



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JANUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

SUPREME COURT LEAVE APPLICATION NO.2 OF 2025

BETWEEN:

ASIM SHARIFF
S/O LATE ANWAR SHARIFF,
AGED ABOUT 47 YEARS,
R/AT NO.61, 1ST MAIN,
S.K. GARDEN, BENSON TOWN,
BENGALURU-560046
(PETITIONER IS IN JUDICIAL CUSTODY)

...PETITIONER

(BY SRI MOHAMMED TAHIR, ADVOCATE)

AND:

NATIONAL INVESTIGATION AGENCY
MINISTRY OF HOME AFFAIRS,
BRANCH OFFICE, BENGALURU,
3RD FLOOR, BSNL TELEPHONE EXCHANGE,
HAL, 2ND STAGE, INDIRANAGAR,
BENGALURU-560 008
REPRESENTED BY ITS
SUPERINTENDENT OF POLICE.

...RESPONDENT

(BY SRI PRASANNA KUMAR P., SPL PROSECUTOR)

THIS SCLAP IS FILED U/A 134(1)(c) OF CONSTITUTION OF INDIA, PRAYS THAT THIS HON'BLE COURT MAY KINDLY BE PLEASED TO GRANT THE PETITIONER A CERTIFICATE UNDER ARTICLE 134A THAT THE PRESENT CASE IS A FIT CASE FOR APPEAL TO THE

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SUPREME COURT UNDER ARTICLE 134(1)(c) OF THE CONSTITUTION AGAINST THE JUDGMENT AND ORDER DATED 15/04/2025 PASSED BY THIS HON'BLE COURT.

THIS PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL ORDER

(PER: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ)

The narrow question which is required to be answered in this petition is, as to whether the petitioner can be granted a certificate under Article 134A of the Constitution to file an appeal before the Hon'ble Supreme Court under Article 134(1)(c) of the Constitution against the order dated 15.04.2025 passed by this Court in W.P. No.26017/2024.

2. I.A. No.1/2025 is preferred to condone the delay of 31 days in preferring the petition.

3. We have heard the learned counsel for the petitioner, learned Special Public Prosecutor appearing for



the State/National Investigation Agency (NIA) and perused the material on record.

4. Calling in question the order dated 12.08.2024, the petitioner, arraigned as accused No.5 in Special C.C. No.181/2016 on the file of the 49th Additional City Civil and Sessions Judge, Special Court for Trial of NIA Cases, CCH-50, Bengaluru, preferred W.P. No.26017/2024. By the said order, the Trial Court had rejected the application filed by the petitioner under Section 45 of Unlawful Activities (Prevention) Act, 1967 ('UAPA' for short) seeking to recall the order dated 06.07.2024, i.e. the power exercised by the Trial Court under Section 306 of Cr.P.C. granting pardon to accused No.6.

5. The prime contention taken by the petitioner was that when once the sanction is granted under Section 45 of UAPA, the Trial Court had no power to accord pardon under Section 306 of Cr.P.C.



6. It is contended by the learned counsel for the petitioner that Section 45 of UAPA mandates that the sanction shall be granted by the Sanctioning Authority on the basis of an Independent Review Committee headed by the judicial officer and UAPA does not contain any provision requiring the approval of an accused, unlike Section 5 of the UAPA. Hence, once sanction is granted under Section 45 of UAPA, the Trial Court cannot grant pardon under Section 306 of Cr.P.C., as it amounts to terminating the Trial and undermining the statutory sanction.

7. Learned Special Public Prosecutor contended that this Court, having examined the material on record and assigning reasons, has dismissed the writ petition holding that it was devoid of merits and further, under Article 134A(b), the aggrieved party i.e., the petitioner ought to have made an oral application soon after the passing of the impugned order, which is not done in the



present case. Therefore, contended that there is no merit in the petition.

8. We have perused the order passed by this Court in W.P. No.26017/2024. This Court, while dismissing the writ petition, has taken into consideration the scope of Section 306 of Cr.P.C. as well as Section 45 of UAPA. It was observed that, so far as offences under the UAPA are concerned, obtaining of sanction under Section 45 is a prerequisite for taking cognizance of offences said to have been committed by an accused and without sanction, an accused cannot be prosecuted and no one can be arraigned as an accused for the offences under the UAPA without a valid sanction under Section 45 of the UAPA Act. Further, Section 48 of the UAPA has nothing to do with the tendering of pardon and Section 306 of Cr.P.C. is not inconsistent with the provisions of the UAPA. It is therefore, held that it cannot be said that Section 306 of Cr.P.C. cannot be followed in the proceedings under the UAPA.



9. In view of the above observations, we are of the opinion that no certificate need to be issued to file an appeal before the Supreme Court under Article 134A of the Constitution. It is also relevant to mention that under Article 134A(b), the aggrieved party is required to make an oral application immediately after passing or making of such judgment, order, etc., for the Court to decide whether the certificate is required to be issued in respect of the accused. No such oral application or submission was made at the time of passing of the order. We do not find any merit in the petition. Accordingly, the petition is dismissed. Consequently, I.A. No.1/2025 is dismissed.

**SD/-
(MOHAMMAD NAWAZ)
JUDGE**

**SD/-
(K.S. HEMALEKHA)
JUDGE**