Reportable

HIGH COURT OF JUDICATURE FOR RAJASTHAN

BENCH AT JAIPUR

Judgment reserved on: 01.10.2026

Judgment delivered on: 26.10.2026

Judgment (Full) uploaded on:26.10.2026

D.B. Criminal Appeal (Db) No. 266/2024

CNR: RJHC020761782024 | URN: CRLAD / 469U / 2024

Aakif Ateeque Nachan @ Aakib (A-2) S/o Shri Ateeque Nachan, Aged About 44 Years, R/o 522, Boriwali, Post Padgha, Thana Padgha, Tehsil Bhwandi, District Thane, Maharashtra (At Present Confined At Central Jail Jaipur)

---Accused-Appellant

Versus

N.I.A., New Delhi through Special P.P.

----Respondent

Connected With

D.B. Criminal Appeal (Db) No. 267/2024

CNR: RJHC020746602024 | URN: CRLAD / 471U / 2024

Mazhar Khan @ Mazhar @ Muzhar (A-8) S/o Israiel Khan, Aged About 35 Years, R/o House No 89 Samta Nagar Anand Colony Police Station Road, Ratlam Madhya Pradesh (At Present Central Jail Jaipur Rajasthan)

----Accused Applicant/Appellant

Versus

The National Investigation Agency (NIA), New Delhi Through Public Prosecutor

----Respondent

D.B. Criminal Appeal (Db) No. 301/2024

CNR: RJHC020791302024 | URN: CRLAD / 528U / 2024

Imran Khan S/o Mohammad Sharif Khan, Aged About 41 Years, R/o 230 Mohan Nagar, Industrial Area Ratlam, Madhya Pradesh, At Present Confined In High Security Jail Ajmer Rajasthan

----Appellant

Versus

National Investigation Agency, Through The Public Prosecutor

----Respondent

D.B. Criminal Appeal (Db) No. 380/2024

CNR: RJHC020906922024 | URN: CRLAD / 643U / 2024

1. Aamin Khan @ Ameen Pawda @ Aamin Khan @ Seth S/o Late Aslam Khan, Aged About 35 Years, R/o House No. 202 Sherani Pura PS Station Road, Ratlam Madhya Pradesh (At Present Confined At Central Jail Jaipur)
2. Mohammed Ameen Patel @ Abid, Aged about 34 years S/o Samad Patel, R/o 146, Sherani Pura, PS Station Road, Ratlam Madhya Pradesh (At Present Confined At Central Jail Jaipur)
3. Saifulla @ Saifu Khan, Aged about 49 years old, S/o Ramjani Ali, R/o Sherani Pura Officer Colony, Road, PS Station Road, Ratlam Madhya Pradesh (At Present Confined At Central Jail Jaipur)
4. Altamash Khan @ Altamash @ Althamash @ Altu S/o Mohd. Bashir Khan, Aged About 28 Years, R/o House No. 18, Sherani Pura, Officer Colony Road, PS Do Batti Ratlam Madhya Pradesh (At Present Confined At Central Jail Ajmer)
5. Zubair Khan @ Juber @ Zubair @ Zuber @ Zafu S/o Fakir Mohammad Pathan, Aged About 44 Years old, R/o Gali No. 02, Anand Colony, PS Station Road, Ratlam, Madhya Pradesh (At Present Confined At Central Jail Jaipur)
6. Mohammad Yunus Saki @ Mohd Yunus @ Yunus Khan @ Yunus S/o Mohammed Yunus Saki, Aged About 28 Years old, R/o House No. 60 Kunjado Ka Was, PS Manak Chowk, Ratlam Madhya Pradesh (At Present Confined At Central Jail Jaipur)
7. Imran @ Imran Khan @ Imran Kunjda S/o Mohammed Yunus, Aged About 24 Years, R/o House No. 51, Kunjdo Ka Was, PS Manak Chowk, Ratlam Madhya Pradesh (At Present Confined At Central Jail Jaipur)

----Appellants

Versus

State, Through N.I.A. New Delhi Through Public Prosecutor

----Respondent

For Appellant(s)	:	Mr. Syed Saadat Ali, Adv. with Ms. Uzma Ilyas, Adv., Ms. Aafreen Rizvi, Adv., Mr. Nadeem Qadeer, Adv., Mr. Sumit Kumar, Adv. Mr. R.B. Sharma (Ganthola), Adv. Ms. Deeksha Dwivedi, Adv. (through VC) with Mr. Tekchand Swami, Adv. Mr. Lakshya Sharma, Adv. with Mr. Yash S. Vijay, Adv. & Mr. Shikhar Aggarwal, Adv. (through VC)
For Respondent(s)	:	Mr. Sneh Deep Khyaliya, Special PP NIA assisted by Mr. Siddharth Sharma, Adv. & Mr. Himanshu Choudhary, Adv.

Division Bench

HON'BLE THE CHIEF JUSTICE MR. SANJAY K. AGRAWAL

HON'BLE MR. JUSTICE SAMEER JAIN

C.A.V. Judgment

For sake of exposition, this judgment is divided in following parts:-

S.No.	Particulars	Page Nos.
1.	Prefatory facts and nature of reliefs sought in the present batch of appeals	4-8
2.	Submissions made by learned counsel appearing on behalf of appellants	8-17
3.	Submissions made by learned counsel appearing on behalf of respondents/non-appellants	17-20
4.	Discussion, analysis and findings	20
5.	Scope of adjudication	20-23
6.	Adjudication of prayers made, as per the merits/de-merits of the case	23-26
7.	The individual roles attributed to the appellants	26-31
8.	The statutory framework and gravity of alleged offence	31-33
9.	Whether the impugned order warrants interference	34-36
10.	Conclusion	36

PREFATORY FACTS AND NATURE OF RELIEFS SOUGHT IN THE PRESENT BATCH OF APPEALS :

1. The present batch of appeals arises out of proceedings emanating from the same underlying criminal investigation and involves overlapping questions of fact and law concerning the allegations levelled by the prosecution, the material collected during investigation, and the legality of the order passed by the learned Trial Court at the stage of consideration of discharge and framing of charges. Having regard to the commonality of the factual background, the interlaced and interwoven nature of the controversy, and the substantial overlap in the issues requiring adjudication, the matters are being considered and adjudicated upon by way of the present common judgment, so as to ensure consistency in the adjudication of the issues arising therefrom and to obviate the possibility of conflicting determinations.

2. The genesis of the prosecution case lies in an incident dated 30.03.2022, when a police *naka* party of Police Station Nimbahera, District Chittorgarh, Rajasthan, intercepted a Baleno car bearing registration No. MP43CA7091 at Wonder Chouraha, Nimbahera. Upon search of the vehicle, explosive material measuring upto 3 kgs., together with certain articles including watches, batteries, wires and bulbs, was allegedly recovered and seized. In connection therewith, FIR No. 150/2022 came to be registered at Police Station Nimbahera Sadar, District Chittorgarh, for offences of the Explosive Substances Act, 1908 (hereinafter referred to as

"the Explosive Substance Act"), and of the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as "the UAPA").

3. The investigation was initially undertaken by the local police and was thereafter carried out by the Anti-Terrorist Squad (hereinafter referred to as "ATS"), Udaipur. Subsequently, pursuant to the order dated 20.04.2022 issued by the Ministry of Home Affairs, Government of India, the investigation was entrusted to the National Investigation Agency (hereinafter referred to as "NIA"), which re-registered the case as RC-18/2022/NIA/DLI and proceeded with further investigation. Upon completion of the investigation, a charge-sheet came to be filed against eleven accused persons, of whom eight were stated to have been arrested, while three were shown as absconding.

4. The prosecution case, in substance, alleges the existence of a group named 'SUFA', purportedly led by accused-Imran Khan, and attributes to its members a conspiracy involving the procurement of arms, ammunition and explosive substances for the commission of terrorist acts and other alleged unlawful activities. The allegations against the accused persons, including the appellants/petitioners in the present proceedings, arise in the context of their alleged association with the said group and the alleged preparatory activities attributed to its members. The precise role ascribed to each accused, however, is required to be examined with reference to the allegations and material specifically relied upon by the prosecution against the concerned individual.

5. Insofar as the appellant, Mazhar Khan, is concerned, the prosecution, *inter alia*, alleges that he was associated with the aforesaid group, attended meetings allegedly convened at the poultry farm of the principal accused, and was involved in discussions concerning the alleged conspiracy to place an improvised explosive device (hereinafter referred to as "IED") or explosive material near Jaipur. The prosecution has further relied upon alleged travel-related information, common mobile-phone locations of certain accused persons on specified dates, and internet protocol detail records (hereinafter referred to as "IPDRs") pertaining to the use of various mobile applications. The appellant disputes the incriminating inference sought to be drawn from such material and contends that the same does not establish his participation in the alleged conspiracy or the commission of the offences with which he has been charged.

6. The appellant's principal grievance is that the material relied upon by the prosecution does not disclose legally sustainable grounds for proceeding against him for the offences in question. It is contended that the alleged travel records have not been substantiated by the production of the relevant tickets or material establishing actual travel; that the alleged common mobile-phone locations do not, by themselves, establish participation in any unlawful meeting or criminal conspiracy; and that the prosecution has failed to establish the precise location of the alleged farmhouse through scientifically ascertainable geographical coordinates. The appellant further asserts that no incriminating material connecting him with the alleged commission of the

offences was recovered from the mobile phones stated to have been seized from him. These assertions constitute the appellant's case and are noticed herein only to delineate the controversy arising for consideration.

7. The appellant had moved an application under Section 227 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "CrPC"), seeking discharge from the offences alleged against him. Upon consideration of the prosecution case and the application so preferred, the learned Trial Court, vide order dated 31.07.2024, partially discharged the appellants. The appellant assails the said order to the extent that the learned Trial Court declined to discharge him from the aforesaid offences and proceeded to frame charges notwithstanding, according to him, the absence of sufficient incriminating material warranting such a course. Therefore, the nature of the relief sought in the present proceedings is, to the extent arising from the respective pleadings, directed against the impugned judicial orders and the continuation of criminal proceedings pursuant thereto.

8. In view of the foregoing, the present batch of matters is being taken up for common adjudication, the controversies arising therein being interlaced and interwoven by reason of their common investigative origin, overlapping factual circumstances and connected questions requiring judicial consideration. The matters shall accordingly be examined in the light of their respective pleadings, the material forming part of the record, the nature of the allegations against each accused, and the applicable statutory provisions. The reference to common facts herein shall

not, however, dispense with the necessity of independently assessing the role attributed to each accused and the legal sufficiency of the material relied upon against such accused, in accordance with law.

SUBMISSIONS MADE BY LEARNED COUNSEL APPEARING ON BEHALF OF THE APPELLANTS :

9. The appellants assail the impugned orders dated 31.07.2024, whereby the learned Trial Court, while discharging certain accused persons from specific offences, proceeded to frame charges under the remaining provisions of the Explosive Substances Act, 1908, the UAPA and the Indian Penal Code, 1860. Their principal grievance is that the material relied upon by the prosecution does not sufficiently establish their individual involvement in the alleged offences. It is contended that the alleged recovery of explosive material from the vehicle, the absence of certain appellants at the time of its interception, the lack of recovery during searches conducted at the premises of certain accused persons, and the material relied upon to establish the alleged conspiracy have not been appropriately appreciated. The appellants further submit that the allegations concerning their association with the group styled as ‘SUFA’, participation in meetings and alleged training in the preparation of IEDs must be assessed individually in the light of the evidence attributed to each of them.

10. Accordingly, the appellants seek setting aside of the impugned orders to the extent that charges have been framed against them, contending that the material on record does not

warrant continuation of the proceedings for the offences in question.

In D.B. Criminal Appeal No. 266/2024

11. It was submitted by the learned counsel appearing for the appellant that the appellant-Aakif Atteq Nahar, arrayed as Accused No. 2, assails the impugned order dated 31.07.2024, whereby charges have been framed against him for offences under Sections 4(a)(i) and 6 of the Explosive Substances Act, 1908; Sections 16(1)(b), 18 and 20 of the UAPA; and Sections 120-B, 121-A and 122 of the Indian Penal Code, 1860. The appellant stands discharged from the offence under Section 5 of the Explosive Substances Act, 1908, and Sections 18A and 18B of the UAPA.

12. It was contended that the appellant was neither apprehended from the vehicle in which the explosive material was allegedly recovered nor was he present at the time of the interception of the said vehicle. The prosecution case concerning the recovery of explosive material and batteries from the vehicle must, therefore, be distinguished from the allegations subsequently levelled against the appellant. It was further submitted that the appellant’s alleged involvement cannot be inferred merely from the recovery effected in circumstances in which he was not present. The appellant was arrested on 15.05.2022, approximately two months after the vehicle had been intercepted; this circumstance assumes significance in the context of the prosecution's attempt to connect the appellant with the explosive material allegedly recovered from the vehicle. Further, it was contended that the prosecution has not demonstrated a

sufficient evidentiary connection between the said recovery and his alleged participation in the offences.

13. Pursuant to the search conducted at the appellant's house on 24.05.2022, no illegal material was recovered, the absence of any such recovery is specifically relied upon by the appellant as a circumstance which, according to him, undermines the allegation of his involvement in the alleged unlawful activities. Learned counsel submitted that the search of the appellant’s premises did not yield any material of the nature alleged by the prosecution to connect him directly with the explosive substances recovered from the vehicle.

14. Further, one of the allegations attributed to the appellant is that he attended a meeting for learning the preparation of IEDs; however, the same is disputed by the appellant as incriminating inference sought to be drawn from this allegation and it was contended that the prosecution must establish the evidentiary basis for attributing to him participation in the alleged preparation of IEDs and the offences subsequently charged against him. The prosecution has also relied upon training material allegedly recorded in a phone belonging to the appellant and subsequently transferred to a pen drive belonging to Accused No. 3, Ameen Pawada. However, mere reference to such recording and transfer does not, without examination of the material and its connection with the appellant, establish his involvement in the alleged offences. The alleged recording, its subsequent transfer and the ownership of the device on which it was stored are circumstances

which, require careful scrutiny before an incriminating inference can be drawn against him.

15. Thus, in summation, it can be noted that the appellant's principal contention was that there was no direct recovery of explosive material or other illegal material from his person or premises, that he was not apprehended from the vehicle in question, and that no sufficient evidence has been demonstrated to connect him with the explosive material allegedly recovered therefrom. The appellant also relies upon the absence of direct recovery and the alleged deficiency in the connecting material as grounds for challenging the framing of charges. In support of the submissions made insofar, and to strengthen the arguments contended, learned counsel had placed reliance upon a catena of judgments, *inter alia,* **Union of India v. Prafulla Kumar Samal & Anr.[1], State of Bihar v. Ramesh Singh[2], Sajjan Kumar v. CBI[3], Amit Kapoor v. Ramesh Chander[4], Dipakbhai Jagdishchandra Patel v. State of Gujarat[5], National Investigation Agency v. Zahoor Ahmad Shah Watali[6], Thwaha Fasal v. Union of India[7], Vernon v. State of Maharashtra[8], Kashmira Singh v. State of Madhya Pradesh[9]**.

16. In these circumstances, the appellant sought setting aside of the impugned order dated 31.07.2024 to the extent that charges

---

1 1979 (3) SCC 4
2 1977 (4) SCC 39
3 2010 (9) SCC 368
4 2012 (9) SCC 460
5 2019 (16) SCC 547
6 2019 (5) SCC 1
7 2021 INSC 688
8 2023 INSC 655
9 AIR 1952 SC 159

have been framed against him and prays for discharge from the offences in respect of which his application was rejected.

In D.B. Criminal Appeal No. 261/2024

17. The appellant, Mazhar Khan, challenged the impugned order dated 31.07.2024, whereby charges have been framed against him under Sections 4(a)(i) and 6 of the Explosive Substances Act, 1908; Sections 16(1)(b), 18 and 20 of the UAPA; and Sections 120-B, 121-A and 122 of the Indian Penal Code, 1860. The appellant has been discharged from the offences under Sections 5 of the Explosive Substances Act, 1908, and Sections 18A and 18B of the UAPA. It was submitted that the prosecution case concerning the recovery of explosive substances rests, *inter alia,* upon the interception of a vehicle in which two plastic bags, each stated to contain approximately three kilograms of explosive material, were allegedly found, together with three watches, three sets of batteries, three bundles of wires and six small bulbs. The FIR was initially registered at Police Station Chittorgarh as FIR No. 150/2022 and was thereafter re-registered by the National Investigation Agency as RC-18/2022/NIA/DLI. It was submitted that the factum of registration of the case and the recovery alleged therein must be distinguished from the question whether the material relied upon establishes his individual involvement in the offences charged.

18. The prosecution has relied upon alleged air tickets found in a mobile phone to suggest an association between the appellant and Imran Khan. However, the appellant disputes the evidentiary significance attributed to the said material and specifically

contends that the air tickets were not exhibited by the prosecution. It was stoutly contended that the alleged tickets cannot be treated as conclusive proof of the appellant's participation in the alleged conspiracy without the material relied upon being properly established and connected with the allegations against him. Further, reliance was placed upon the discrepancy or deficiency concerning the locations reflected in the prosecution material, including the reference to Ratlam in the case notes. It was submitted that the location material must be assessed in its proper context and that no incriminating conclusion ought to be drawn merely from a location reference without examining its evidentiary connection with the alleged meetings or unlawful activities.

19. Further, learned counsel argued that the appellant's challenge is also founded upon the fact that no sufficient evidence has been produced to establish the allegations levelled against him. The material relied upon by the prosecution, including the alleged air tickets and location information, must be assessed in its entirety and in relation to the specific role attributed to the appellant. The appellant accordingly submitted that the impugned order warrants interference insofar as it permits the prosecution to proceed against him for the aforesaid offences.

In D.B. Criminal Appeal No. 301/2024

20. It was submitted that the appellant-Imran Khan, challenged the impugned order dated 31.07.2024, whereby charges have been framed against him for offences under Sections 16, 18, 18A, 18B and 20 of the UAPA; Sections 120-B and 121 of the Indian

Penal Code, 1860; and Sections 4 and 5 of the Explosive Substances Act, 1908. It was averred that the appellant was arrested from his house in Rajasthan on 31.03.2022, and that Atmash Khan, Zubair and Saifulla were arrested from the car at approximately 7:40 p.m. on the alleged date of incidence. The appellant had been called for interrogation on 01.03.2022. These circumstances form part of the factual background against which the allegations and the material relied upon by the prosecution against the appellant are required to be examined.

21. That the prosecution has alleged the existence of a group styled as 'SUFA' and has attributed to the appellant the role of forming a group inclined towards ISIS; however, the appellant challenges the allegations and the conclusions sought to be drawn therefrom and submitted that the accusations must be examined in the light of the material actually available on record. A material ground urged on behalf of the appellant concerns the alleged destruction or demolition of the poultry farm and the house before the recovery sought to be relied upon by the prosecution. In this regard, it was submitted that the condition of the premises and the fact that the same had allegedly been destroyed or demolished before the recovery are relevant circumstances while assessing the reliability and evidentiary significance of the alleged recovery. Nevertheless, the appellants herein were also subjected to custodial torture.

22. It was further contended that the evidence relied upon against the appellant is weak and insufficient to sustain the charges framed by the learned Trial Court. According to the

appellant, the allegations concerning the group, the alleged association with ISIS and the alleged unlawful activities must be assessed on the basis of the material connecting him individually with the offences alleged. Thus, it was argued that the impugned order dated 31.07.2024 deserves to be set aside insofar as it directs the framing of charges against him. He seeks discharge from the offences referred to in the impugned order, in accordance with law.

In D.B. CRIMINAL APPEAL NO. 380/2024

23. The appellants herein challenge the impugned order dated 31.07.2024, whereby charges have been framed under Sections 16, 18 and 20 of the UAPA; Sections 4, 5 and 6 of the Explosive Substances Act, 1908; Section 25 of the Arms Act; and Sections 120-B, 121-A and 122 of the Indian Penal Code, 1860. A principal ground urged in the appeal concerns the alleged recovery from the car and the circumstances surrounding the arrest of the appellant. The appellant contended that no independent witnesses were present at the time of arrest. Thus, the mandatory provisions of the governing scheme were not followed, whilst conducting the arrest of the accused.

24. It was further argued by the learned counsel that the evidentiary basis of the alleged recovery, pointing out that there was an inordinate delay in recovering the pickaxe (kudal) from the car. It was submitted that the delay in effecting the said recovery is a relevant circumstance which must be considered while assessing the reliability and significance of the material relied

upon by the prosecution, however, the learned Trial Court has failed to do so.

25. It was further argued that the absence any chemical material in the car, as recorded in the grounds of challenge, bears upon the prosecution's case concerning the alleged recovery and the connection sought to be established between the appellant and the offences charged. Further, the appellant disputed the reliance placed upon the alleged confessional statement made before the police. It was specifically contended that such a statement is not judicially admissible, as the same was made merely to the police officer. Further, learned counsel submitted that by way of the present appeal a challenge is also made to the identification of Accused No. 3 by 'Patel Sahab', described as the owner of a bulb shop, on 07.05.2022. The appellant submitted that the circumstances and evidentiary basis of the said identification must be examined in their proper context before any incriminating inference is drawn from it. Withal, qua the recovery of a gun from Ameen Patel and the recovery of a pen drive from a demolished house, it was argued that no reasonable nexus was drawn by the prosecution, between the alleged recovery and the appellant.

26. The appellant's overall contention was that the prosecution material, including the alleged recoveries, the circumstances of arrest, the delay in recovering the pickaxe, the alleged failure to trace chemicals in the car, the police confessional statement and the identification referred to above, requires careful scrutiny. Thus, the impugned order cannot be sustained merely by reference to the allegations in the charge-sheet without assessing

the evidentiary significance of the material relied upon against him.

SUBMISSIONS MADE BY LEARNED COUNSEL APPEARING ON BEHALF OF THE RESPONDENTS/NON-APPELLANTS :

27. Per contra, in response to the grounds urged on behalf of the appellants, it was submitted that the prosecution case emanates from an alleged criminal conspiracy involving an organisation styled as 'SUFA', which was formulated by approximately 70 youths in Ratlam. During the course of the investigation, it emerged that differences arose between one Azjad and Imran Khan, consequent whereupon they parted ways. The prosecution case further alleges that the activities of the said organisation primarily involved showing ISIS-related videos to the youth, thereby exposing them to the ideology and activities of the said organisation. The aforesaid circumstances constitute an integral part of the background in which the alleged activities of the accused persons are required to be examined.

28. It was further submitted that the prosecution case is not confined merely to the alleged existence of the organisation or the showing of ISIS-related videos to the youth, but further encompasses the subsequent events concerning the alleged conspiracy to procure and transport explosive material. It was submitted that, on 25.03.2022, a meeting was conducted, during which it was decided to collect improvised explosive devices (IEDs) and transport the same to Jaipur. It was further decided that videos of the entire act would be recorded. The prosecution relies upon the subsequent recovery of the videos from the mobile

phone of accused Aakif as a material circumstance in support of its case concerning the alleged conspiracy and the intended transportation of the explosive material.

29. The aforesaid circumstances, when considered cumulatively, are relied upon by the prosecution to demonstrate the alleged progression from the activities of the organisation to the planning and execution of the acts forming the subject matter of the criminal proceedings. The alleged meeting dated 25.03.2022, the decision to collect IEDs and transport the same to Jaipur, and the proposed recording of the entire act are material circumstances which, according to the prosecution, assume significance in determining the nature and extent of the alleged conspiracy. Further, it was contended that during the course of investigation, non-bailable warrants were also issued for securing the arrest of certain accused persons who were absconding. The issuance of such warrants forms part of the procedural history of the investigation and reflects the steps undertaken by the investigating agency to secure the presence of the accused persons and bring the investigation to its logical conclusion.

30. It was also apprised to the Court that upon further investigation, a supplementary charge-sheet came to be submitted on 28.11.2023. The filing of the supplementary charge-sheet constitutes a subsequent development in the proceedings and indicates that the investigation continued beyond the submission of the earlier charge-sheet. It was further submitted that the bail applications made by the accused persons had been dismissed at different stages of the judicial process, including by

the High Court vide orders dated 21.01.2023 and 16.08.2023, and thereafter by the Hon'ble Supreme Court vide order dated 18.01.2024. The prosecution thus, relied upon the aforesaid procedural history as a relevant circumstance in the context of the successive proceedings undertaken by the accused persons.

31. In view of the aforesaid circumstances, the prosecution submits that the allegations against the accused persons are required to be considered in their entirety, having regard to the alleged formation and activities of SUFA, the differences between Azjad and Imran Khan resulting in their separation, the alleged dissemination of ISIS-related videos among the youth, the meeting conducted on 25.03.2022, the decision to collect IEDs and transport the same to Jaipur, the proposed recording of the entire act, and the subsequent recovery of videos from the mobile phone of accused Aakif. These circumstances, together with the further investigation culminating in the supplementary charge-sheet dated 28.11.2023, constitute the factual basis upon which the prosecution seeks to sustain the proceedings against the accused persons. The prosecution submitted that the grounds urged by the appellants ought to be examined in the light of the entire factual matrix and the material collected during the investigation, rather than by considering the individual circumstances in isolation.

32. In support of the contentions made insofar, learned counsel had placed reliance upon a catena of dictums enunciated in, *inter alia*, **State of M.P. v. S.B. Johari[10], State of Orissa v.**

---

10 2000 (2) SCC 57

Debandra Nath[11], Prakash Singh Badal v. State of Punjab[12] & Asim Sheriff v. National Investigation Agency[13].

DISCUSSION, ANALYSIS AND FINDINGS :

33. The present batch of appeals has been preferred by the appellants assailing the common order dated 31.07.2024, passed by the learned Trial Court, whereby their respective applications seeking discharge from the offences alleged against them came to be rejected, in whole or in part, and charges were framed under the relevant provisions of the Explosive Substances Act, 1908, the UAPA and the Indian Penal Code, 1860. Since the appeals emanate from the same investigation, arise out of substantially interconnected factual circumstances and involve overlapping questions concerning the sufficiency of the material collected by the investigating agency, they are being decided by this common judgment. Nevertheless, the allegations and the material attributed to each appellant shall be considered in the context of the particular role ascribed to him.

SCOPE OF ADJUDICATION :

34. At the outset, it is necessary to delineate the scope of adjudication in the present appeals. The appellants have approached this Court at the stage of framing of charges, and the criminal trial is yet to culminate in a final adjudication of their guilt or innocence. The Court is, therefore, not called upon to determine whether the prosecution has conclusively established the charges, nor is it required to assess whether the evidence,

---

11 2005 (1) Crimes 1 SC
12 2007 (1) SCC 1
13 2019 (7) SCC

upon completion of the trial, would necessarily result in conviction. The limited inquiry is whether, upon consideration of the prosecution material and the documents forming part of the record, the learned Trial Court was justified in finding sufficient grounds for proceeding against the appellants for the offences charged.

35. The distinction between the stage of framing of charges and the stage of final adjudication is well settled. At the former stage, the Court is required to ascertain whether the material, taken at its face value and considered in its entirety, discloses the ingredients of the alleged offences and gives rise to a *prima facie* case or grave suspicion against the accused. The standard of proof beyond reasonable doubt, which governs the determination of guilt at trial, is not to be imported into the consideration of an application for discharge. In the ratio encapsulated in **State of Bihar v. Ramesh Singh**[14], the Hon'ble Supreme Court explained that, where the material gives rise to a strong suspicion leading the Court to presume that the accused may have committed the offence, the framing of a charge is justified. The Court is not required, at that stage, to meticulously examine the truth, veracity and ultimate evidentiary value of every circumstance as would be necessary while recording a finding of guilt. The aforesaid principle was reiterated and elaborated in the ratio enunciated in **Sajjan Kumar v. Central Bureau of Investigation**[15], wherein the Hon'ble Supreme Court delineated the parameters governing the exercise of jurisdiction under

14 (1977) 4 SCC 39
15 (2010) 9 SCC 368

Sections 227 and 228 of the Code of Criminal Procedure, 1973. The Hon'ble Supreme Court has time and again emphasised that interference with an order framing charge is warranted only where the case falls within the recognised parameters justifying such intervention. The Courts should be cautious against undertaking a meticulous examination of the evidence or determining, at the threshold, whether the prosecution is ultimately likely to secure a conviction. The relevant inquiry is whether the allegations, read with the material collected during investigation, prima facie constitute the offences alleged and whether the continuation of the proceedings would amount to an abuse of the process of law.

36. The aforesaid principles assume particular relevance in the present batch of appeals, wherein the appellants have sought to challenge the evidentiary sufficiency of the prosecution case by relying upon individual circumstances, including the absence of their presence in the vehicle at the time of interception, the absence of recovery from certain premises, the alleged deficiencies in the location records, the nature of the electronic material recovered, and the circumstances surrounding the alleged meetings and activities of the group styled as 'SUFA'. While each of these circumstances may be relevant to the final determination of the case, their ultimate evidentiary effect cannot be conclusively determined by isolating them from the remaining material at the stage of framing of charges.

37. It is equally necessary to bear in mind that the Court exercising jurisdiction at the stage of discharge is neither a mere conduit for the prosecution's allegations nor a forum for

conducting a premature trial. The record must be examined with sufficient judicial application of mind to ascertain whether the essential ingredients of the offences are prima facie disclosed. At the same time, the Court must refrain from evaluating the reliability of each witness, undertaking a detailed assessment of competing inferences, or accepting a defence explanation which requires evidentiary scrutiny. In the ratio encapsulated in **State of Orissa v. Debendra Nath Padhi**[16], the Hon'ble Supreme Court clarified the scope of consideration at the stage of discharge and the limitations on the material which an accused may seek to introduce at that stage. The Court is principally concerned with the prosecution record and the material submitted therewith. The nature of the allegations and their wider implications.

ADJUDICATION OF THE PRAYERS MADE, AS PER THE MERITS/DEMERITS OF THE CASE :

38. Turning to the factual matrix, the prosecution case is that the organisation styled as 'SUFA' was formulated by approximately 70 youths in Ratlam. It is alleged that differences arose between Azjad and Imran Khan- present accused, consequent upon which they parted ways. The prosecution further alleges that one of the principal activities of the organisation involved showing ISIS-related videos to the youth. These allegations form part of the background against which the subsequent events relied upon by the prosecution are required to be examined. At this stage, the Court is not required to record a conclusive finding concerning the ideological character of the organisation or the ultimate purpose of

16 (2005) 1 SCC 568

the alleged activities; the relevant question is whether the material collected during investigation, considered as a whole, provides a legally sufficient basis for proceeding against the appellants. The prosecution has further relied upon the alleged meeting conducted on 25.03.2022, during which it was purportedly decided to collect improvised explosive devices (IEDs) and transport the same to Jaipur. It is also alleged that videos of the entire act were intended to be recorded and that videos relating to the alleged activity were subsequently recovered from the mobile phone of accused Aakif. These circumstances constitute an important part of the prosecution narrative, inasmuch as they are relied upon to connect the alleged activities of the organisation with the subsequent procurement and proposed transportation of explosive material.

39. The allegation concerning the proposed transportation of IEDs to Jaipur cannot, at the present stage, be treated as an isolated circumstance divorced from the alleged meeting, the proposed recording of the act and the electronic material stated to have been recovered during investigation. The cumulative effect of these circumstances, together with the remaining material forming part of the prosecution record, is required to be assessed for the limited purpose of determining whether the charges framed by the learned Trial Court disclose a legally sustainable basis for proceeding to trial. The case is not one in which the prosecution relies solely upon the alleged existence of an organisation or upon an association between the accused persons. The prosecution seeks to rely upon a chain of circumstances, comprising the

alleged activities of SUFA, the meeting dated 25.03.2022, the alleged decision concerning the collection and transportation of IEDs to Jaipur, the proposed recording of the act, the electronic material recovered from the mobile phone of accused Aqib, and the recovery of explosive material from the vehicle intercepted during the investigation. Whether every link in the said chain will ultimately be established, and what evidentiary value is to be attached to each circumstance, are matters to be determined at trial. At the present stage, however, the material cannot be assessed by severing each circumstance from the broader factual context in which the prosecution relies upon it.

40. The allegations, if established, concern the alleged procurement and transportation of explosive substances in furtherance of a criminal conspiracy. The use of explosive substances in the commission of a terrorist act has the potential to endanger human life, cause widespread injury and destruction, disrupt public order and threaten the security of the community. Where the prosecution alleges a concerted plan involving explosive devices and their proposed transportation to a major city, the gravity and potential consequences of the alleged conduct are matters which cannot be disregarded while appreciating the nature of the prosecution case. The constitutional obligation of the State to protect the life and security of its citizens is undoubtedly of paramount importance. Offences involving alleged terrorist activities and the planned use of explosive substances raise concerns extending beyond an ordinary dispute between private individuals. The statutory framework of the UAPA reflects the

legislative determination that activities threatening the sovereignty, integrity and security of India require a distinct legal response. Nevertheless, the seriousness of the allegations cannot, by itself, establish the guilt of any accused. It is the existence of material satisfying the applicable legal threshold, and not the mere invocation of national security, which justifies continuation of the prosecution.

41. Consequently, the national-security dimension of the present case reinforces the need for a careful and legally disciplined examination of the prosecution record; it does not dilute the requirement that the ingredients of the offences charged must be prima facie disclosed. The Court must neither trivialise allegations concerning the proposed use of IEDs nor allow the gravity of such allegations to substitute for the statutory test governing the framing of charges.

THE INDIVIDUAL ROLES ATTRIBUTED TO THE APPELLANTS :

42. A further consideration arising in the present batch of appeals is the contention that the prosecution has not established the individual involvement of each appellant in the alleged conspiracy. The appellants have pointed to the fact that they were not all apprehended from the vehicle in which the explosive material was allegedly recovered and that no illegal material was recovered during certain searches conducted at their premises. They have also questioned the significance of the alleged travel records, common mobile-phone locations, electronic material and the alleged participation in meetings or training activities.

43. The Court is conscious that criminal liability is individual and that the mere association of a person with other accused persons cannot, without more, establish his participation in a criminal conspiracy or the commission of a terrorist act. Equally, the absence of a physical recovery from an individual accused does not, as an inflexible proposition of law, preclude the prosecution from relying upon other legally admissible circumstances to establish the requisite connection with the alleged offences. The relevance of the absence of recovery, therefore, depends upon the nature of the charge and the totality of the material relied upon against the particular accused. In the present case, the prosecution has relied upon different circumstances against the respective appellants. Insofar as Aakif Atteq Nahar is concerned, the grounds of challenge refer to the alleged recording of training material in his mobile phone and its subsequent transfer to a pen drive belonging to accused Ameen Pawada, in addition to the circumstances surrounding his arrest and the search of his premises. In the case of Mazhar Khan, the challenge concerns, inter alia, the alleged air tickets, the location material and the absence of direct recovery. The grounds raised by Imran Khan include the allegations concerning SUFA, the alleged destruction or demolition of the poultry farm and house, and the allegation of police torture.

44. The appeal in D.B. Criminal Appeal No. 380/2024 raises further questions concerning the circumstances of arrest, the alleged recovery of a pickaxe, the alleged failure to trace chemicals in the car, the police confessional statement and the

identification referred to in the grounds of appeal. These circumstances have been noticed to demonstrate that the challenges raised by the appellants are not identical in every respect. Nevertheless, the fact that the appeals arise from the same investigation and involve overlapping allegations permits their adjudication by a common judgment, provided that the role attributed to each appellant is assessed separately. The Court does not proceed on the assumption that the allegations against one accused automatically establish the guilt of another. Rather, the question in each appeal is whether the material attributed to the concerned appellant, considered in the context of the entire prosecution record, provides sufficient grounds for proceeding with the charges framed against him.

45. The contention that certain appellants were not present in the vehicle at the time of its interception does not, by itself, answer the prosecution allegation of a prior conspiracy. A conspiracy, by its very nature, may involve different participants performing different acts at different stages. Its existence and the participation of a particular accused must be assessed from the circumstances relied upon by the prosecution, including any alleged meetings, communications, preparations and subsequent conduct. Whether the prosecution will ultimately establish the requisite agreement or common design is a matter for trial; at the stage of framing charges, the inquiry remains confined to whether the material gives rise to the requisite prima facie inference.

46. Similarly, the absence of a recovery from the premises of an accused person, while relevant, is not necessarily decisive where

the prosecution relies upon other material to establish the alleged participation. The Court must examine whether the remaining material, if accepted at face value, is capable of supporting the essential ingredients of the offence. It would be inappropriate at this stage to treat the absence of a particular category of evidence as automatically negating all other circumstances relied upon by the prosecution.

47. In the ratio enunciated in **Asim Shariff v. National Investigation Agency[17],** the Hon'ble Supreme Court considered a challenge to an order refusing discharge in a prosecution involving offences under the UAPA and other penal provisions. The Court reiterated that the question at the stage of framing of charges is whether the material on record discloses a prima facie case and whether the circumstances give rise to grave suspicion warranting a trial. The Court cautioned against converting the discharge proceedings into a detailed evaluation of the evidence or deciding questions which are properly reserved for trial. The principles enunciated therein are directly relevant to the nature of the challenge raised in the present appeals.

48. The appellants have questioned the evidentiary value of the electronic material, the alleged travel records and the location information relied upon by the prosecution. Such objections cannot be rejected merely because the prosecution has referred to electronic material in the charge-sheet. The Court must remain satisfied that the material, as presented in the prosecution record, is relevant to the alleged offences and is capable of supporting the

17 (2019) 7 SCC 148

inference sought to be drawn against the concerned accused. At the same time, questions concerning the authenticity, admissibility, reliability and ultimate probative value of such material must be considered in accordance with law and, where they require evidentiary examination, at the appropriate stage of the trial.

49. The prosecution's reliance upon videos allegedly recovered from the mobile phone of accused Aakif assumes significance because the videos are stated to relate to the proposed recording of the act concerning the collection and transportation of IEDs. The appellants' challenge to the significance of such material cannot be finally resolved merely by considering whether a particular video, viewed in isolation, conclusively proves an offence. The relevant inquiry at the present stage is whether the electronic material, read with the remaining circumstances relied upon by the prosecution, is capable of supporting the allegations forming the basis of the charges.

50. The Court is not unmindful of the distinction between the existence of an electronic record and the inference which may lawfully be drawn from it. The prosecution must establish the relevant foundational facts and satisfy the applicable requirements of admissibility and proof. The present observations, however, do not determine the admissibility of any particular electronic record or dispense with the prosecution's obligation to prove its case in accordance with law. They are confined to the conclusion that the ultimate evidentiary worth of the material cannot be conclusively determined in the present proceedings unless the challenge

demonstrates a fundamental legal defect or an absence of material sufficient to sustain the charge.

THE STATUTORY FRAMEWORK AND THE GRAVITY OF THE ALLEGED OFFENCES :

51. The offences alleged against the appellants arise under multiple statutory enactments, including the Explosive Substances Act, 1908, the UAPA and the Indian Penal Code, 1860. The prosecution alleges not merely the possession or recovery of explosive material but circumstances indicative of a wider conspiracy involving the alleged collection and transportation of IEDs. The applicability of the respective statutory provisions must, of course, depend upon the ingredients of each offence and the material relied upon against each appellant.

52. In **National Investigation Agency v. Zahoor Ahmad Shah Watali**[18], the Hon'ble Supreme Court considered the statutory framework governing bail under the UAPA and emphasised the importance of examining the prosecution material in the context of the special legislative provisions applicable to terrorist offences. The decision arose in the context of the statutory restrictions on the grant of bail and is not to be treated as prescribing an identical test for framing charges. Nevertheless, it underscores that proceedings involving alleged terrorist activities must be considered within the applicable statutory framework, rather than by disregarding the nature of the offences alleged. The ultimate question in the present appeals continues to be governed by the principles applicable to discharge and framing

18 (2019) 5 SCC 1

of charges. The seriousness of the alleged conduct is relevant to understanding the nature of the prosecution case, particularly where the allegations concern explosive substances, an alleged conspiracy and a proposed act in Jaipur. However, the Court reiterates that the seriousness of an offence cannot relieve the prosecution of its obligation to establish the case through legally admissible evidence. Nor can the national-security implications of the allegations justify the continuation of a charge where the statutory ingredients are wholly absent. The present appeals must therefore be decided on the basis of the applicable legal threshold and the material forming part of the record.

53. It has been submitted on behalf of the prosecution that a supplementary charge-sheet was filed on 28.11.2023, following further investigation. The supplementary charge-sheet forms part of the procedural history of the case and the material contained therein must be considered to the extent it forms part of the record relevant to the impugned orders. The mere filing of a supplementary charge-sheet does not, by itself, establish the truth of the allegations; equally, its filing cannot be disregarded where the material contained therein is relevant to the issues arising in the appeals. The prosecution has also referred to the dismissal of bail applications by the High Court vide orders dated 21.01.2023 and 16.08.2023, and by the Hon’ble Supreme Court vide order dated 18.01.2024. The said orders form part of the procedural background placed before the Court. However, the determination of a bail application and the determination of whether charges should be framed are distinct exercises governed by their

respective legal standards. The dismissal of bail applications cannot, by itself, be treated as proof of guilt or as conclusive validation of the impugned order framing charges.

54. A significant aspect of the present proceedings is that the appellants have challenged an order framing charges, whereas the trial has not yet culminated in a final judgment. The Court considers it necessary to emphasise that the stage of framing charges is preliminary to the recording and appreciation of evidence at trial. The appellants will have the opportunity, in accordance with law, to challenge the prosecution evidence through cross-examination, raise objections to admissibility where legally permissible, and advance their defence at the appropriate stage. The pendency of the trial does not, by itself, furnish a ground either to dismiss the present appeals or to uphold the impugned order. Equally, the fact that the trial has not concluded cannot justify the premature determination of disputed questions of fact in favour of either side. The relevant consideration is whether the learned Trial Court correctly applied the threshold for framing charges on the material then available before it. Where the material discloses the essential ingredients of the offences and raises grave suspicion against the accused, the proper course is ordinarily to permit the trial to proceed, leaving the final determination of guilt to be made upon completion of the evidentiary process.

WHETHER THE IMPUGNED ORDER WARRANTS INTERFERENCE :

55. Having considered the grounds raised by the appellants and the prosecution's response, this Court finds that the principal challenge is directed towards the interpretation, sufficiency and evidentiary significance of the material collected during investigation. The appellants have sought to rely upon the absence of direct recovery in certain cases, the circumstances surrounding the interception of the vehicle, the alleged deficiencies in the location and travel records, the alleged electronic material and the individual circumstances of arrest. These matters are relevant to the prosecution case; however, their ultimate effect cannot be conclusively determined by undertaking a piecemeal evaluation of the evidence at the present stage. The prosecution, on the other hand, relies upon the cumulative circumstances concerning the alleged formation and activities of SUFA, the showing of ISIS-related videos to the youth, the alleged meeting dated 25.03.2022, the decision to collect IEDs and transport the same to Jaipur, the proposed recording of the act, the videos allegedly recovered from accused Aakif’s mobile phone, and the further material collected during investigation. It is upon this cumulative factual foundation that the prosecution seeks to sustain the charges framed against the appellants.

56. The Court is of the considered view that the question is not whether each circumstance, taken independently, is sufficient to establish the guilt of an appellant beyond reasonable doubt. The inquiry is whether the material attributed to the concerned

appellant, considered alongside the remaining relevant material, gives rise to the requisite prima facie case or grave suspicion in respect of the offences charged. The ultimate truth of the allegations, the credibility of the prosecution witnesses, the admissibility and probative value of the electronic material, and the competing inferences sought to be drawn from the circumstances are matters which must be determined in accordance with law during trial.

57. The allegations concerning the proposed collection and transportation of IEDs to Jaipur, if established, involve conduct of a grave nature with potentially serious consequences for public safety and national security. The Court cannot, however, permit the gravity of the allegations to supplant the legal test governing the framing of charges. Having applied that test to the nature of the grounds raised and the prosecution case as presented, this Court finds no demonstrated basis in the present appeals to undertake a detailed reassessment of the evidence or to substitute a final determination on disputed facts for the trial process. It is also relevant that the learned Trial Court has discharged certain accused persons from specific offences while proceeding to frame charges under other provisions. The impugned order thus reflects a consideration of the applications for discharge with reference to the offences and material placed before the Court. The fact that certain charges were not sustained against an accused does not, by itself, render the remaining charges legally untenable. Each charge must be assessed in the light of its statutory ingredients and the material relied upon in support thereof. In the absence of

a demonstrated legal bar or a clear failure of the material to disclose the essential ingredients of the offences charged, the Court is not persuaded that interference with the impugned order is warranted.

58. It is clarified that the aforesaid observations are confined to the limited purpose of determining the validity of the order framing charges. Nothing stated herein shall be construed as an expression of opinion on the ultimate guilt or innocence of any appellant. The learned Trial Court shall proceed with the trial independently, in accordance with law, uninfluenced by any observation herein which is not necessary for deciding the present appeals.

CONCLUSION :

59. For the reasons recorded hereinabove, this Court finds no sufficient ground to interfere with the impugned order dated 31.07.2024, insofar as it has been challenged by the appellants in the present batch of appeals. The material and circumstances relied upon by the prosecution, as presented for consideration at this stage, do not warrant the premature termination of the criminal proceedings by way of discharge.

60. Consequently, the present appeals are **dismissed**. The impugned order dated 31.07.2024 is upheld to the extent challenged in the respective appeals. The learned Trial Court is directed to proceed with the trial in accordance with law and endeavour to conclude the proceedings expeditiously, subject to the applicable procedural requirements and without being influenced by the observations made herein. It is reiterated that

the dismissal of the present appeals shall not be construed as a finding of guilt against any appellant. All questions concerning the admissibility, reliability and evidentiary value of the prosecution material, as well as the ultimate determination of the charges, shall remain open for adjudication by the learned Trial Court in accordance with law.

61. Pending applications, if any, shall stand disposed of.

62. A copy of the present judgment be placed in the connected appeals.

(SAMEER JAIN),J **(SANJAY K. AGRAWAL),CJ**

DEEPAK/