 and 23.04.2012, before it was banned by the Government of Andhra Pradesh. The prosecution has failed to produce transcript of the lecture or video to prove the contents. Further, the mail dated 28.06.2014 addressed to the accused Rona by the applicant states that the applicant had made a request to delete the sentence at the end, which shows that the applicant was never supporting the ideology of Maoist.

11. It has been further claimed that the prosecution has not brought on record material showing that the CPDR is a frontal organization of CPI (M).

12. The applicant has further claimed that he has never participated in the event of Elgar Parishad. The document which was allegedly addressed to the applicant in the name of 'Anand', has not been recovered from the applicant and that there is no investigation to find out whether funds as alleged in the letter were received by the applicant. The document has been recovered at the instance of co-accused Rona, there is no corroboration to said fact.

13. It is claimed that the allegations against the applicant that being General Secretary, CPDR, Maharashtra, he took efforts to release Murugan and G.N. Saibaba, are incorrect. The lectures delivered by the applicant are available on Net and that they do not amount an offence. The mails exchanged between the applicant and co-accused Hany Babu and Stan Swamy would reveal that there is nothing to implicate the accused. Describing Comrade Sridhar Srinivasan as 'Modern Day Bhagat Singh' would not attract an offence.

14. It is further contended that the prosecution is unable to show any act committed by the applicant which would come within the purview of Section 2(k) read with 15 of the Act and as such the question of applicability of Sections 16, 17, 18, 18-B and 20 of the Act is not attracted. He would further claim that mere passive membership, is not sufficient to attract charge under UAP Act without further incitement of violence. Thus, it is prayed for grant of bail.

**OBJECTION BY THE PROSECUTION:**

15. The application has been resisted by the prosecution by filing

reply Exh.403. It is claimed that there is evidence against the applicant that he is an active member of CPI (M) and deeply involved in furtherance of agenda of CPI (M), which would reflect from the statement of PW-3. It is revealed that the applicant was in touch with wanted accused Milind and had secret meeting with him. It has come in the statement of PW-4 that the applicant used to attend international conferences and used to bring foreign Maoist Literature in memory card and used the same for training purposes after approval from Central Committee of CPI (M).

**16.** The prosecution has claimed that Revolutionary Democratic Front, a frontal organization of CPI (M) has been banned under Section 3 of Andhra Pradesh Security Act, 1992, by the Andhra Pradesh Government through Government order dated 09.08.2012 and declared it as an unlawful association. Thereafter, vide order No.128 dated 04.09.2019, the ban has been extended by the Government of Telangana. Thereafter, after about two years of RDF Conference dated 22-23 April 2012, the applicant had sent an e-mail dated 28.06.2014 and requested to delete some portion from the press statement, which relates to 'Inciting Dalit Militancy as well as Revolutionary Resurgence under Maoist Leadership'.

**17.** It has been further claimed that the communication between accused Surendra and Sudarshan and the General Secretary Report of CDPR, a statement of CPDR (Maharashtra) condemning arrest of advocate Murugan of CPCL, Tamilnadu, establishes that CPDR was making efforts to release Murugan, who was arrested for Maoist activities. Further the material collected during investigation discloses

that CPDR and AGMC are tasked for furtherance of CPI (M) agenda.

18. The prosecution has further claimed that the applicant is facing charges for the offences punishable under Sections 120-B, 115, 121, 121-A, 124-A, 153-A, 201, 505 (1) (b) and 34 of the IP Code and Sections 13, 16, 17, 18, 18-B, 20, 38 and 39 of the UA (P) Act and that since there is prima facie case against the applicant, the application for bail deserves to be dismissed. Hence, it is prayed to dismiss it.

**POINTS FOR DETERMINATION:**

19. On the basis of the submissions made before me following points arise before me and I have recorded my findings against them for the reasons stated hereinafter;

<b>Sr.No.</b>	<b>POINTS</b>	<b>FINDINGS</b>
01.	Whether the applicant has made out a case for grant of bail?	<b>In the negative.</b>
02.	What order?	<b>Application stands rejected.</b>

**REASONS**

**AS TO POINT NO.1 :-**

**CONSIDERATIONS FOR BAIL UNDER U.A.P. ACT:**

20. Learned S.P.P. Mr. Shetty by relying upon the judgment of Hon'ble Apex Court in the case of **NATIONAL INVESTIGATION AGENCY Vs ZAHOOR AHMED SHAH WATALI, (2019) 5 SCC 1**, has submitted that the court while deciding the bail application is not required to weigh the evidence meticulously but to arrive at a finding on



the basis of broad probabilities. However, if the court upon considering the material placed on record by the prosecution is of the opinion that the accusations are inherently improbable or wholly unbelievable, in that case only the applicant can be released on bail.

21. He would further rely upon the judgment of Hon'ble Supreme Court in the case of **Masroor Vs State of Uttar Pradesh (2009) 14 SCC 286** to submit that valuable right of liberty of an individual and the interest of society in general has to be balanced and that liberty of a person accused of an offence would depend upon the exigencies of the case and that the collective interest of the community may outweigh right of personal liberty of the individual concerned.

22. He has further relied upon the judgment of Hon'ble Apex Court in the case of **Virupakshappa Gouda Vs State of Karnataka (2017) 5 SCC 406**, to submit that the mere fact that the charge-sheet has been submitted against the accused would not lessen the allegations made by the prosecution and that the bail application cannot be allowed solely or exclusively on the ground that the fundamental principle of criminal jurisprudence is that the accused is presumed to be innocent till he is found guilty by the competent court.

23. Per contra, the learned advocate for the applicant Mr. Pasbola has relied upon the judgment of Hon'ble Supreme Court in the case of **Sudesh Kedia Vs Union of India** in Criminal Appeal No.314-315 of 2021 decided on 09.04.2021, the judgments of Hon'ble Bombay High Court in the cases of **Dhan Singh Vs Union of India 2019 SCC Online Bom 5721** and **Vikram Vinay Bhave Vs State of Maharashtra**

in Criminal Appeal No.187 of 2020 decided on 06.05.2021, to submit that the court has to undertake an exercise of cross-checking the truthfulness of the allegations made in the complaint on the basis of the material on record.

24. Upon careful consideration of the aforesaid verdicts of the Hon'ble Supreme Court it would reveal that the golden thread in all these decisions is that when the Special Court forms an opinion that there are reasonable grounds for believing that the accused has committed an offence punishable with death or imprisonment for life, the Special Court would have no jurisdiction to grant bail to such an accused except as may be provided by law. In addition thereto, the Special Court shall also not be able to release an accused on bail if the Court, on perusal of the case diary or the report made under Section 173 of the Code of Criminal Procedure, is of the opinion that there are reasonable grounds for believing that the accusation, against such person, as regards commission of offence or offences, under Chapter IV and/or Chapter VI of the Act of 2008, is prima facie true. When the word "prima facie" is coupled with the word "true", it implies that the court has to undertake an exercise of cross-checking the truthfulness of the allegations made in the complaint, on the basis of the materials on record. If the court finds, on such analysis, that the accusations are inherently improbable or wholly unbelievable, it may be difficult to say that a case, which is "prima facie true", has been made out. However, in any case, the degree of satisfaction to be recorded by the Court for opining that there are reasonable grounds for believing that the accusation against the accused is "prima facie true", is lighter than the degree of satisfaction to be recorded for considering a discharge

application or framing of charges in relation to offences under the Act. In doing this exercise, the court has no liberty to come to a conclusion, which may virtually amount to an acquittal of the accused. Mere formation of opinion by the court, on the basis of the material placed before it, is sufficient.

25. In the backdrop of the aforesaid legal principle, I would deal with the contentions raised by the both sides.

**EFFECT OF THE FINDINGS RECORDED IN EARLIER PROCEEDINGS:**

26. Learned S.P.P. Mr. Shetty has invited my attention to the orders passed by the learned Sessions Judge, Pune the Hon'ble High Court, and the Hon'ble Supreme Court while deciding the application for anticipatory bail of the applicant and in the Writ Petition filed by the applicant before the Hon'ble High Court for quashing the FIR. According to him, in view of the findings recorded in the aforesaid judgments/orders that the accusation made against the applicant are prima facie true, the application for bail deserves to be rejected.

27. In reply, Mr. Pasbola, learned advocate for the applicant has submitted that consideration for grant of bail and anticipatory bail are altogether different and as such the finding recorded in earlier Writ Petition and the applications under Section 438 of the Code will not have bearing on present application. Therefore, he would submit that the application for bail needs to be decided independently. In support of the submissions he has relied upon following judgments;

1. **Kamlesh Vs State of Rajasthan, 2019 SCC Online SC 1822.**
2. **Satpal Singh Vs State of Punjab (2018) 13 SCC 813.**

**3. Court on its own motion Vs State 2018 SCC Online Del 12306.**

**28.** The common thread passing through the above decisions is that merely because the writ petition filed for quashing the First Information Report or pre-arrest bail is rejected, that does not mean that the applicant is not entitled for regular bail as the satisfaction of the court for granting protection under Section 438 is different from the one under Section 439 of the Code, while considering regular bail application.

**29.** On this point the learned S.P.P. Mr. Shetty has submitted that Section 43-D-5 of the Act puts rider in addition to the conditions imposed under Section 439 of the Code, for grant of bail, if the court forms opinion that the allegations made against the accused prima facie found to be true. Thus, he would claim that since not only in the writ petition, but also in the applications for pre-arrest bail, the courts have formed the opinion that the allegations made against the applicant are prima facie true, the application deserves to be dismissed.

**30.** It is to be noted that for applying regular bail, there are fetters under Section 43-D (5) of UAP Act and bail cannot be granted unless public prosecutor has been given opportunity of being heard on the application for such release and the accused shall not be released on bail, if the Court on perusal of the case diary or the report under Section 173 of the Cr.P. Code, is of the opinion that there are reasonable grounds for believing that accusations against such person are prima facie true.

31. In the background of the above, suffice to make reference to the findings recorded by the Hon'ble High Court in **CRIMINAL ANTICIPATORY BAIL APPLICATION NO.314 OF 2019** in Para. No.52 of the order. It runs as under;

"52. As observed above, this Court while dismissing the writ petition vide judgment and order dated 21 st December 2019 refrained from recording any comments thereupon on the papers in sealed envelope. I have perused the documents. In the light of principles enunciated in the aforesaid decision of Hon'ble Supreme Court in P. Chidambaram Vs. DRI (supra), although I have perused the documents in the sealed envelope, I refrain from commenting on those documents. The other documents form part of the charge sheet filed against co-accused, which are part of this application and submissions were advanced by both parties. Even otherwise, apart from the material produced in sealed envelope, there is sufficient other material to enable the Court to reach prima facie opinion regarding commission of offence under UAPA Act by the applicant. The decisions relied upon by applicant are not applicable in this case. The investigation is in progress. I am satisfied that prima facie there is material against applicant to show his complicity in the crime. Thus, even on the test of prima facie material involving the applicant in the crime, no case is made out for entertaining the application."

32. Thus, on the basis of the above findings it can be said that the Hon'ble High Court has recorded finding in respect of prima facie availability of the material against the applicant showing his complicity in the crime and thus it was concluded that no case was made out by the applicant for entertaining the application. In view of the findings

recorded by the Hon'ble High Court, on the basis of the same material this court is not and cannot supposed to record contrary findings, irrespective of the fact that the consideration for grant of bail and anticipatory bail are different. In this backdrop, the authorities relied upon by the learned advocate for the applicant are not applicable to the case in hand.

33. In view of the aforesaid observation, I conclude that the findings recorded in the aforesaid application, would create bar for exercising discretion in favour of the applicant.

34. Be that as it may, even otherwise if the documents relied upon by the prosecution and the defence are taken into consideration independently, there would be no hesitation to conclude at the threshold, that the material available on record is sufficient to prima facie suggest that the allegations made against the applicant are true. Now, let me deal with the material placed on record by the prosecution to substantiate the allegations made against the applicant.

**DOCUMENTS RELIED UPON BY THE PROSECUTION:**

35. Learned Special Public Prosecutor has submitted that the prosecution is relying upon the documents, viz;

- (A) Letter from Prakash to Anand;
- (B) Letter to Comrade Surendra from Comrade M dated 8th June 2017;
- (C) Letter to Sudarshan from Surendra Gadling;
- (D) Letter to Prakash from R dated 23rd December 2017;
- (E) E-mail sent by the applicant to CPDR;
- (F) E-mail sent by the applicant to Surendra:

- (G) Document indicating money having been paid to Anand:
- (H) E-mail sent by Arun Ferreira to applicant and Ors. and reply given by the applicant on 16.01.2019.
- (I) Letter issued by Com. M to Comrade Rona dated 02.01.2018.
- (J) E-mail sent by Monica Sakharani to CPDR Group on 06.03.2018.
- (K) E-mail sent by the applicant to Sameer on 10.12.2018.

**A. LETTER ADDRESSED BY PRAKASH TO ANAND:**

**36.** The prosecution has relied upon the letter from Pakash to Anand. There is reference to funds sent for Paris meeting, Com. Anupana Rao and Com. Shailja Paik. There is reference to Prof. Balibar. It is alleged that these persons are linked to Maoist organization.

**37.** The applicant has claimed that he had attended several conferences all over the world. He is a noted scholar. He has delivered several lectures. He is a human rights activist. The names mentioned in the letter are published in University in USA that organized the lecture and it was for public information.

**38.** The applicant has relied upon letter dated 11th December 2017 in support of his submission. The applicant had attended the conference and expenses were borne by the organizers. Thus, it is claimed that said letter does not take the prosecution case further. Besides, the letter was allegedly addressed to the applicant by one Prakash. The prosecution is drawing an inference that one Saibaba is in jail since 2017 and the said Saibaba is Prakash.

**39.** It has been submitted by the learned S.P.P. that the letter refers to

Anand's visit to Paris for Human Rights Convention to be held on 9th and 10th April 2018 and lectures on Dalit issue in order to give traction to Domestic Chaos. During this period domestic chaos related to Dalit issue was Koregaon-Bhima incident. The letter ended with exhortations to their intellectual comrades to keep the fire ablaze. Therefore, he would submit that the letter indicates prima facie that the applicant was actively involved in the activities of the banned organization.

**B. Letter to Comrade Surendra from Comrade M dated 8th June 2017;**

40. The next letter referred to by the prosecution is dated 8th June 2017 from Com. M to Com. Surendra. According to the applicant said letter has not been addressed to the applicant. This refers to Anuradha Ghandy Memorial Trust, which is registered. The applicant is member of the trust. Other members include journalists. No adverse inference can be drawn against the applicant, on the basis of said letter. It has been submitted by the learned advocate for the applicant that the investigating agency has failed to collect material to show the alleged suggestion given by the applicant.

41. On this point the learned S.P.P. has submitted that the Letter dated 8th June 2017 has been typed on the letterhead of the Communist Party of India (Maoist), Central Committee. It also makes reference to the AGM meet, which was to be held in October, wherein it was mentioned that Comrade Anand had given good suggestion to involve students for its meet, which was to be conducted on the theme of 50th anniversary of Naxalbari Movement.



42. The learned S.P.P. would further submit that during investigation it was revealed that Anuradha Ghandy was the central committee member of banned organization CPI(Maoist) and the trust was formed in her name and that organizing such programs directly amounts to promoting and advocating ideology of the banned terrorist organization.

**C. Letter to Sudarshan from Surendra Gadling;**

43. The third letter was allegedly written by Surendra Gadling to Sudarshan. In this regard, learned advocate for the applicant has submitted that it nowhere refers to the applicant. Thus, he would claim that said letter cannot be said to be incriminating material against the applicant.

44. In this regard, the learned S.P.P. has submitted that said letter speaks about the tasks to be undertaken by the IAPL and the concerns shared by the members regarding Adv. Murugan and other comrades who were incarcerated. He has further submitted that there is reference to the expenses of IAPL and CRPP programme and the legal costs.

**D. Letter to Prakash from R dated 23rd December 2017;**

45. The other letter relied upon by the prosecution is dated 23rd December 2017 sent by R to Prakash. The letter mentions that the applicant has taken the responsibility of fact finding committee in Gadchiroli. The applicant has not participated or organized any fact finding committee at Gadchiroli. He is in Goa since 2016 and prior to that he was at Kharagpur. Thus, Com. Anand referred to in the said

letter is someone else and not the applicant. In any event, organizing fact finding responsibility is not an offence.

46. According to the prosecution the letter dated 23rd December 2017 was written by Rona Wilson to Prakash (Navin @ Ritupan Goswami) and that it mentions reports of fake encounters near Gadchiroli and that fact finding team was formed in the organization and that Anand had agreed to co-ordinate the whole thing. It has been further submitted by the prosecution that during the investigation a book was published pertaining to Koregaon-Bhima in which the name of applicant is reflected as convener of the book.

**E. E-mail sent by the applicant to CPDR:**

47. Learned advocate for the applicant has submitted that by this e-mail dated 01.01.2018, the applicant had asked for assistance for the proposed fact finding inquiry into Gadchiroli encounter. Therefore, he would submit that the same cannot be said to be incriminating circumstance against the applicant.

48. In this regard, the learned S.P.P. has submitted that the fact that the applicant, by issuing said e-mail had sought for the assistance and that he had asked to reply to himself or to the co-accused Shoma goes to suggest that he was involved in the activities of the banned organization.

**F. E-mail sent by the applicant to Surendra:**

49. According to the learned advocate for the accused, the email dated 01.12.2017 does not contain incriminating material against the applicant.

50. On this point the learned S.P.P. has submitted that by the said e-mail the applicant had asked the co-accused to provide him the latest updates on Saibaba and others as he had to speak on it in London and other places in England. According to the learned S.P.P., the aforesaid material is sufficient to indicate that the applicant was involved in promoting and advocating the ideology of the banned terrorist organization.

**G. Document indicating money having been paid to Anand:**

51. Learned advocate for the applicant has submitted that the prosecution has placed on record a document indicating that some money has been paid to Anand, the applicant. However, according to Mr. Pasbola, it does not bear date and signature and that it is in the form of a diary entry, which cannot be relied on for any purpose. According to him, the applicant has never taken money from the banned organization and that he is not connected with any banned organization. He would vehemently submit that the name referred as Anand, in the chit, cannot be the applicant.

52. Learned S.P.P. Mr. Shetty has submitted that the aforesaid document was recovered from the laptop of the co-accused Rona, wherein it is mentioned that Anand. T had received 90 T (90,000) from

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Surendra (through Milind). Thus, he would claim that the applicant is the recipient of funds from the banned terrorist organization.

53. According to the learned S.P.P., the statement of KW-2, recorded under Section 164 of the Code of Criminal Procedure, states that secrecy was being maintained in respect of real name of the party worker and therefore nobody knows real names of the party workers. Therefore, the learned S.P.P. would submit that the names Anand, Anand. T etc. mentioned in the letters and the list of the recipients relate to the applicant only. He would further submit that name of wanted accused, the brother of the applicant has been mentioned stating that the amount was received by the applicant through Milind. Therefore, according to the learned S.P.P. this document not only supports the case of the applicant on the point that the applicant was the recipient of the funds, but he was actively involved in the criminal activities along with his brother.

**H. E-mail sent by Arun Ferreira to applicant and Ors. and reply given by the applicant on 16.01.2019:**

54. Learned S.P.P. has submitted that by issuing the E-mail dated 03.04.2018, the co-accused has raised the question as to why Damodar Turi and other under trials were being kept under solitary confinement. According to him, the very fact that the email was also addressed to the applicant goes to show that he was also involved in the activities. According to the Learned S.P.P. not only this the reply given by the applicant to the said mail dated 16.01.2019 gives corroboration to the case of the prosecution that the applicant was involved actively in the activities of CPI (M). In the said e-mail reply the applicant had

mentioned that by sheer luck he was out but his freedom was coming to an end and that he was given four weeks to seek pre-arrest bail and as per lawyers, it needs backing of a visible campaign to be created in the form of signature campaign, writing mails and letters to the President, Prime Minister, Chief Minister, Maharashtra, issuing statements, writing newspapers articles, etc. in his support by the cross section of people. According to the Learned S.P.P. by issuing such email, the applicant has tried to built up pressure.

**I. Letter issued by Com. M to Comrade Rona dated 02.01.2018.**

55. Learned S.P.P. has submitted that the letter has been issued by the wanted accused Milind wherein it was mentioned that the Bhima Koregaon agitation was very effective and that the death of the youth must be exploited to prepare future agitation of propaganda material. It further states that senior Comrades from the CPI (M) urban leadership have had prior talks with his friends in Congress who suggested continuing Dalit mobilization more aggressively whatever legal and financial aid was required, they were ready to provide through the intermediary (Jignesh). The letter further states that they must keep up the pressure through simultaneous protest programme across many states, it will undoubtedly help to take down the Modi Juggernaut in 2019. The letter further states that the wanted accused had asked said Rona to speak with the applicant and inform him to sent reports through Com. Manoj and that the USDF activist can support them to organize protest across other BJP ruled states.

56. On the basis of the above reference, the learned SPP has

submitted that the fact that the wanted accused had asked the co-accused Rona to speak with the applicant and inform him to send reports through Com. Manoj prima facie establishes that the applicant was also part of conspiracy to overturn the Government which was lawfully established.

**J. E-mail sent by Monica Sakharani to CPDR Group on 06.03.2018:**

57. Learned S.P.P. Mr. Shetty has submitted that by issuing the mail dated 06.03.2018, witness Ms. Monica Sakharani had given information about the visit of fact finding team on 17-18, March in respect of the incident wherein 10<sup>th</sup> Maoist and a constable of Commando Force, Greyhounds were killed in an encounter in the forest of Chhatisgarh.

**K. E-mail sent by the applicant to Sameer on 10.12.2018.**

58. Learned S.P.P. has submitted that the applicant had sent email dated 10.12.2018, by which he had informed said Sameer to go through the transcript of the speech delivered by him on 20<sup>th</sup> November and effect changes for publishing the speech for wider circulation in English as well as in major Indian languages.

**ADMISSIBILITY OF THE DOCUMENTS:**

59. Learned advocate for the applicant Mr. Pasbola would submit that the documents relied upon by the prosecution cannot be said to be admissible to fasten liability upon the applicant. According to him, on the basis of such inadmissible documents, it cannot be said that the allegations made against the applicant are prima facie true. In

support of the submission reliance has been placed on the judgments in the case of **Common Cause and others Vs. Union of India and others (2017)11 SCC 731, Central Bureau of Investigation V/s V.C. Shukla (1998) 3 SCC 410 and Beni Vs Bisan Dayal 1925 SCC Online MP 37** wherein it has been observed that loose sheets of papers are wholly irrelevant as evidence being not admissible under Section 34 of Evidence Act to constitute evidence with respect to the transactions mentioned therein being of no evidentiary value. The Court has to be on guard while ordering investigation against any important constitutional functionary, officers or any person in the absence of some cogent legally cognizable material. When the material on the basis of which investigation is sought is itself irrelevant to constitute evidence and not admissible in evidence, whether it would be safe to even initiate investigation.

60. On the point of question of admissibility of the documents at the stage of bail application is concerned, Learned Special Public Prosecutor has relied upon the decision of Hon'ble Supreme Court in the case of **National Investigation Agency Vs. Zahoor Ahmad Shah Watali (cited supra)**. He has submitted that the issue of admissibility and credibility of the material and evidence presented by investigating officer could be matter of trial and the same cannot be decided at the time of considering bail application. In this case it has been held by the Honble Supreme Court that;

19. For that, the totality of the material gathered by the Investigating Agency and presented along with the report and including the case diary, is required to be reckoned and not by analysing individual pieces of evidence or circumstance. In any case, the question of

discarding the document at this stage, on the ground of being inadmissible in evidence, is not permissible. For, the issue of admissibility of the document/evidence would be a matter for trial. The Court must look at the contents of the document and take such document into account as it is.

61. In view of the aforesaid law laid down by the Hon'ble Apex Court, which speaks that the question of discarding the document at the stage of bail, on the ground of being inadmissible in evidence, is not permissible, I do not find merit in the objection raised by learned advocate for the applicant. It is worthy to be noted that in view of the settled principle of law at the time of deciding bail application, the court is not expected to conduct roving inquiry. If the submission made by the learned advocate for the applicant is accepted, in that case it would amount to hold a mini trial, at the stage of grant of bail, which is not permissible. Thus, I hold that the submission made by Mr. Pasbola, is liable to be turned down.

**MEMBERSHIP OF THE BANNED ORGANIZATION IS NOT AN OFFENCE:**

62. Learned advocate for the applicant has heavily relied upon the decision of Hon'ble Supreme Court in the case of **Arup Bhuyan Vs. State of Assam (2011) 3 SCC 377** and **State of Kerala Vs Raneef (2011) 1 SCC 784** to submit that merely because an organization has been declared as an unlawful association, it cannot be said that the membership of such association would incriminate such person, unless



he resorts to violence or incites people to violence or does an act intended to create disorder or disturbance of public peace by resort to violence. He would further submit that the material placed on record would not take the case of the prosecution further than Section 39 of the Act.

63. He has further relied upon the judgment of Hon'ble Supreme Court in the case of **Kalpanath Rai Vs CBI (1997) 8 SCC 732 and Hitendra Vishnu Thakur Vs State (1994) 4 SCC 602** and submitted that if there is no evidence to show that the applicant or any of the co-accused was the member has done any act then the applicant or the co-accused cannot be said to be liable for conviction under the UAP Act.

64. It is further submitted that none of the documents produced by the prosecution would show that the applicant had conspired to commit any violence or that he was involved in furthering activities of the banned organization.

65. In this regard, learned S.P.P. has submitted that there is ample material on record to indicate that the applicant was involved in activities of the banned terrorist organization. Therefore, this cannot be said to be the case of mere membership of the banned terrorist organization. According to him, there is sufficient evidence against the applicant showing his involvement in the crime, as such Prima facie case is made out to attract provisions of UA (P) Act as well as penal provisions under IPC. It is submitted that the documents were recovered from electronic devices of accused persons. The investigation has

revealed the complicity of applicant in commission of crime. It is submitted that this is not the stage to appreciate the evidence or decide the issue relating to admissibility of evidence.

**66.** According to the prosecution material found from the computers/laptops/pen-drives/memory cards were shocking and implicating the accused who were not only active members of CPI (M) but clearly reflected ongoing sinister design of having committed and in the process of committing criminal offence having the potential of destabilizing the society. Learned S.P.P. has submitted that the investigation revealed deep rooted conspiracy to create communal disharmony to strike terror in people or any section of people with the intent to threaten the unity and integrity of India and that the accused were active members of banned organization CPI (M) and involved in activities prohibited under the provisions of UAP Act. Hence, Sections 13, 16, 17, 18, 18(B), 20, 38, 39, 40 of the Act were added.

**67.** Learned SPP has invited my attention to the material seized from the accused, which is in the form of electronic devices and submitted that they would reveal active role of the applicant with co-accused in the banned terrorist organization. According to him, the material seized would also reveal that the applicant along with the co-accused were working as active members of banned terrorist organization and were not merely representing a dissenting opinion or different ideology.

**68.** It is to be noted that the letter issued by Comrade 'M' to Comrade Prakash is to be co-related to letter dated 23rd December

2017. It is mentioned that the enemy was spreading news that 12 to 20 members of organization were killed, which would have effected moral of members. To disprove that, fact finding committee be formed to assert that the persons who were killed were innocent local tribal people. The media coverage would demoralize the enemy and there will be break upon action of Central Government. The letter congratulated killing of 25 persons of enemy group.

69. After analyzing the material/documents and on perusal of the charge-sheet it is revealed that though the name of applicant is not mentioned in the FIR dated 8th January 2018, but during investigation it was revealed. It would further reveal from the record that the investigating officer has seized the material during the raids conducted at various premises connected with different accused persons. According to the prosecution, in relation to the Paris Convention, a letter was recovered from the electronic data of the co-accused Rona Wilson, which was allegedly sent by Prakash to Anand, there is reference in respect of Anand's visit to Paris for Human Rights Conventions held on 9th and 10th April 2018. In the said communication it is mentioned to keep the fire ablaze. It is to be noted that, the prosecution has claimed that during said period domestic chaos related to Dalit issue was only the incident relating to Bhima-Koregaon incident. The very statement made in the letter that all PMs and intellectual comrades must strive to keep the fire ablaze, goes to prima facie indicate that the applicant was involved in furthering activities of the banned organization.

70. The aforesaid correspondence which has been seized by the investigating officer contains reference to applicant wherein he has

referred to as Anand, Comrade Anand or Anand T. The prosecution has all along come with the contention that reference to Anand mentioned in the document, suggest that it refers to the applicant. Prima facie, there is no hesitation at this stage to accept the contention raised by the prosecution, on the strength of the statement of KW-2. On the basis of the same I hold that there is prima facie ample material on record which would reveal active role and participation of the applicant.

71. According to prosecution, funds were received from Central Committee of CPI (Maoist). The document was recovered from the laptop of Rona Wilson, which mentions that Anand T has received 90 T from Surendra through Milind. It was revealed during the investigation that Anand i.e. applicant was recipient of funds from the banned terrorist organization. At this juncture, there is no hesitation to accept the contention of the prosecution that the applicant had received Rs.90,000/- through his brother Milind.

72. During investigation, statements of the witnesses have been recorded showing the involvement of the applicant and the co-accused in the commission of the crime. In this regard, reference can be made to the statement of KW-1 wherein the witness has categorically stated that the applicant, co-accused Varvara Rao and others have participated in the All India Conference of Revolutionary Democratic Front which was held on 22<sup>nd</sup> and 23<sup>rd</sup> April 2012 in the Sundaraiyya Viganna Bhavan, Hyderabad. There is specific reference in the statement of the witness that the co-accused Varavara Rao had directly approached the witness and asked him to work for Maoist ideology and regarding press release and publishing articles of Maoist. His statement further proceeds to

state that he remembered that the applicant had made a statement to reinvent Dalit Militancy as well as resurgence under Maoist leadership, from which the witness would understand that the applicant wanted all the Dalits to join CPI Maoist. He has also reiterated said aspect at the time of recording his statement under Section 164 of the Cr.P. Code.

73. Learned advocate Mr. Pasbola has submitted that the conference dated 22 and 23.04.2012, cannot be considered, in order to determine unlawful activities as by the relevant time, the organization was not declared as an unlawful organization. No doubt, the record indicates that the organization was banned by the Andhra Pradesh Government through Government order dated 09.08.2012 and the conference was held on 22 and 23.04.2012, i.e. before the organization was banned. However, the fact remains that the statement of the witness further proceeds that the applicant was involved in the All India Seminar on the Impact of Naxalbari on Indian Society which was organized by Virasam, as he was also invited as a guest speaker. It is apart, that the applicant did not attend said conference. However, the fact remains that the statement of KW-1 establishes that the applicant was connected with said conference. He has categorically stated in the statement that the Virasam has been expanding his creative strengths and being inspired from Naxalbari and Naxalite movement. Thus, from the statement of KW-1, it can be said that the applicant was involved in furthering the activities of banned terrorist organizations.

74. So far as the statements of KW-2 and KW-3 are concerned, their statements speak about the role played by the wanted accused Milind Teltumbade @ Deepak, the Secretary, Maharashtra State

Committee of CPI (M), who is no other than the real brother of the applicant. The statement of KW-3 speaks that the wanted accused Milind used to tell that he was inspired by his elder brother to join CPI (M) movement and that he used to show photographs of the applicant and his two daughters. The statement of KW-2 recorded under Section 164 of the Cr.P. Code states that in the year 2018, the witness along with said Milind had gone to Bhopal twice and that at that time said Milind had informed to the witness that he would meet with his elder brother i.e. the applicant. However, at the first visit, there was no meeting between said Milind and the applicant. However, the witness claims that after the second visit, from the expressions of said Milind he could realize that the meeting had taken place between applicant and said Milind. He has further claimed that at the time of both the meetings, said Milind had been to the house of the applicant by leaving the witness at the house of known person.

75. So far as the statement of KW-4 is concerned, he has stated that wanted accused Milind used to discuss about the Elgar Parishad, Bhima Koregaon Programme and about participation and support given by urban members of CPI (M) to successfully conduct the programme as several social organizations were participating in said programme and CPI (M) had used the said platform for spreading their own ideology under the guise of/by using said Elgar Parishad programme with the help of members of urban area viz KKM members, underground urban workers and other frontal organizations. He has categorically stated that in the said Sanyukta Morcha, programmes were being organized in urban area to spread negative publicity and hatred speeches against established government.

76. Thus, according to the Learned S.P.P., the statement of KW-4 is relevant to establish the practice and tactics of the banned terrorist organizations. He has categorically added that he had worked with said Milind in Jungle from 2008 to 2018 and that during said period, said Milind used to discuss about expanding the Naxal movement of Maoist in urban area with his brother i.e. the applicant on international level and guidance to urban Naxal members.

77. His statement further proceeds to state on the point of involvement of the applicant that said Milind told him that he was inspired by his brother Anand for this CPI (M) movement. According to KW-4, wanted accused Milind used to visit urban area i.e. Nagpur, Pune, Chandrapur, Bhopal, Indore, Katani, Amarkantak, Mandala, Dindori, Shahdol, etc. during the period of January to June and that at that time, he used to meet the applicant for taking guidance for advancing the movement of CPI (M) in Jungle as well as urban area. He has further added that the applicant used to attend international conferences under the guise of academic visits in Philippines, Peru, Turkey and other countries and used to bring Maoist literature and videos in pen drive/memory card, related to their ideology, tactics, weapons used by them, period of attacks, planning of sudden attacks, extension of zones and increasing members by recruitment for CPI (M) and that such foreign literature and videos were shown to the members of CPI (M) in training and classes after approval in the CCM meeting.

78. Upon perusal of the statement of KW-4 it would prima facie reveal that there was complete involvement of the applicant in the

activities of the banned terrorist organization and that he has given guidance to his brother i.e. the wanted accused and that the wanted accused was also being inspired by the applicant. It would further reveal that the Videos and foreign literature of the international conferences of the applicant were being shown to the members of the banned terrorist organization in training and classes.

**79.** So far as the statement of KW-6 is concerned, he was the activist of PUDR, which works for social, workers, labours, police encounter, communal violence. According to him, in the year 2007, CDRO was formed and PUDR had become part of CDRO i.e. Co-ordination for Democratic Rights Organization. According to him, CPDR, Maharashtra is the part of CDRO.

**80.** The prosecution has relied upon the statement Ms. Maharukh Adenwalla. In her statement, she has stated that CPDR was working in Maharashtra and mainly in Mumbai to uphold the democratic rights and civil liberties contained in the Constitution of India. She has further added that from 2014, the applicant was the General Secretary of CPDR.

**81.** The statement of Ms. Monica Sakharani states that she had joined IAPL (Indian Association of People's Lawyers) in the year 2003-04 and that she had attended several meetings. According to her, in the month of June 2017, a meeting was organized at Hyderabad which was attended by non-lawyer persons and that she had thought that they were Maoist and therefore, she had decided to withdraw from IAPL and CPDR. According to her, due to the same issue, she did not attend Delhi



meeting which was organized on 02.09.2017 and that she had refused to go to Kashmir. At that time, co-accused Arun had pressurized her to attend the fact findings meeting about Kashmir. According to her, when she had disclosed to co-accused Arun, the fact that non-lawyers, who were suspected to be Maoist, were present and that she was being deliberately projected as a leader and that most of the people who came did not actively participate in fact findings, the co-accused Arun just smiled and therefore, she had realized that she was right and that co-accused Arun work for Maoist. According to her, she felt that her views and ideology was different from organization and therefore, she had decided to leave from the organization and that accordingly in the month of July 2018 she had sent mail about her resignation.

**82.** On the point of involvement of the applicant, she has added that the applicant used to attend meeting of CPDR occasionally and that she met him for the first time in the year 2002 in CPDR meeting at Mumbai.

**83.** The Learned advocate for the applicant Mr. Pasbola has submitted vehemently that most of the statements of the witnesses state that they are based on hear-say version and therefore, the same can not be relied upon. In support of the submissions, he has relied upon the judgment in the case of **Kalyan Kumar Gogoi Vs. Ashutosh, (2011) 2 SCC 532, Laxmi Raj Shetty Vs. State of Tamilnadu (1988) 3 SCC 319 and Quamarul Islam Vs. S. R. Kanta, 1994 Supp (3) SCC 5.**

**84.** In this regard, the Learned S.P.P. has submitted that though the statement of KW-3 states that the wanted accused had told him that he was inspired by the applicant to involve in the activities of

the banned terrorist organization. However, he claims that the same can not be kept out of consideration as said fact can be said to be relevant. I find much substance in the submissions made by the Learned S.P.P. for the simple reason that the wanted accused is the best person to state as to by whose conduct or activities he was being impressed and therefore, in my view the statement made by the wanted accused that he was impressed by the applicant for furthering the activities of banned terrorist organization can be said to be relevant and as such, I do not find merit in the submissions made by the Learned advocate for the applicant.

**85.** The charge-sheet filed against the applicant and the co-accused states that there are allegations against them that they were active members of CPI (Maoist) and that they had conspired to mobilize masses and to spread hatred against the Government, through provocative speeches, songs, plays etc. and that they had incited feeling of hatred among the communities resulting in wide spread violence from 01.01.2018 onwards. Further, the charge-sheet states that the acts of the accused were not restricted to creating disharmony between two communities, but, they were actually indulging in activities which were against the Nation and that the incident at Bhima-Koregaon was only a part of their larger conspiracy. The prosecution has further claimed that the investigation further revealed that funds were provided by the banned organization through their members and that the students from eminent educational institutes were taken to forest area occupied by Maoist guerrilla and were given training for terrorist activities. Therefore, I do not find merit in the contention raised by the learned advocate for the applicant that the material placed on record does not

prima facie make out a case for the offences punishable under the UAP Act.

**INVOLVEMENT OF THE APPLICANT IN THE ELGAR PARISHAD:**

86. It has been alleged that the applicant was involved in the event of Elgar Parishad held at Pune. On this point learned advocate for the applicant has submitted that the material placed on record by the prosecution states that the Elgar Parishad was organized from 14.00 hours to 22.00 hours, whereas the statements of the witnesses i.e. the drivers disclose that the applicant and his wife have left Shaniwar Wada at 2.30 P.M. The applicant has come with the contention that he had attended wedding of his friend's son on 31st December 2017 and that he was accommodated in a room reserved by his friend which was nearby the place of marriage ceremony. He would further claim that the applicant and his wife had met Sujat Ambedkar, the nephew of his wife at Shaniwar wada, where the Elgar Parishad was conducted and that they left said place within a short span of time. Therefore, learned advocate for the applicant has claimed that even by stretch of imagination it cannot be said that the applicant had concerned with the Elgar Parishad.

87. Learned S.P.P. Mr. Shetty has invited my attention to the book/pamphlet titled as 'Bhima Koregaon Shauryadin Prerana Abhiyan, which was printed prior to said programme, which states that name of the applicant was mentioned as one of the conveners of the Elgar Parishad. He would further submit that the event of Elgar Parishad was

scheduled at Shaniwar wada and the fact that the applicant on 31.12.2017 had visited it gives corroboration to the case of the prosecution that the applicant was involved in Elgar Parishad.

**88.** It is true that the documents placed on record indicate that the applicant was invited for marriage dated 31.12.2017 by Mr. and Mrs. Vijay Joshi. However, considering the fact that name of the applicant appeared in the invitation card and that the applicant had gone to Shaniwar wada, the place at which the event of Elgar Parishad was organized, goes to prima facie suggest that the applicant was also connected with the Elgar Parishad. The applicant has not explained about his name appearing as a convener, on the book/pamphlet titled as 'Bhima Koregaon Shauryadin Prerana Abhiyan, which was printed prior to said programme. In sequel, I do not find merit in the submission made by the learned advocate for the applicant that the applicant had no concerned with the event of Elgar Parishad and that the allegations made against the applicant are not prima facie true.

**89.** Upon perusal of the documents including the exchange of e-mails and the statements of the witnesses relied upon by the prosecution, and after cross-checking the truthfulness of the allegations made against the applicant, this court does not find, that the accusations are inherently improbable or wholly unbelievable. On the contrary, I have no hesitation to conclude that there is sufficient material to enable the Court to reach to prima facie conclusion that the accusations made against the applicant are prima facie true. Thus, there is no hitch to record prima facie satisfaction that there is material against the applicant to show his complicity in the crime. In the wake of the

determination made herein above and the bar contemplated under Section 43-D (5) of the Act, I hold that no case is made out for considering the application.

**CONSIDERATION OF FILING OF CHARGE-SHEET:**

90. Learned advocate for the applicant has prayed to consider the aspects that the investigation in the crime has already been completed and that the applicant is a well qualified person and that he was invited by number of Universities abroad for giving lectures and that he has written extensively in all leading newspapers, magazines, organizational pamphlets and booklets and lectured widely in India and that he has authored several books and that he hails from respectable family. Therefore, he has prayed for grant of bail.

91. In this regard, I would like to make reference to the judgment of Hon'ble Apex Court in the case of **Virupakshappa Gouda (cited supra)** which has been relied upon by the prosecution. It speaks that filing of the charge-sheet does not in any manner lessen allegations, but rather establishes that after due investigation prosecution has filed charge-sheet for trial of accused persons. Therefore, the fact that the charge-sheet has been submitted against the applicant cannot be used in favour of the applicant, rather it would go against him.

**EDUCATIONAL QUALIFICATION OF THE APPLICANT and THE PRINCIPLE OF BAIL IS A RULE AND JAIL IS AN EXCEPTION:**

92. Much has been argued on the point that in view of the basic rule of criminal jurisprudence that the accused is presumed to be

innocent until found guilty the well settled principle that 'bail is a rule and jail is an exception', needs to be exercised. In this regard also reference with benefit can be made to the judgment in the case of **Virupakshappa Gouda (cited supra)** wherein the Hon'ble Apex Court has observed that the proposition expounded in the case of **Siddharam Satlingappa Mhetre Vs State of Maharashtra (2011) 1 SCC 694** that the courts considering the bail application should try to maintain fine balance between the societal interest vis-a-vis personal liberty while adhering to the fundamental principle of Criminal Jurisprudence that the accused is presumed to be innocent till he is found guilty by the competent court, has to be accepted, but that has to be applied appositely to the facts of each case. A bail application cannot be allowed solely or exclusively on the ground that the fundamental principle of criminal jurisprudence is that the accused is presumed to be innocent till he is found guilty by the competent court.

93. As stated earlier the courts considering the bail application are required to maintain fine balance between the societal interest vis-a-vis personal liberty of the accused, by adhering to the fundamental principle of Criminal Jurisprudence. In this background, the contention of the applicant that his educational qualification and social background, needs to be considered while deciding bail application, is liable to be discarded.

#### **CONCLUSION:**

94. As a sequitur to the above discussion this court is of the unhesitant opinion that in view of the findings recorded by the Learned Sessions Judge while deciding the application for anticipatory bail that

the allegations made against the applicant are prima facie true and that said findings have been confirmed by the Hon'ble High Court, it is not possible to record contrary finding.

95. Additionally, when this court has independently considered the material which was collected during investigation before and after the decision of the application for anticipatory bail, it would reveal that there is prima facie material showing that the allegations made against the applicant are prima facie true. In view of this law and the rider provided under Section 43-D-5 of the UAP Act, since this court has already concluded that the allegations made against the applicant are prima facie true, this court conclude that the applicant has failed to make out a case for grant of bail. In turn, this court records finding against point No.1 in the negative.

**AS TO POINT No.2:**

96. A corollary to the afore stated deliberation is that the application sans merit, deserves to be dismissed. Finally, I proceed to pass following order;

**:O R D E R:**

Bail Application Exh.377stands dismissed.

**(Dinesh E. Kothalikar)**  
**Special Judge, NIA**  
**City Civil & Sessions Court,**  
**For Greater Bombay**

**Date : 12.07.2021**

Dictated on : 12.07.2021.  
Typed on : 12.07.2021.

: 40 :

Signed on : 12.07.2021.

**“ CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”**

**UPLOAD DATE AND TIME : 12.07.2020 AT 01.19 pm**

**NAME OF STENOGRAPHER : Mrs.Prajakta K. More**

<b>NAME OF THE JUDGE</b>	<b>HHJ SHRI.D.E.KOTHALIKAR (C.R.No.25)</b>
<b>Date of Pronouncement of Order</b>	<b>09.07.2021</b>
<b>Order signed by the P.O. On</b>	<b>09.07.2021</b>
<b>Order uploaded on</b>	<b>12.07.2021</b>