

THE NIA LEGAL BULLETIN



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A Compilation of Legal Updates and Relevant Judgments

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I. COURTS ON NIA ACT, 2008 AND UA(P)A, 1967

1. Case Title: Union of India v Abdul Razak and Others [2024 LiveLaw (Mad) 431 CRL.A.Nos.1224 & 1225 of 2024]

- **Brief Facts:** The case involved a delay in filing appeals under Section 21(5) of the NIA Act.
- **Issues Examined:** Whether High Courts can condone delays beyond 90 days for appeals under the NIA Act. As per Section 21 of the Act, an appeal has to be made within 30 days of the date of the order or judgment. The Section allows the High Courts to entertain an appeal even after expiry of 30 days but not beyond 90 days if it is satisfied that there was a sufficient cause for delay.
- **Judgment/Decision:** The Madras High Court held that delays beyond 90 days cannot be condoned, even with sufficient reasons. It said that *Courts creating distinction between appellants under Section 21(5) of the NIA Act for condoning the delay in preferring an appeal, would absolutely fall beyond the realm of the rule of interpretation.*
- **Outcome:** Appeals were rejected as time-barred, as no distinction between the accused and state could be made for the purposes of this section.

2. Case Title: Riyas A @ Riyas Aboobakkar @ Abu Dujana v Union of India [2024 LiveLaw (Ker) 79]

- **Brief Facts:** The accused was convicted under Sections 38 and 39 of the UAPA based on corroborated evidence and approver evidence.
- **Issues Examined:** Whether the sentence was proportionate to the gravity of the offense?
- **Judgment/Decision:** The Kerala High Court upheld the conviction but reduced the sentence considering mitigating factors, taking note that the appellant was only 29 years old at the time of the commission of the offences and that he was not involved in any other crimes. It noted that his actions were motivated by religious ideologies and that his activity was limited and extended to a large number of persons. It also noted that similar accused persons were granted

less punishment as compared to the appellant and also noted his prospects of rehabilitation, motive and conduct during the trial while reducing the punishment.

- **Outcome:** The sentence was reduced for parity and rehabilitation prospects.

II. COURTS ON PROCEURES RELATED TO ARREST

3. Case Title: PRANAV KUCKREJA (IN POLICE CUSTODY) v. STATE (NCT OF DELHI) [2024 LiveLaw (Del) 1262]

- **Brief Facts:** It was the accused's case that his arrest was carried out in contravention of the principles of law as the grounds for arrest were not communicated to him. He submitted that the investigating agency has failed to comply with the mandatory requirements of law and that the arrest memo prepared at the time of his arrest did not disclose any grounds of arrest. The Delhi Police said that although the arrest memo did not explicitly stated the grounds of arrest specific to the accused, but the said grounds were duly conveyed to him.
- **Issues Examined:** Whether failure to inform the grounds of arrest invalidates the detention?
- **Judgment/Decision:** The Delhi High Court held that the arrest was illegal under Section 50 of Cr.P.C.
- **Outcome:** Bail was granted to the accused.

4. Case Title: COURT ON ITS OWN MOTION v. STATE [2024 LiveLaw (Del) 1389]

- **Brief Facts:** The case dealt with the mandatory nature of Section 311A of Cr.P.C. for obtaining specimen signatures.
- **Issues Examined:** Whether arrest is mandatory for obtaining specimen signatures under Section 311A?
- **Judgment/Decision:** The Delhi High Court held that the proviso to Section 311A is directory, not mandatory. It ruled that it is not essential to arrest a person who voluntarily appears before the Court or Magistrate, pursuant to the application filed by the Investigating Officer, for giving specimen signature or handwriting. The Court observed that the provision in question was meant to safeguard the interest of an accused person as well as to ensure that the investigation is not impeded in any manner.
- **Outcome:** Specimen signatures can be obtained without arrest.

III. SUPREME COURT ON S. 27 OF THE INDIAN EVIDENCE ACT

5. **Case Title: RANDEEP SINGH @ RANA & ANR. versus STATE OF HARYANA & ORS.[2024 LiveLaw (SC) 914]**

- **Brief Facts:** The case concerned the admissibility of confessional statements under Section 27 of the Indian Evidence Act. In this case (an appeal against a conviction in the murder case), the accused allegedly stated regarding the place where the dead body was disposed of. However, the examination-in-chief of the investigating officer included the confession of the accused about his involvement in the murder.
- **Issues Examined:** What parts of a confessional statement are admissible under Section 27?
- **Judgment/Decision:** Only the part of the statement leading to evidence discovery is admissible. The Supreme Court clarified that under Section 27 of the Evidence Act, only the specific portion of the statement of the accused which is directly linked to the discovery/recovery of evidence is admissible, and that the confession of the accused cannot be incorporated while proving a statement under Section 27. The Court held that inadmissible parts of such statements cannot be incorporated in the prosecution witness's chief examination.
- **Outcome:** Statements exceeding this scope were excluded.

IV. SUPREME COURT ON MISCELLANEOUS CRIMINAL PROVISIONS ON CRPC AND OTHER SPECIAL LAWS

6. **Case Title: IRFAN KHAN VERSUS STATE (NCT OF DELHI) [2024 LiveLaw (SC) 945]**

- **Brief Facts:** The accused was charged under the Arms Act for possession of a prohibited knife and for violation of the Delhi Government's DAD Notification dated 29th October, 1990.
- **Issues Examined:** Whether possession is punishable without specific prohibited purposes?
- **Judgment/Decision:** The Supreme Court quashed the case, stating possession is punishable only with prohibited purposes under the relevant notification. The SC held that, "*Manifestly, on going through the report under Section 173 CrPC, there is not even a whisper that the appellant's possession of the said buttondar knife was for any of the prohibited categories as indicated in the DAD Notification. Hence, the totality of the evidence collected by the investigation officer is not sufficient to draw even a remote inference that by simply being*

found in possession of the buttondar knife, the appellant acted in violation of the DAD Notification.”, the Court added.

- **Outcome:** The case was dismissed.

V. **SUPREME COURT ON RIGHTS OF ACCUSED IN MATTERS OF BAIL**
UNDER THE UAPA

7. **Case Title: ATHAR PARWEZ Versus UNION OF INDIA [2024 LiveLaw (SC) 1006]**

- **Brief Facts:** The accused faced prolonged incarceration under the UAPA without trial.
- **Issues Examined:** Whether prolonged pre-trial detention violates Article 21 of the Constitution?
- **Judgment/Decision:** The Supreme Court ruled that prolonged detention without trial is unjustified and granted bail. the Supreme Court granted bail to an accused booked for alleged involvement with the Popular Front of India (“PFI”) in causing disturbance during the Prime Minister's proposed visit to Patna in 2022. The Court reiterated that prolonged incarceration of the accused in draconian statutes like the Unlawful Assemblies (Prevention) Act, 1967 (“UAPA”) would make him eligible for a grant of bail despite the rigours of Section 43-D (5) of the UAPA. The Court also observed that there were no materials indicating that the allegations were prima facie correct, which would attract the UAPA.
- **Outcome:** Bail was granted to the accused.