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THE NIA LEGAL BULLETIN

A Compilation of Legal Updates and Relevant Judgments

S.No.	Title of the Judgment	Citation	Rationale of the Judgment
1.	Pune Bar Association v UoI & Ors	SC Order, 22 May, 2026	Any other person having special skill and expertise in computer science and cyber forensics may sign as 'expert' under Part B of the certificate under section 63(4) of BSA.
2.	Anand Jakkappa Pujari @ Gaddadar v The State of Karnataka	2026 INSC 417	Once a location or object has been discovered at the instance of one accused, the same fact cannot be "re-discovered" through subsequent or identical statements made by co-accused.
3.	Adalat Yadav Etc. v The State of Bihar	2026 INSC 403	A conviction can be solely based on the testimony of a single "sterling witness" witness, provided the same is of reliable and credible quality.
4.	Syed Iftikhar Andrabi v NIA, Jammu	2026 INSC 503	<ul style="list-style-type: none">•The statutory embargo of section 43D(5) is subordinate to Articles 21 and 22 of the Constitution. Therefore, even under UAPA, 'bail is the rule and jail is the exception'.•A smaller Bench cannot dilute, circumvent, or disregard the ratio of a larger Bench.
5.	Ravi Alias Ravindra Singh v State of U.P. and another	2026:AHC:101857	The Court noted strict procedures which are to be followed by the police, public officers, prosecutors and the court, as prescribed under BNSS and other relevant laws to ensure a speedy trial in absentia.
6.	Mohd. Saquib Ansari v State of NCT of Delhi,	2026:DHC:3407-DB	Merely prolonged incarceration would not be sufficient to grant bail to the appellants. The role of each accused, as directed under <i>Gulfisha Fatima</i> case, should be considered by the Court.

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I. SUPREME COURT ON BSA AND BAIL PROVISIONS

1. Pune Bar Association v UoI & Ors, SC Order, 22 May, 2026

- **Brief Facts:** The petitioner filed a writ petition contending that section 63(4) of Bharatiya Sakshya Adhiniyam, 2023, read with the Schedule is unconstitutional as it imposes undue hardship on an ordinary litigant by requiring submission of a certificate prescribed in the Schedule comprising Part A which needs disclosure of the hash value of digital records, and Part B which must be signed by an expert.
- **Issue(s):** Whether section 63(4) of BSA is constitutional.
- **Order:**
 - a. The necessity of incorporating the hash value of the electronic record in the certificate is to ensure its authenticity and integrity, and cannot be said to lack a rational nexus with the object of the Act.
 - b. Similarly, certification by an expert in Part B provides an additional layer of authenticity to the secondary electronic evidence.
 - c. Sub-sections (1) and (2) of section 39 BSA must be read harmoniously.
 - d. Therefore, any other person having special skill and expertise in computer science and cyber forensics may sign as 'expert' under Part B of the certificate.
 - e. Sub-section (2) of Section 39 is not prefaced by a non-obstante clause so as to exclude the operation of sub-section (1) from the arena of electronic records.
 - f. The Court also held that the Madras High Court judgment in *R v B, 2024 SCC OnLine Mad 6084*, which mandates Part B to be filled up by an expert notified under section 79A IT Act, could not be treated a binding precedent.
- **Outcome:** By giving the above clarification, the Court noted that it refrains from giving any conclusive opinion on the issue and keep the question of law open.

2. Anand Jakkappa Pujari @ Gaddadar v The State of Karnataka, 2026 INSC 417

- **Brief Facts:** The prosecution alleged that the appellants along with the prime accused abducted and murdered Kalappa's sister, due to a financial dispute. The body was burnt in a forest to destroy evidence, however, the case against the appellants primarily rested on the testimony of a witness who claimed to have seen the deceased in a car with the three accused and the subsequent recovery of skeletal remains and ornaments based on joint disclosures. The Trial Court convicted the appellants under sections 302, 364, 404, and 201 read with section 34 IPC, and the same was subsequently affirmed by the Karnataka High Court. The appellants approached the Supreme Court challenging the High Court's decisions.
- **Issue(s):** Whether there is any cogent and reliable evidence to hold the two appellants guilty of the alleged crime as accomplice based on the last seen theory.

- **Judgment:**

- a. The prime accused, Kalappa, had already disclosed these locations and pointed them out to the police first. Therefore, the subsequent identical statements by the appellants did not lead to the discovery of any “new” fact.
- b. Section 27 of the Indian Evidence Act cannot be used to repeatedly discover the same fact through multiple accused to create a false sense of corroboration. Once a location or object has been discovered at the instance of one accused, the same fact cannot be “re-discovered” through subsequent or identical statements made by co-accused.
- c. It will be too much to affirm the conviction of the appellants for a serious offence like murder solely relying on the circumstance of last seen together. The prosecution has to prove its case beyond all reasonable doubt. The prosecution case ‘may be true’ but it is not that of ‘must be true’, and there is a long distance to travel between ‘may be’ and ‘must be’.

- **Outcome:**

- a. The High Court judgment was set aside.
- b. The appellants were acquitted of all charges and were ordered to be released from custody.

3. Adalat Yadav Etc. v The State of Bihar, 2026 INSC 403

- **Brief Facts:** The prosecution alleged that the appellants, along with other accused persons, surrounded the deceased, while returning home from court, and opened fire, resulting in his death. The Trial Court convicted the appellants, sentencing them to life imprisonment under section 302 of IPC and other sections. The High Court upheld the conviction primarily based on the testimony of the complainant, who was also an injured eyewitness. The appellants challenged the conviction before the Supreme Court on procedural grounds, including delay in filing the FIR.

- **Issue(s):**

- a. Whether delay in filing the FIR invalidates the prosecution’s case.
- b. Whether the Court can convict the accused solely based on eye witness.
- c. Whether non-examination of independent witnesses affect the prosecution’s case.

- **Judgment:**

- a. Mere delay is not sufficient to discard the prosecution’s case. The delay must be examined in the context of surrounding circumstances and that if satisfactorily explained, it does not adversely affect the prosecution.
- b. A conviction can be based on the testimony of a single witness, provided the same is of reliable and credible quality. It emphasised that evidence is to be weighed and not counted, and that testimony of a “sterling witness” can form the sole basis of conviction.
- c. A credible eyewitness testimony carries greater evidentiary value than expert medical opinion.
- d. The non-examination of independent village witnesses, due to their fear and societal pressures, does not undermine the prosecution's case.

- **Outcome:** The appeal was dismissed and the conviction and sentence of the appellants were upheld.

4. Syed Iftikhar Andrabi v NIA, Jammu, 2026 INSC 503

- **Brief Facts:** The NIA Special Court, Jammu rejected the bail application of the appellant, charged under sections 17, 38 and 40 of UAPA read with section 8, 21, 25 and 29 of NDPS Act and section 120B of IPC. The High Court of Jammu & Kashmir and Ladakh upheld the order and dismissed the appeal filed by the appellant under section 21 of the NIA Act. The present case raises an important question concerning the interface between section 43D(5) of UAPA and the constitutional guarantee of personal liberty under Article 21 of the Constitution.
- **Issue(s):**
 - a. How Article 21 is to be applied against the statutory bar on bail under Section 43D(5) of the Unlawful Activities (Prevention) Act, (UAPA) 1967?
 - b. Whether a smaller Bench is bound by the judgment of a larger Bench of the Supreme Court.
- **Judgment:**
 - c. The Court observed that being a two-Judge Bench, they are bound by the ratio laid down by the three-Judge Bench in *Union of India v KA Najeeb*, AIR 2021 SC 712, wherein the Court did not hold that mere passage of time automatically entitles an accused to bail. Rather, it recognised that the rigours of Section 43-D(5) would “melt down” where there is no likelihood of trial concluding within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence.
 - d. The Court emphasised on two Division Bench cases, namely, *Gurwinder Singh v State of Punjab*, (2024) 5 SCC 403 and *Gulfisha Fatima v State (NCT of Delhi)*, 2026 SCC OnLine SC 10, which took somewhat divergent views from the *Najeeb* judgment.
 - e. The statutory embargo of section 43D(5) must remain a circumscribed restriction that operates subject to the guarantee of Articles 21 and 22 of the Constitution. Therefore, even under UAPA, ‘bail is the rule and jail is the exception’.
 - f. A smaller Bench cannot dilute, circumvent, or disregard the ratio of a larger Bench. If the smaller Benches are unable to agree with the ratio laid down by the larger Bench then the proper and the only course of action open is to make a reference to the Hon’ble Chief Justice of India for placing the matter for consideration by a still larger Bench.
- **Outcome:** The appellant was granted bail during the pending of the trial.

II. HIGH COURTS ON THE RIGHTS OF THE ACCUSED

5. Ravi Alias Ravindra Singh v State of U.P. and another, Allahabad HC, 2026:AHC:101857

- **Brief Facts:** The appellant was facing trial under sections 307 and 504 of IPC. Although he was granted bail in 2021 and charges were framed in his presence in early 2024, he subsequently stopped appearing before the Trial Court. Despite being aware of the proceedings, the applicant remained absent for over 29 scheduled dates, prompting the issuance of Non-Bailable Warrants and subsequent proceedings for proclamation and attachment. The appellant challenged the initial warrant before the High Court.
- **Issue(s):** Whether the declaration of the accused as proclaimed offender violated his rights.
- **Judgment:**
 - a. In paras 13 to 83, the Court observed strict procedures, as prescribed under BNSS and other relevant laws, that are to be followed by the police, public officers, prosecutors and the court to ensure a speedy trial in cases involving an absconding accused at the following four stages of criminal proceedings:
 - I. An accused absconds during investigation and police report/charge sheet is submitted against him, declaring him a proclaimed offender.
 - II. An accused is not arrested during the investigation; either his arrest is stayed by any court of law, or his arrest is not required and he subsequently absconds after summoning and till the conclusion of the trial.
 - III. An accused is on bail during investigation, furnishing bail bond and surety and he absconds subsequently after summoning and till the conclusion of the trial.
 - IV. An accused absconds after the framing of charge while he was released on bail/anticipatory bail, on furnishing his bail bond and surety.
 - b. The Court also mentioned that to prosecute an absconder accused and to complete trial, the following conditions, as mentioned under section 356 of BNSS must be followed:
 - i. If a proclaimed offender absconds to evade trial and there is no immediate prospect of arrest, it is legally deemed a waiver of their right to be present and tried in person.
 - ii. The court can record evidence, examine witnesses, and pronounce a judgment even if the accused is not physically present.
 - iii. To ensure transparency and accuracy, depositions and examinations of witnesses should be recorded using audio-video electronic means, such as mobile phones.
 - iv. If the absconding accused does not have lawyer, the court must provide an advocate for their defence at the expense of the State.
 - v. The trial cannot commence until at least 90 days have passed since the framing of charges.
 - vi. At least two consecutive arrest warrants must be issued with an interval of at least 30 days between them.
 - vii. A notice must be published in a national or local daily newspaper circulating in the area of the accused's last known residence.
 - viii. The court must inform the accused's relatives or friends about the commencement of the trial.
 - ix. Trial information must be displayed at a conspicuous part of the accused's house and at the local police station.

c. It held that the safeguards under section 356 of BNSS, such as the appointment of a legal aid counsel and the 30-day notice period before the commencement of the trial in absentia, sufficiently protected the accused's right to a fair trial.

- **Outcome:** The Court declined to quash the non-bailable warrant and kept it in abeyance for two months to provide the applicant a final opportunity to surrender and cooperate.

6. Mohd. Saquib Ansari v State of NCT of Delhi, Delhi HC, 2026:DHC:3407-DB

- **Brief Facts:** The appellants were operating a Rajasthan module of the Indian Mujahideen. They were found in possession of significant quantities of explosives, detonators and electronic devices, and were engaged in preparatory acts for terrorist attacks, including efforts relating to poison-based attacks. Cases were registered in Delhi, Jaipur and Jodhpur for offences under IPC, UAPA and Explosive Substances Act, and the appellants were arrested in 2014. The Trial Court, Jaipur convicted the appellants in the Jaipur case. On appeal, the Rajasthan High Court suspended their sentences (Jaipur case) and granted bail (Jodhpur case) on the ground that the appellants have served for more than 9/10 years in incarceration. In a parallel proceeding at the Special Court in Delhi, the appellants' bail plea was rejected. Subsequently, the accused persons appealed before the Delhi High Court on grounds of long incarceration and of parity with a co-accused who was earlier granted bail.

- **Issue(s):**

- a. Whether prolonged incarceration alone can constitute a standalone ground for bail under the UAPA, while the material on record discloses a continuing terror threat and satisfies the *prima facie* threshold under section 43D(5) of UAPA.
- b. Whether bail can be granted on the ground of parity with a co-accused.

- **Judgment:**

- a. Insofar as the prolonged period of incarceration is concerned, the decision in *Gulfisha Fatima v State (Govt. of NCT of Delhi), 2026 INSC 2* makes it clear that the role which has been attributed to the appellants, *prima facie* material, etc. deserves to be considered by the Court.
- b. In the case of persons such as appellants, who are part of terrorist organizations, there exists a continuing threat that they are likely to indulge in such behaviour if they are granted bail, especially, when considered in the light of the conviction order of the Special Court.
- c. In these facts and circumstances, merely prolonged incarceration would not be sufficient to grant bail to the appellants.
- d. The Court rejected the plea of parity with a co-accused granted bail earlier, as the recoveries attributed to the appellants, including explosives, chemicals and electronic evidence, materially distinguished their case.

- **Outcome:** The Special Court's order was upheld, while the appeals were dismissed.



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