



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPEAL NO.91 OF 2024

Rayees Ahmad Sheikh s/o Asadulla
Sheikh, aged about 27 years, Occ.
Labour, R/o Pora Pulwama, Chandhara,
Jammu and Kashmir, Pin Code : 192122
currently lodged in Central Prison,
Nagpur

... APPELLANT

VERSUS

State of Maharashtra, Assistant
Commissioner of Police, Anti Terror
Squad, Nagpur.

... RESPONDENT

Shri Nihalsingh B. Rathod, Advocate for the appellant.
Shri D.V. Chauhan, Senior Counsel and Public Prosecutor a/b Shri Amit
Chutake, Addl.Public Prosecutor for the respondent/State.

CORAM : NITIN B. SURYAWANSHI AND
PRAVIN S. PATIL, JJ.

CLOSED ON : **17.03.2025.**

PRONOUNCED ON : **21.03.2025.**

JUDGMENT : (Per : Nitin B. Suryawanshi, J.)

1. This appeal filed under Section 21 of the National
Investigation Agency Act, 2008 challenges the order passed by the

learned Sessions Judge, Nagpur below Exhibit 4 in Special Case No.575 of 2022 thereby rejecting the application for bail filed by the appellant.

2. Heard learned Counsel for the appellant and learned Public Prosecutor and Senior Counsel appearing for the respondent/State.

3. Learned Counsel for the appellant submits that appellant is arrested on 13.05.2022 in a case registered in the State of Jammu and Kashmir (for short hereinafter referred to as J&K) and on 21.06.2022 default bail was granted to him by Srinagar Court.

4. By pointing out the First Information Report ('FIR'), he submits that there are no allegations or evidence against the appellant to show that he took the photographs of the Rashtriya Swayamsevak Sangh ('RSS') Headquarter. According to him, there is no material to show that appellant is a member of Jaish-e-Mohammed (for short 'JeM'). The allegations made against appellant by the Investigating Agency do not fall within the ambit

of Section 15 of the Unlawful Activities (Prevention) Act, 1967 (for short hereinafter referred to as 'the UAPA'). According to him, there is no material showing that appellant is involved in terrorist act and there is no material against appellant to invoke any of the offenses under the provisions of the UAPA are attracted against the appellant. He submits that no adverse material was found during the search of appellant's house. The Trial Court has failed to appreciate all these aspects while rejecting the application of appellant for bail. The impugned order, therefor, is unsustainable and same is liable to be quashed and set aside, and the appellant is entitled to be released on bail.

5. Learned Counsel for appellant also submitted that the right of appellant to speedy trial is violated in the present case and on that ground also he is entitled for bail.

6. In support of his submission, he relied upon the judgment of Hon'ble Supreme Court in the case of *Sheikh Javed Iqbal vs. State of U.P. (2024) 8 SCC 293* and in the case of *Shoma Kanti Sen vs. State of Maharashtra and anr. (2024) 6 SCC 591*.

7. *Per contra*, learned Public Prosecutor, Senior Counsel Shri D.V. Chauhan submits that there is sufficient material collected during the course of investigation showing the appellant's involvement in the present crime. Appellant was arrested while carrying live hand grenades at J&K. Appellant is not disputing that he visited Nagpur. According to the prosecution, Nagpur visit of Appellant was with a view to do reki of RSS Headquarter. Appellant does not deny that he visited Nagpur, so also, it is not a case of the appellant that he visited Nagpur for business purposes. Admittedly, appellant is a labour working in the Power Sector. Nagpur Police have made correspondence with J & K Police calling information about the link of appellant with the banned terrorist organization JeM, which was provided by the J & K Police. The conduct of appellant at J & K needs to be taken into consideration, he is identified in the Test Identification Parade held at Nagpur. During the investigation, material is collected to show that appellant was in contact with the members of JeM operating from Pakistan. This supports the allegation of the Investigating Agency that appellant was in constant contact with his Pakistani Handlers. According to him, there is *prima facie*

material on record showing the involvement of appellant with banned terrorist organization JeM and by his activities he has helped the banned organization. His activities are covered under Section 16 of the UAPA, which makes preparation for terrorist act, a cognizable offence. He submits that under Section 15 of the UAPA, even a preparation is covered. Reki done by the appellant falls in first part of Section 15 of the UAPA. By pointing out the e-mails and photographs attached to it, received from J&K Police, he submits that these are the photographs of the members of the banned terrorist organization, with whom appellant was in contact. He submits that every activity, of which ultimate aim is to do terrorist attack is punishable under Section 18 of the UAPA. Under Section 20 of the UAPA merely a membership of the banned terrorist organization is sufficient to punish a person. He submit that Section 38 of the UAPA casts a reverse burden on the accused. The said burden is not discharged by the appellant. He submit that since the phone is seized from appellant on 08.04.2022 i.e. after one year of the visit of appellant to Nagpur, no data could be found in the said phone. He submits that tower location of appellant was found at Mahal, Nagpur, when he visited Nagpur to

do reki of the RSS Headquarter. He submits that appellant was in contact with Aadil Teli, a member of banned terrorist organization, who was subsequently eliminated.

8. By relying on the decision of the Hon'ble Supreme Court in the case of *Gurwinder Singh vs. State of Punjab and anr. (2024) 5 SCC 403* and decision of the Hon'ble High Court Delhi in the case of *Mohd. Abdul Rehman vs. State of NCT of Delhi 2024 SCC Online Del 9078*, he submits that there is no merit in the appeal filed by the appellant and same shall be dismissed.

9. With the assistance of learned Counsel for the appellant and learned Public Prosecutor, we have perused the record.

10. The record reveals that appellant was caught red handed, carrying live hand grenades at J&K. During investigation, it is revealed that the said live grenades was procured by appellant from unknown member of banned terrorist organization JeM. It is further clear that appellant visited Nagpur under the directions of one Umar, who is a member of banned terrorist organization JeM. That time, Umar was in contact of appellant from the mobile

number of Pakistan. On the say of Umar, appellant had done reki of the RSS Headquarter and obtained photographs and videos of the same.

11. In the FIR, it is alleged that for verifying the involvement of appellant in a present crime, Squad of Nagpur Police went to Pampor Police Station, District Avantipura, J&K (U.T.) and made an inquiry with Rayees Ahmed Sheikh s/o Asadullah Sheikh, a member of JeM terrorist organization. He disclosed that appellant was in constant contact on what's app and mobile with Pakistani member of banned terrorist organization JeM namely Umar and under his directions, appellant came to Nagpur from Srinagar. By staying at Nagpur, appellant has done reki of sensitive places as well as RSS Headquarter and obtained photographs and videos showing all these places and forwarded them to Umar through what's app. Since Umar was not convinced with photographs and videos forwarded by appellant, he instructed appellant to obtain photographs and videos from a close distance. Since the appellant found presence of Police at the RSS Headquarter, he apprehended his arrest, and therefore,

without taking photographs and videos, he left Nagpur.

12. During the investigation, Call Detail Records (CDR) of numbers from Pakistan and appellant's cellphone number are obtained by the Investigating Agency. It is revealed during the investigation that IP addresses of both cell phone numbers with which the appellant was in contact, are of Pakistan. Thus, there is *prima facie* material to show that appellant was in contact with the members of banned terrorist organization JeM, operating from Pakistan.

13. There is no merit in the contention of the appellant that the case against him is based on suspicion and there is no evidence showing his involvement. The material on record clearly indicates that appellant was overground worker of banned terrorist organization JeM and he was providing logistic support to the said organization. Merely because no photographs were found in the cell phone of the appellant that by itself is not sufficient to come to a conclusion that he had not taken photographs and videos of RSS Headquarter. Fact remains that at no point of time, the appellant has denied his visit to Nagpur and statement of

rickshaw driver shows that he dropped appellant near the RSS Headquarter.

14. We do not agree with the submission of appellant that allegations against the appellant do not fall within the ambit of Section 15 of the UAPA and that Section 20 of the UAPA can be invoked only if the terrorist act is committed. The material on record, *prima facie*, indicates that appellant is involved in the commission of preparatory acts within the meaning of Sections 15 and 18 of the UAPA, which read thus :

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

[Explanation.—For the purpose of this sub-

section-

(a) “public functionary” means the constitutional authorities or any other functionary notified in the Official Gazette by the Central Government as public functionary;

(b) “high quality counterfeit Indian currency” means the counterfeit currency as may be declared after examination by an authorised or notified forensic authority that such currency imitates or compromises with the key security features as specified in the Third Schedule.

(2) The Terrorist act includes an act which constitutes an offence within the scope of, and as defined in any of the treaties specified in the Second Schedule.”

“Section 18. punishment for conspiracy, etc.-
“Whoever conspires or attempts to commit, or advocates, abets, advises or incites, directs or knowingly 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 5 years but which may extent to imprisonment for life, and shall also be liable to fine”.

(emphasis supplied)

15. Material collected during the investigation shows that appellant has done preparatory act to facilitate the commission of

terrorist act.

16. Section 18 of the UAPA, in our view, contemplates preparation of terrorist act, even in cases where specific terrorist act has not been identified. Thus, the evidence on record is sufficient to show that the appellant committed an act, which was preparatory in nature in order to commit the terrorist act. In this view of the matter, though there is nothing on record to show that any particular act or object in contemplation, according to us, the act attributed to appellant is sufficient to *prima facie* hold that he was committing acts, which were preparatory in nature in order to commit a terrorist act.

“43. The definition of “Terrorist act” under Section 15 of the UAPA clearly includes the expressions “with intent to strike terror”, “by any other means of whatever nature to cause or likely to cause”. Such an expression would not be linked only to an immediate Terrorist act but the same would even include acts, which could be under contemplation for years together and may be given effect to after several years. The planning to give effect to terrorist acts could also extend over years and under Section 18 of the UAPA, the law aims to address such preparation for terrorist acts, even in cases where a specific terrorist act has not been identified. It is common knowledge that terrorist organisations like AQIS function in an extremely secretive manner and persons who are part of AQIS on most occasions, do not leave any trail of the evidence linking them to the organisation.” (in *Mohd. Abdul Rehman vs. State (supra)*).

17. We are in respectful agreement with the definition of Terrorist Act given by the Delhi High Court. We are of the opinion that appellant was doing an act, which can be said to be preparatory in nature and was supplying the information to the banned terrorist organization. These circumstances taken cumulatively, would demonstrate that appellant was preparing to commit an act, which would otherwise disturb the unity, integrity, peace and tranquility of India.

“49. It is a matter of public knowledge that terrorist organizations do not operate merely through established channels but most of the operations of such organizations are covert, stealthy, and secretive. Investigating agencies always find it challenging to unearth evidence. In the present case there is sufficient evidence to show and link the appellant with the main accused Mohd. Asif who was clearly also found to obtain four passports and visited Pakistan. The appellant was also in close connection with Co-Convict No. 3. The various Co-Accused/Co-Convicts are clearly a part of a larger network involved in giving inflammatory speeches, disseminating material, having links with Pakistan based organizations, travelling to Pakistan for secretive meetings, recruiting persons for terrorist acts, collecting funds to help such travels and other activities instigating hatred against the country and its political leaders, etc.

50. A perusal of the definition of the "Terrorist act" under UAPA shows that the said definition includes any acts which intend to threaten or are likely to threaten the unity, integrity, security, or sovereignty of India. The definition is wide enough to include indulging in conspiracy with terrorist organizations and associated with persons who are rendering support to terrorist organization.... (vide *Mohd. Abdul Rehman vs. State (supra)*).”

18. In *Gurwinder singh (supra)*, the Apex Court has

observed as follows :

“26. The conventional idea in bail jurisprudence vis-à-vis ordinary penal offences that the discretion of courts must tilt in favour of the oft-quoted phrase - “bail is the rule, jail is the exception” - unless circumstances justify otherwise - does not find any place while dealing with bail applications under the UAP Act. The “exercise” of the general power to grant bail under the UAP Act is severely restrictive in scope. The form of the words used in proviso to Section 43-D(5)– “shall not be released” in contrast with the form of the words as found in Section 437(1) CrPC - “may be released” - suggests the intention of the legislature to make bail, the exception and jail, the rule.

27. The courts are, therefore, burdened with a sensitive task on hand. In dealing with bail applications under UAP Act, the courts are merely examining if there is justification to reject bail. The “justifications” must be searched from the case diary and the final report submitted before the Special Court. The legislature has prescribed a low, “prima facie” standard, as a measure of the degree of satisfaction, to be recorded by the Court when scrutinising the justifications [materials on record]. This standard can be contrasted with the standard of “strong suspicion”, which is used by courts while hearing applications for “discharge”. In fact, the Supreme Court in Zahoor Ahmad Watali (2019) 5 SCC 1 has noticed this difference, where it said: (SCC P.24, para 23)

“23....In any case, the degree of satisfaction to be recorded by the court for opining that there are reasonable grounds for believing that the accusation against the accused is prima facie true, is lighter than the degree of satisfaction to be recorded for considering a discharge application or framing of charges in relation to offences under the 1967 Act.”

(emphasis supplied)

28. In this background, the test for rejection of bail is quite plain. Bail must be rejected as a “rule”, if after hearing the Public Prosecutor and after perusing the final report or case diary, the court arrives at a conclusion that there are reasonable grounds for believing that the accusations are prima facie true. It is only if the test for rejection of bail is not satisfied – that the

courts would proceed to decide the bail application in accordance with the “tripod test” (flight risk, influencing witnesses, tampering with evidence). This position is made clear by sub-section (6) of [Section 43-D](#), which lays down that the restrictions, on granting of bail specified in sub-section (5), are in addition to the restrictions under the [Code of Criminal Procedure](#) or any other law for the time being in force on grant of bail.

29. On a textual reading of [Section 43-D\(5\) UAP Act](#), the inquiry that a bail court must undertake while deciding bail applications under the [UAP Act](#) can be summarised in the form of a twin-prong test :

(1) Whether the test for rejection of the bail is satisfied?

1.1 Examine if, prima facie, the alleged “accusations” make out an offence under Chapter IV or VI of the UAP Act;

1.2 Such examination should be limited to case diary and final report submitted under [Section 173 CrPC](#);

(2) Whether the accused deserves to be enlarged on bail in light of the general principles relating to grant of bail under [Section 439 CrPC](#) (“tripod test”)?

On a consideration of various factors such as nature of offence, length of punishment (if convicted), age, character, status of accused etc., the courts must ask itself :

2.1 Whether the accused is a flight risk?

2.2. Whether there is apprehension of the accused tampering with the evidence?

2.3 Whether there is apprehension of accused influencing witnesses?

30. The question of entering the “second test” of the inquiry will not arise if the “first test” is satisfied. And merely because

the first test is satisfied, that does not mean however that the accused is automatically entitled to bail. The accused will have to show that he successfully passes the “tripod test”.

Test for rejection of Bail : Guidelines as laid down by Supreme Court in Watali Case (2019) 5 SCC 1.

31. *In the previous section, based on a textual reading, we have discussed the broad inquiry which courts seized of bail applications under [Section 43-D\(5\)](#) of the UAP Act read with [Section 439](#) CrPC must indulge in. Setting out the framework of the law seems rather easy, yet the application of it, presents its own complexities. For greater clarity in the application of the test set out above, it would be helpful to seek guidance from binding precedents.*

32. *In this regard, we need to look no further than Watali (2019) 5 SCC 1 case which has laid down elaborate guidelines on the approach that courts must partake in, in their application of the bail limitations under the [UAP Act](#). On a perusal of paras 23 to 24 and 26 to 27, the following 8-point propositions emerge and they are summarised as follows:*

32.1 - Meaning of “prima facie true” : (Watali Case (2019) 5 SCC 1, SCC p.24, para 23

On the face of it, the materials must show the complicity of the accused in commission of the offence. The materials/evidence must be good and sufficient to establish a given fact or chain of facts constituting the stated offence, unless rebutted or contradicted by other evidence.

...

32.3 Reasoning, necessary but no detailed evaluation of evidence (Watali Case (2019) 5 SCC 1, SCC p.27, para 24

“24...the exercise to be undertaken by the Court at this stage-of giving reasons for grant or non-grant of bail-is markedly different from discussing merits or demerits of the evidence. The elaborate examination or dissection of the evidence is not required to be done at this stage.”

33. *It will also be apposite at this juncture to refer to the directions issued in [Devender Gupta v. National Investigating](#)*

Agency 2014 SCC OnLine AP 192 wherein a Division Bench of the High Court of Andhra Pradesh strove to strike a balance between the mandate under *Section 43-D* on one hand and the rights of the accused on the other. It was held as follows : (SCC OnLine AP)

“The following instances or circumstances, in our view, would provide adequate guidance for the Court to form an opinion, as to whether the accusation in such cases is “prima facie” true”;

(1) Whether the accused is/are associated with any organization, which is prohibited through an order passed under the provisions of the act;

(2) Whether the accused was convicted of the offenses involving such crimes, or terrorist activities, or though acquitted on technical grounds; was held to be associated with terrorist activities;

(3) Whether any explosive material, of the category used in the commission of the crime, which gave rise to the prosecution; was recovered from, or at the instance of the accused;

(4) Whether any eye witness or a mechanical device, such as CC camera, had indicated the involvement, or presence of the accused, at or around the scene of occurrence; and

(5) Whether the accused was/were arrested, soon after the occurrence, on the basis of the information, or clues available with the enforcement or investigating agencies.”

(emphasis supplied)

*34. In the case of Kekhriesatuo Tep and Ors. v. NIA (2023) 6 SCC 58 the two-Judge Bench (B.R. Gavai & Sanjay Karol, JJ.) while dealing with the bail application for the offence of supporting and raising funds for terrorist organization under *Section 39 and 40* of the UAP Act relied upon *NIA v. Zahoor Ahmad Shah Watali (2019) 5 SCC 1* and observed*

that : (Kekhriesatuo Tep case, 2023 6 SCC 58, SCC p.63, para 13)

While dealing with the bail petition filed by the accused against whom offences under chapter IV and VI of UAPA have been made, the court has to consider as to whether there are reasonable grounds for believing that the accusation against the accused is prima facie true. The bench also observed that distinction between the words “not guilty” as used in TADA, MCOCA and NDPS Act as against the words “prima facie” in the UAPA as held in Watali Case (2019) 5 SCC 1 to state that a degree of satisfaction required in the case of “not guilty” is much stronger than the satisfaction required in a case where the words used are “prima facie”....

19. Applying aforesaid principles to the facts of the present case, it is clear that the material available on record shows the involvement of appellant in furtherance of terrorist activities of banned terrorist organization JeM. Appellant was in contact with the members of banned terrorist organization JeM, who were operating from Pakistan. Therefore, considering the material on record collected during the investigation, we are of the view that this is not a fit case to exercise our discretion for granting bail to the appellant.

20. There is no substance in the contention of the appellant that his right of speedy trial is violated in the present case. FIR is

lodged on 06.01.2022 and charge-sheet is filed on 05.11.2022. Learned Public Prosecutor submits that since the investigation papers are in this Court for decision of this bail application, the Trial Court could not frame charge in the matter.

21. On inquiry with the Trial Court, where the trial of appellant would be conducted, it is informed that, 3 matters of under trial prisoners under National Investigation Agency Act are pending with the Special Court, including the case of appellant and the trial can be concluded within a period of one year. In this view of the matter, we find no merit in the submission of appellant that his right to speedy trial is violated.

22. In *Sheikh Javed Iqbal (supra)*, fake Indian currency notes were allegedly recovered from the appellant and offence under Sections 489-B, 489-C of the IPC and Section 16 of the UAPA was registered against him. The maximum sentence under Section 489-C is seven years and the appellant was in custody for more than nine years. In these facts, the Apex Court considered scope of grant of bail of constitutional Courts in the context of Section 43-D(5) of the UAPA and held that Section 43-D(5) does

not oust the ability of the constitutional Court to grant bail on the ground of violation of Part III of the Constitution.

23. There cannot be any dispute about the aforesaid proposition. In the present case, we do not find that there is violation of right of speedy trial of the appellant. Hence, this case is of no help to the appellant.

24. In *Shoma Kanti Sen (supra)*, Shoma Kanti Sen was detained on 06.06.2018 in connection with First Information Report No.04/2018 dated 08.01.2018 registered with Vishrambaug Police Station, Pune alleging commission of offences under Sections 153-A, 505(1)(b), 117 read with Section 34 of the IPC. The complaints therein related to violence that broke out at a function organized by Elgar Parishad. Certain acts of violence had taken place at Shanivarwada, Pune on 31.12.2017 thereafter. Prosecution's case was that in the said programme, provocative speeches were delivered and there were cultural performances which had the effect of creating enmity between caste groups, resulting in disruption of communal harmony, violence, and loss of life. The FIR was initially lodged against the organisers of the

Elgar Parishad event, which included activists of a cultural body, known as Kabir Kala Manch. Shoma Kanti Sen was not named in the FIR. Appellant's residence was raided and certain literature, electronic devices and mobile phones were seized from her. In these facts, the Apex Court observed that :

“35. We are not concerned with sub-section (2) of the said provision. In this appeal, there is no allegation of any act of the appellant constituting an offence within the scope of the Second Schedule to the same statute. Sub-section (1) of Section 15 refers to certain acts which would constitute a terrorist act but the first part of sub-section (1) of Section 15 cannot be read in isolation. In our reading of the said provision of the statute, to qualify for being a terrorist act, such act must be done with intent to threaten or likely to threaten the unity, integrity, security, economic security or sovereignty of India or such act must be accompanied with an 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. These are initial requirements to invoke Section 15(1) of the 1967 Act. The legislature, however, has not left the nature of such acts unspecified and in clauses (a), (b), and (c) of the said sub-section, the law stipulates the manner of commission of the acts specified in first part of sub-section (1) of said Section 15. If any offender attempts to commit any of the acts specified in Section 15(1), to come within the ambit of the expression “terrorist act” under the 1967 legislation, action or intention to cause such act must be by those means, which have been specified in clauses (a), (b), and (c) of the said provision. This is the line of reasoning broadly followed by this Court in the case of Vernon v. State of Maharashtra (2023) 15 SCC 56 in construing the applicability of the said provision. If we examine the acts attributed to the appellant by the various witnesses or as inferred from the evidence relied on by the prosecution, we do not find prima facie commission or attempt to commit any terrorist act by the appellant applying the aforesaid test for invoking Section 15 read with Section

16. Punishment for terrorist act. – (1) *Whoever commits a terrorist act shall -*

(a) if such act has resulted in the death of any person, be punishable with death or imprisonment for life, and shall also be liable to fine ;

(b) in any other case, 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.”

...

37. *As regards the allegation against the appellant for committing an offence under Section “18. Punishment for conspiracy, etc.—Whoever conspires or attempts to commit, or advocates, abets, advises or incites, directs or knowingly 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.” of the 1967 Act is concerned, which includes conspiracy or attempt on her part to commit, advocate, abet, advice, incite or facilitate commission or any terrorist act, the materials collected so far, even if we believe them to be true at this stage, applying the principles enunciated by this Court in the case of Zahoor Ahmad Shah Watali (2019) 5 SCC 1, only reveal her participation in some meetings and her attempt to encourage women to join the struggle for new democratic revolution. These allegations, prima facie, do not reveal the commission of an offence under [Section 18](#) of the 1967 Act.”*

25. It is further observed that, “*but apart from mere allegations that these are frontal organizations of CPI (Maoist), no credible evidence has been produced before us through which these organizations can be connected to the aforesaid banned*

terrorist organization. It is also held that to bring the appellant within the fold of Section 38 of the UAPA, the prosecution ought to have prima facie establish their association with intention to further the said organization's terrorist activities. It is only when such intention to further the terrorist activities is established prima facie, the appellants could be brought within the fold of the offence relating to membership of a terrorist organization. To bring within the scope of Section 38 of the UAPA, it would not be sufficient to demonstrate that one is an associate or someone who professes to be associated with a terrorist organization. But there must be intention to further the activities of such organization on the part of the person implicated under such provision."

26. These observations are also of no help to the appellant's case as in the present case, there is *prima facie* material on record to show the links of the appellant with the members of banned terrorist organization JeM and appellant was in constant contact with the members of JeM operating from Pakistan and appellant was found carrying live hand grenade in J&K, which was procured by him from the members of banned

terrorist organization JeM.

27. For the aforesaid reasons, we find that the trial Court is justified in denying the bail to the appellant. We find no merit in the appeal filed by the appellant. In the result, the appeal is dismissed.

(PRAVIN S. PATIL, J.)

(NITIN B. SURYAWANSHI, J.)

Trupti