



ISSUE 8
(Jan-Mar,2026)

THE NIA LEGAL BULLETIN

A Compilation of Legal Updates and Relevant Judgments

S.No.	Title of the Judgment	Citation	Rationale of the Judgment
1.	Pramod Kumar & Ors v State of UP & Ors	2026 INSC 120	Even after submitting a final report under section 173(2) of CrPC, permission of the concerned Magistrate/Court is needed to conduct further investigation under section 173(8) of CrPC.
2.	Gulfisha Fatima v State (Govt. of NCT of Delhi)	2026 INSC 2	When a bail plea invokes prolonged incarceration and delay as cumulative grounds, the Court has to take a principle approach to examine the same. The Court also clarified the application of Najeeb judgment to such cases.
3.	Shahid Yousuf v NIA	2025:DHC:11786 - DB	An Order framing Charge, as against final order is an interlocutory order, as it does not decide any proceeding finally and the term 'intermediate order' is a concept of revisional jurisdiction, which cannot be applied while interpreting the term 'appeal' both on facts and law.
4.	UoI represented by its SP, NIA, Chennai v Thiruselvam and Ors	CRL A No.275 of 2022	When two cases were tried separately for charges framed against the accused, the sentences awarded in both the cases cannot be ordered to run concurrently.

राष्ट्ररक्षणम् आद्यकर्तव्यम्।

I. SUPREME COURT ON BNSS AND COURTS' ROLE AT DIFFERENT STAGES OF CRIMINAL PROCEEDINGS

1. Pramod Kumar & Ors v State of UP & Ors, 2026 INSC 120

- **Brief Facts** : The closure report submitted by the IO for a gang rape case (registered in 2013) was accepted by the concerned Magistrate, as the complainant failed to appear after several notices. After three years, the original complainant filed a Criminal Revision Petition before the District and Sessions Judge. However, based on an NHRC complaint, the State directed the CBCID to conduct further investigation under section 173(8) of CrPC, which happened without the permission of the Court, leading to DNA collection. The Appellants challenged the executive orders before the Allahabad High Court (Lucknow Bench), arguing that the police could not unilaterally order further investigation after judicial closure. Dismissing the petition, the High Court noted that the prosecutrix had filed a protest petition. The High Court judgment was appealed before the Supreme Court.
- **Issue(s)** : Whether after submitting a final report under section 173(2) of CrPC (section 193(3) of BNSS), the police/investigating agency can conduct further investigation under section 173(8) of CrPC (section 193(9) of BNSS) without obtaining the leave of the Magistrate/ Court concerned?
- **Judgment** : In the event, the police/investigation agency is of the opinion that further investigation is necessary in any particular case to cull out complete facts and truth in the case, it is binding upon them to file an appropriate application before the Magistrate/Court, without directing an order for further investigation by themselves.
- **Outcome:**
 - a. The High Court judgment was set aside.
 - b. The executive orders were quashed and set aside.
 - c. The Trial Court was directed to decide the criminal revision preferred by the complainant on its own merits.

2. Gulfisha Fatima v State (Govt. of NCT of Delhi), 2026 INSC 2

- **Brief Facts** : The batch of bail pleas in this case relates to the alleged larger conspiracy behind the 2020 Delhi riots. The case originates from FIR 59/2020, which alleges that several activists and students, including Umar Khalid, Sharjeel Imam, Gulfisha Fatima, Meeran Haider, Shifa-ur- Rehman, Mohd. Saleem Khan, Shadab Ahmad and others planned and coordinated protests against the Citizenship (Amendment) Act, 2019, which allegedly escalated into violence in North-East Delhi. Subsequently, the appellants were arrested on different dates and charge sheeted under Sections 120B read with several sections of IPC, Sections 13, 16, 17 and 18 of UAPA, Sections 25 and 27 of the Arms Act, and Sections 3 and 4 of the Prevention of Damage to Public Property Act. The prosecution alleged that the incidents of

violence were not isolated or spontaneous, but were the outcome of a larger conspiracy in which several accused persons are alleged to have participated at different stages and in different capacities.

•Issue(s):

- i. Whether prolonged incarceration, coupled with the absence of any realistic prospect of early conclusion of trial, rendered continued detention violative of Article 21. Whether the same can be a ground for bail. In prosecutions under the UAPA, when delay and prolonged incarceration are invoked as grounds for bail, what is the principled approach by which a constitutional court is to examine such a plea.
- ii. Whether prolonged pre-trial detention under the UAPA can be a ground for bail.
- iii. Whether protest speeches, public meetings, and WhatsApp group membership can constitute a terrorist conspiracy under Sections 16–18 UAPA.
- iv. Whether years of incarceration without trial violate the right to personal liberty under Article 21.
- v. Whether repeated supplementary charge-sheets and delays in framing charges can justify continued custody.

•Judgment:

- a. Prolonged incarceration: *Union of India v. K.A. Najeeb*, (2021) 3 SCC 713 must be understood as a principled safeguard against unconscionable detention. Prolonged incarceration is a matter of serious constitutional concern and carries great weight. It is not, however, the sole determinant. The Court must consider, in totality, whether continued detention has become constitutionally unjustifiable, having regard to the role attributed, the statutory context, the limited prima facie material, the trajectory of the trial, the causes of delay, and the availability of intermediate remedies.
- b. Statutory framework of section 43D(5) and the scope of judicial inquiry at the bail stage: The following four propositions, read together, define the contours of judicial power and responsibility under section 43D(5):
 - i. The provision embodies a deliberate legislative departure from ordinary bail jurisprudence
 - ii. The expression “prima facie true” mandates a threshold judicial inquiry which is neither perfunctory nor adjudicatory
 - iii. The inquiry is necessarily accused specific, directed to the role and attribution qua the individual
 - iv. The bail stage under Section 43D(5) is not a forum for evaluating defences, weighing evidence, or conducting a minitrial; judicial restraint at this stage is not an abdication of duty but a fulfilment of the statutory mandate.
- c. Scope of “Terrorist act” under section 15 and the statutory context: Parliament has consciously employed the expression “by any other means of whatever nature”, which expression cannot be rendered otiose. The statutory emphasis is thus not solely on the instrumentality employed, but on the design, intent, and effect of the act. To construe Section 15 as limited only to conventional modes of violence would be to unduly narrow the provision, contrary to its plain language

d. Individualised role and differentiation in treatment of the prime conspirators with others:The constitutional mandate demands a differentiated inquiry, where prolonged custody disproportionately burdens those whose roles are limited, the balance between individual liberty and collective security may call for conditional release, while the same balance may tilt differently for those alleged to have orchestrated the offence.

• **Outcome:**

- a. The material placed on record established that Umar Khalid and Sharjeel Imam stand on a qualitatively different footing from the remaining accused. Therefore, continued detention has not crossed the threshold of constitutional impermissibility so as to override the statutory embargo. The complexity of the prosecution, the nature of evidence relied upon, and the stage of the proceedings do not justify their enlargement on bail.
- b. The Trial Court was directed to proceed with the matter with due expedition and to ensure that the examination of witnesses, particularly the protected witnesses relied upon by the prosecution, is taken up and carried forward without delay.

II. HIGH COURTS ON UAPA AND BNSS

3. Shahid Yousuf v NIA, 2025:DHC:11786- DB

• **Brief Facts** : Multiple appeals were filed under section 21 of the NIA Act challenging the orders of Special Courts that framed charges against the appellants in different cases. The NIA filed a preliminary objection before the Delhi High Court that an appeal against an Order framing charge is not maintainable under section 21 of the NIA Act.

• **Issue(s)** : Whether an appeal against an Order framing charge is maintainable under section 21 of the NIA Act, which bars an appeal or revision to any court from any judgment, sentence or order including an interlocutory order of a Special Court.

• **Judgment/Order:**

- a. Both *Amar Nath and Ors. v State of Haryana and Anr.*, (1977) 4 SCC 137 and *Madhu Limaye v State of Maharashtra*, (1977) 4 SCC 551 held that an Order framing Charge is more than an interlocutory order, but also does not fall within the category of a final order. It falls somewhere in between and is termed as “matters of moment” or “intermediate order”.The forum of challenge to such order is by a revision under Section 397 CrPC. or in exercise of inherent power of the Court provided under Section 482 CrPC.The Supreme Court held that these cases are on scope of revision and are, thus, not applicable in the present case, where it is the scope of an appeal under consideration before this Court.
- b. The Court held that an Order framing charge, as against final order is an interlocutory order, as it does not decide any proceeding finally and the ‘term’ intermediate order is a concept of revisional jurisdiction, which cannot be applied while interpreting the term ‘appeal’ both on facts and law.

- c. A conjoint reading of section 21 of NIA Act, other sections and purpose of the NIA Act shows that the term 'order' in section 21(1) refers to a final order and not an interlocutory or intermediate order.
- **Outcome:** The present appeals were dismissed, holding that no appeal lies under section 21 of NIA Act against an Order framing charge.

4. Uoi represented by its SP, NIA, Chennai v Thiruselvam and Ors, CRL A No.275 of 2022

- **Brief Facts :** The accused persons, being members of the banned terrorist organisation 'Tamilnadu Liberation Army (TNLA)' conspired and planted pipe bombs containing explosive substances at different places in Tamil Nadu on different dates to target two former Union Ministers. The Special Court for Bomb Blast Cases, Poonamallee convicted the accused persons for the offences and sentenced them to undergo rigorous imprisonment for a period of 5 years. One of these cases was registered by NIA and was tried by the Special Judge for NIA Cases, Puducherry. The Trial Court took into account that the occurrence in all the three cases took place pursuant to the conspiracy hatched by the accused persons and was a continuous action, thereby entitled the accused persons to the benefit of section 427 CrPC. NIA appealed before the Madras High Court for enhancement of sentence and challenged the Trial Court's sentence which held that its sentence would run concurrently with the sentence imposed by the Special Court for Bomb Blast Cases.
- **Issue(s):** Whether two sentences of different cases, tried by different Trial Courts for separate charges against the accused persons, be ordered to run concurrently under section 427. of CrPC
- **Judgment/Order:**
 - a. The Madras High Court held that the award of minimum sentence of 7 years on the accused would meet the ends of justice.
 - b. The Court observed that though all the three cases are similar in nature pursuant to the conspiracy hatched by the accused and the cases came to be registered at different places, NIA has not filed any application to club all the three cases to be tried together by one Court, either at the stage of investigation or trial. The accused also accepted all the charges framed against them by different Courts and also pleaded guilty. Therefore, now they cannot say that they are one and the same and also arising out of the same cause of action.
 - c. The Trial Court's sentence to run concurrently with the sentence imposed by the Special Court for Bomb Blasts is against the law for exercise of discretion under section 427 of CrPC. Since both the cases were tried separately for charges framed against the accused, the sentences awarded in both the cases cannot be ordered to run concurrently.
 - d. The sentence awarded by the Trial Court shall commence upon expiration of the sentence of imprisonment awarded to the accused by the Special Court for Bomb Blast Cases.
 - e. The detention period already undergone by the accused in the Trial Court's case was ordered to be set off under section 428 of CrPC.
- **Outcome:**
 - a. The Madras High Court dismissed the appeal so far as the enhancement of sentence was concerned.
 - b. The Trial Court's judgment directing the sentence to run concurrently was alone set aside and the appeal was partly allowed.



राष्ट्ररक्षणम् आद्यकर्तव्यम्।



For sharing feedback and significant judgments/orders relevant for NIA,
please write to legaldiv.nia@gov.in