2026:MHC:3445

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 05.08.2026

PRONOUNCED ON : 24.08.2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL A NO. 576 OF 2026

and

CRL MP No. 8036 of 2026

Aziz Ahamed @ Aziz Ahmed @ Jaleel Aziz
Ahamed @ Abdul Aziz
S/o.Jaleel Ahmed,
No.62, AIBEA Nagar,
Thiruvanmiyur, Chennai.
Also having address at
No.24, Brandon Road, Birmingham,
United Kingdom.
Presently Residing Address in Germany,
OstpreussenStrasee 15,
Tiengen-79761, Germany.
Currently Lodged in,
Central Prison Puzhal-II, Chennai.

..Petitioner(s)

Vs

Union of India rep by its,
The Additional Superintendent of Police, Chief
Investigation Officer,
National Investigation Agency, Branch Office,
Chennai - 600 010.

..Respondent(s)

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CRL A No. 576 of 2026

APPEAL filed under Section 21(1) of the National Investigation Agency Act, 2008 to set aside the order passed in Crl.M.P.No.320/2025 dated 23.01.2026 on the file of the Honble Special Court under the National Investigation Agency Act, 2008, Sessions court for Exclusive trial for Bomb Blast Cases and Special court for POTA Cases at Poonamallee, Chennai.

CRL MP No. 8036 of 2026

To STAY the proceedings in Spl.S.C.No.1of 2025 on the file of the Honble Special Court Under the National Investigation Agency Act, 2008, Sessions Court for Exclusive Trial of Bomb Blast Cases and Spl.Court for POTA cases, Chennai at Poonamallee, Chennai and pass such or other suitable and appropriate orders in the circumstances this Honble Court deems fit and proper and thus render justice.

For Petitioner(s): Mr. Kaleeswaran Raj
for Mr.I.AbdulBasith

For Respondent(s): Mr. AR.L. Sundaresan, Additional Solicitor General Assisted By
Mr.R.Karthikeyan, Spl.Public Prosecutor
For NIA Cases

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J U D G M E N T

(Judgment of the Court was delivered by Dr.Anita Sumanth J.)

This appeal is filed challenging order dated 23.01.2026 passed by the Special Court under the National Investigation Agency Act, 2008, the Sessions Court for exclusive trial of bomb blast cases and Special Court for POTA cases, Chennai, rejecting the Miscellaneous Petition filed by the appellant seeking discharge under Section 227 of the Criminal Procedure Code (Cr.P.C).

2. A charge sheet had been laid on 24.12.2024, where though the appellant had been named as accused, no charges were laid against him. A first supplementary charge sheet was registered on 24.02.2025, in which the appellant had been charge sheeted for alleged offences under Sections 120B, 153A and 153B of the Indian Penal Code (IPC) and Sections 13 and 18 of the Unlawful Activities (Prevention) Act, 1967 (in short 'UAPA'). A second supplementary charge sheet was registered on 01.08.2025 expanding the scope of investigation to include alleged offences under Section 17 of the UAPA.

3. Per the charge sheets, the appellant had been engaged in radicalisation of persons with the ideology of the Hizb Ut Tahrir (HuT) to enable HuT to achieve its goal of establishing Khilafa in India. The respondent alleged that the appellant had recruited students for the classes that he had conducted in Chennai from 2004 to 2009, purpose being to radicalise and add to the cadre of the HuT.

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4. In the supplementary charge sheets, there were allegations that the appellant had received funds from various persons including from the head of the HuT for conduct of the radicalisation sessions and material collated by the respondent in the form of twitter posts and whatsapp messages that supported the case of the Prosecution.

5. We have heard Mr.Kaleeswaran Raj, who appears for Mr.Abdul Basith, learned counsel on record for the appellant. His submissions in brief are as follows. The appellant is a citizen of the United Kingdom and has settled down there. An FIR was registered on 04.06.2024, pursuant to which, based on LOC initiated vide RC/01/2024/NIA/CHE 11261 on 01.08.2024, the appellant was arrested on 30.08.2024.

6. Taking us in detail through Sections 2(o), 13, 15, 17 and 18 of the UAPA, learned counsel would argue that none of the ingredients required to establish the commission of a terrorist act under Section 15 had been satisfied by the respondents. The threshold under Section 15 was high, and as the only recovery effected had been of digital devices, and not bombs or incendiary items, Section 15 was not attracted. As a sequitur, since Sections 17 and 18 deal specifically to offences related to commission of terrorist acts, they ought not to have been invoked at all.

7. He would submit that HuT has been banned as a terrorist organisation only with effect from 10.10.2024 and hence any activity in association with

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HuT prior to that date might, at best, be unlawful, but not assume the character of a terrorist act as required under Section 15.

8. He relies on the following judgments to buttress his case.

(i) *Sajjan Kumar V. Central Bureau of Investigation*[1]
(ii) *Gajanan VisheshwarBirjur V. Union of India (UOI) and ors.*[2]
(iii) *Vernon V. State of Maharashtra and another*[3]
(iv) *Dr. Anand Rai V. State of Madhya Pradesh and another*[4]

9. In conclusion, he would plead that the appellant has been in custody since 30.08.2024 and his wife and children are suffering owing to his absence caused by the incorrect appreciation of the law by the respondents.

10. Mr.AR.L.Sundaresan, learned Additional Solicitor General appearing for Mr.R.Karthikeyan, learned Special Public Prosecutor for NIA cases would support the impugned order reiterating the contents of counter dated 11.06.2026, wherein the respondents have outlined the scope of the alleged offence committed by the appellant.

11. According to the respondent, the investigation had revealed several documents to indicate that the appellant, in conspiracy with other accused, had been advocating, propagating and abetting serious crimes of terrorism. The association of the appellant with HuT was admitted as he had so confessed in

[1](2010) 9 SCC 368
[2] (1994) 5 SCC 550
[3](2023) 15 SCC 56
[4]2026 SCC OnLine SC 187

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his disclosure statement recorded in the office of the National Investigation Agency, Chennai on 21.02.2025.

12. The digital devices that had been seized, including the mobile phone, and the investigation of the bank statements, twitter and WhatsApp messages of the accused and his close associates, reveal incriminating material including chats with several foreign contacts both for receipt of funds from overseas sources and for furthering the activities of HuT. The forensic analysis report of the digital devices seized from the appellants' house including external disks contain several incriminating audios, videos and documents used by the appellant for propagating his radical ideologies.

13. Several witnesses have been examined by the Prosecution, many of whom had testified to the activities of the appellant and spoken about the radicalisation sessions conducted by the appellant. In such circumstances, the learned trial Judge had rightly dismissed the application for discharge.

14. In fact, the bail sought by the appellant had been dismissed and appeals as against that order in Crl.A.Nos.18 and 57 of 2025 had also been dismissed by this Court on 09.03.2026 and that order has become final. Hence the prima facie finding as against the appellant in one case would equally be applicable in the present case.

15. The Prosecution relies on the following judgments:

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(i) *Aziz Ahamed @ Aziz Ahmed @ Jaleel Aziz Ahmed V. Union of India*[5]
(ii) *Bhawna Bai V. Ghanshyam and others*[6]
(iii) *Asim Shariff V. National Investigation Agency*[7]
(iv) *Ghulam Hassan Beigh V. Mohammad Maqbool Magrey and others*[8]

16. By way of reply, Mr.Kaleeswaran would reiterate the distinction between '*unlawful activity'* and '*terrorist activity'*. While he would go so far as to say that the activities of the appellant as outlined by the Prosecution may, without conceding, amount to activities that were unlawful that may be categorized under Section 13 of the UAPA, they can, by no stretch of imagination, construe terrorist acts, so as to attract Section 15. He would hence reiterate his plea for discharge from trial.

17. We have heard both learned counsel and carefully examined the pleadings, the evidences, including in the form of witness testimony, and the case law relied upon by both parties.

18. The appellant has been arrayed as A5 in charge sheet dated 24.12.2024 where no charge has been laid against him. In the first supplementary charge sheet dated 24.02.2025, he is alleged to have committed offences punishable under Sections 120B, 153A, 153B of IPC and Sections 13 and 18 of the UAPA. The ambit of investigation has been expanded under the

[5]Crl.A.Nos.18 and 57 of 2025 dated 09.03.2026
[6](2020) 2 SCC 217
[7](2019) 7 SCC 148
[8](2022) 12 SCC 657

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second supplementary charge sheet dated 01.08.2025 to include offences under Section 17 of the UAPA as well.

19. At the outset, it seems evident that the purpose of this appeal is to obtain discharge in respect of the offences under Sections 17 and 18 of the UAPA so as to facilitate and pave the way to obtain bail for the appellant. Bail has been rejected twice. On both occasions, the Court invoking Section 43-D(5) of the UAPA, has rendered prima facie findings adverse to the appellant.

20. The case of the Prosecution is that the appellant has had a long association with HuT, and engagement in illegal acts of propagating HuT ideology as seen from incriminating bank statements, WhatsApp chats and twitter posts. Though there is a reference to the periods 2004 to 2009, in the charge sheets, the material placed on record spans even the later periods.

21. The chat in a whatsapp group named 'Media Campaign' where the appellant was an Admin, reveals prima facie that, military and monetary assistance was being sought from various agencies avowedly to establish Khilafa and liberate Kashmir. One article posted by the appellant in that group included a series of instructions for spreading the message of HuT.

22. The bank accounts of the appellant and his associates have been investigated and the investigations, coupled with the recoveries made on the

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disclosure of the appellant reveal that amounts have been received from several persons including the head of HuT in India during the years 2004 to 2008.

23. Section 2(o) of the UAPA defines unlawful activity in relation to an individual or association, as the commission of an act, or by words, either spoken or written, or by signs or by visible representation or otherwise— (i) which is intended, or supports any claim to bring about the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession; or (ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India; or (iii) which causes or is intended to cause disaffection against India.

24. One of the charges against the appellant relates to the commission of unlawful activities, for which Section 13 imposes punishment as follows:

> ***13. Punishment for unlawful activities.—****(1) Whoever—*
>
> *(a) takes part in or commits, or*
>
> *(b) advocates, abets, advises or incites the commission of, any unlawful activity, shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.*
>
> *(2) Whoever, in any way, assists any unlawful activity of any association, declared unlawful under section 3, after the notification by which it has been so declared has become effective under sub-section (3) of that section, shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.*

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25. Chapter IV deals with punishment for terrorist activities and commences with Section 15 which deals with terrorist act. Section 15 reads as follows:

> ***15. Terrorist act.—****(1) Whoever does any act with intent to threaten or likely to threaten the unity, integrity, security , economic security, or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country,—*
>
> *(a) by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisonous or noxious gases or other chemicals or by any other substances (whether biological radioactive, nuclear or otherwise) of a hazardous nature or by any other means of whatever nature to cause or likely to cause—*
>
> *(i) death of, or injuries to, any person or persons; or*
>
> *(ii) loss of, or damage to, or destruction of, property; or*
>
> *(iii) disruption of any supplies or services essential to the life of the community in India or in any foreign country; or*
>
> *(iiia) damage to, the monetary stability of India by way of production or smuggling or circulation of high quality counterfeit Indian paper currency, coin or of any other material; or*
>
> *(iv) damage or destruction of any property in India or in a foreign country used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies; or*
>
> *(b) overawes by means of criminal force or the show of criminal force or attempts to do so or causes death of any public functionary or attempts to cause death of any public functionary; or*
>
> *(c) detains, kidnaps or abducts any person and threatens to kill or injure such person or does any other act in order to compel the Government of India, any State Government or the Government of a foreign country or an international or inter-governmental*

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organisation or any other person to do or abstain from doing any act; or commits a terrorist act.

26. Section 15(1) deals with any act committed with the intention of either threatening or being likely to threaten the unity, integrity, security, economic security or sovereignty of India or with the intention to strike terror or being likely to strike terror in the people of India, or of a section of the people in India or abroad by the means employed in clauses (a) to (c) of that Section. The means adumbrated are comprehensive in themselves, and made wider by use of the phrase *'by any other means'*. Hence, any act that would result in the consequences outlined in clauses (a) (i) to (iv), (b) and (c) would come within the ambit of Section 15(1).

27. Section 16 sets out the punishment for terrorist act and Section 17 with raising funds for terrorist act. Section 17 reads as under:

> ***17. Punishment for raising funds for terrorist act****.—Whoever, in India or in a foreign country, directly or indirectly, raises or provides funds or collects funds, whether from a legitimate or illegitimate source, from any person or persons or attempts to provide to, or raises or collects funds for any person or persons, knowing that such funds are likely to be used, in full or in part by such person or persons or by a terrorist organisation or by a terrorist gang or by an individual terrorist to commit a terrorist act, notwithstanding whether such funds were actually used or not for commission of such act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.*
>
> *Explanation.—For the purpose of this section,—*
>
> *(a) participating, organising or directing in any of the acts stated therein shall constitute an offence;*

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(b) raising funds shall include raising or collecting or providing funds through production or smuggling or circulation of high quality counterfeit Indian currency; and

(c) raising or collecting or providing funds, in any manner for the benefit of, or, to an individual terrorist, terrorist gang or terrorist organisation for the purpose not specifically covered under section 15 shall also be construed as an offence.

28. This Section applies to the act of raising, providing or collecting funds knowing that such funds are likely to be used in full or in part to commit a terrorist act, notwithstanding whether such funds were actually used for that purpose.

29. Section 18 deals with punishment for conspiracy and states that *'Whoever conspires or attempts to commit, or advocates, abets, advises, incites, either directly or knowingly, or facilitates the commission of a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.*

30. The charges laid as against the appellant relate to Sections 13, 17 and 18 of the UAPA. In our view, Sections 17 and 18 are stand alone in nature, and do not require the actual commission of a terrorist act, as contemplated under section 15. It would suffice that the allegations, and evidence on record relate to those acts adumbrated in Sections 17 and 18, being the raising of funds for use in a terrorist act or conspiracy, or attempts to commit or advocate, abet, advice

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or incite the commission of a terrorist act, or any act preparatory to the commission of a terrorist act.

31. The activities allegedly engaged in by the appellant are, conducting classes relating to the ideology of the HuT ideology, which is essentially a call for mobilisation of armies to threaten the security, integrity and sovereignty of the Country. It is true that HuT has been banned from 10.10.2024 and features in serial number 45 in Schedule I of the UAPA.

32. Needless to state, it is the manner of association with the organization that is relevant. By his own admission, the appellant has close ties with the HuT and has been engaged in both the raising of funds and conduct of classes for propagating the ideology of the HuT since 2004. The ideologies of HuT remain consistent even from earlier times and hence the fact that the ban was only in 2024 does not lead to the conclusion that association for the prior periods should be taken to be innocuous.

33. Section 15 (1) deals with the intent of an accused, that is, to perpetrate any act that threatens the unity, integrity, security, sovereignty or strikes terror in the people of India or any section thereof. Clause (a) outlines the measures by which the intended consequences might be achieved, that is, by the use of explosives, inflammable substances, weapons, gases, other substances or any other means. Sub-clauses (i) to (iv) of clause (a) outline the intended consequences, such as death/injury to persons, loss/destruction of property,

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disruption to the life of an India or foreign people, damage to monetary stability and threat to any property in or outside the Country used for the defence of the Country or of any of the Central or State agencies.

34. The following incriminating material has been extracted from the digital devices of the appellant seized on 24.07.2021 and 30.07.2024:

24.07.2021:

i. An audio in which A-5 says that the power is with Pakistan's chief and his core 12 commanders. From the core commanders, there are 5 battalions. It is not mandatory to get Nussrah from the chief, also it can be attained from core commanders. If the authority approves, the places that should be captured are TV stations, Radio stations, Harbour, airports, borders, internal ministries, foreign ministries, and the Presidential palace. To capture the Presidential palace, first security should be taken. A local battalion can capture the airport, and so can the harbour. It is hard to do this work but it is the method that Allah ordered and we are trying to get support.

30.07.2024:

(a) to use VPN with address outside India, (b) usage of paid marketing through funds, track daily subscription, shares etc, (c) should back up in website and repository can be removed any time and banned.

Prima facie, the above material indicate conspiracy and intent, that would threaten security and integrity of the Country.

35. Thus, in our view, the activities of the appellant prima facie, fall within the cover of Sections 17 and 18 dealing with the raising of funds and conspiracy/abetment/advise/incitement in connection with or preparatory to the commission of the terrorist act, if not the actual commission of the act itself.

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36. The orders denying bail have been relied upon by the respondents and some arguments have been advanced on the relevance and applicability of the tests in Section 43-D(5) of the UAPA to a case of discharge under Section 227 Cr.P.C.

37. Section 227 requires consideration of the record of events and documents submitted therewith, and the satisfaction of the Judge concerned, that there is no sufficient ground for proceeding against the accused.

38. Section 43-D(5) of the UAPA dealing with modified application of some provisions of Cr.P.C. says that notwithstanding anything contained in Cr.P.C., no person accused of an offence punishable under Chapters IV and VI of the UAPA shall be granted bail unless the Public Prosecutor has been heard and there are reasonable grounds for believing that the accusation made against that person is prima facie untrue.

39. The two provisions operate in different spheres and for different purposes. The purpose of Section 43-D(5) is to ensure that the rigour of bail is enhanced in a case involving an offence under Chapters IV and VI of UAPA and no bail may be granted unless the Court records prima facie satisfaction that the accusations are not true.

40. In Section 227 of Cr.P.C., having considered the record of the events and the documents, the consideration of the Judge is that no sufficient ground

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has been made out for proceeding against the accused. Courts have held that it would be enough for such consideration, that a grave suspicion is made out by the Prosecution.

41. The burden on the Prosecution is thus less in cases under Section 227 of the Cr.P.C. when compared to a case under Section 43-D(5) of the UAPA. To put it comparatively, the burden on the Prosecution in bail proceedings under Section 43-D(5) is higher, as is the burden on the accused, under Section 227 Cr.P.C.

42. The scope of inquiry permissible at the stage of framing of charge and discharge from offences were dealt with in *Sajjan Kumar's*[9]case and the principles summarised in *Union of India V. Prafulla Kumar Samal*[10] were set out, as follows:

> *"(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.*
> *(2) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained the court will be fully justified in framing a charge and proceeding with the trial.*
> *(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not*

[9]Foot Note Supra (1)
[10](1979) 3 SCC 4

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grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced court cannot act merely as a post office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial."

43. These principles have been reiterated in the judgments in *Asim Shariff*[11] and *Ghulam Hassan Beigh*[12]. Three Hon'ble Judges of the Supreme Court in the case of *Bhawna Bai*[13], making reference to the judgments in *Amit Kapoor V. Ramesh Chander*[14] and *State of Bihar V. Ramesh Singh*[15] have held that *'At the time of framing the charges, only prima facie case is to be seen; whether case is beyond reasonable doubt, is not to be seen at this stage. At the stage of framing the charge, the court has to see if there is sufficient ground for proceeding against the accused. While evaluating the materials, strict standard of proof is not required; only prima facie case against the accused is to be seen.'*

44. In our considered view, a prima facie case exists in this case on the materials produced by the prosecution. We find that the judgment in the case of *Vernon*[16] cited by the appellant is distinguishable on facts. In that case, no

[11]Foot Note Supra (7)
[12]Foot Note Supra (8)
[13]Foot Note Supra (6)
[14](2012) 9 SCC 460
[15](1977) 4 SCC 39
[16]Foot Note Supra (3)

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material was recovered from the appellant and the letters/communications in the possession of the Prosecution had been recovered from third parties. The Court thus held that those communications and the contents would have only weak probative value. The finding of the Court was that there was no actual involvement of that accused in any terrorist act except participation in some seminars. The distinction in the present case is that the messages/twitter posts are attributable directly to the appellant.

45. Conspiracy defined under Section 120A of the IPC means two or more persons agreeing or causing to be done, an illegal act, or an act which is not illegal but by illegal means. The proposed acts, as seen from the message/twitter posts of the appellant, coupled with the propagation of HuT ideology, indicates prima facie, involvement of the appellant in criminal conspiracy falling within the ambit of Section 18 of the UAPA.

46. We clarify and confirm that we have not at this stage, gone into the evidentiary value of the materials collated, except to test whether, prima facie, the alleged acts would come within the ambit of Sections 13, 17 and 18 of the UAPA. Our decision is adverse to the appellant, and we confirm order dated 23.01.2026 passed in Crl.M.P.No.320/2025 in Spl.S.C.No.1 of 2025 declining to discharge the appellant.

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47. The Criminal Appeal and the connected Miscellaneous Petition are dismissed.

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(A.S.M.,J.) (S.M.,J.)
24.08.2026

Index: Yes
Speaking order
Neutral Citation: Yes
SL

To

Union of India rep by its,
The Additional Superintendent of Police,
Chief investigation Officer,
National Investigation Agency,
Branch Office, Chennai - 600010.

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