IN THE COURT OF MS.ANU GROVER BALIGA
SPECIAL EXCLUSIVE COURT-04
NIA ACT: UAPA:RACC:NEW DELHI

CNR No. DLCT11-001104-2026
SC No. 85/2026
FIR No. 4/2012
PS : SPECIAL CELL

STATE

Vs.

SAYED MOHD. AHMAD KAZMI

O R D E R

19.11.2026

Present: Sh. Irfan Ahmed, Ld. SPP for State along with Sh. Vansh Arora, ld. Counsel.

Accused is present on bail.

Sh. Sanawar and Sh. Parakram Rautela, Ld.Counsels for accused.

1. The case is today fixed for orders on the plea raised by the Defence that this case should not be continued with and that the Defence may not be called upon to advance arguments on charge till the Hon'ble High Court

decides the criminal reference no. 1/2012 (FIR No.01/2012 PS Special Cell) and the criminal appeal MC No. 2180 of 2012 filed by the State in the present case. This Court in the present order will also deal with another plea of the Defence namely that there is no valid cognizance on record and that therefore this court cannot proceed to hear arguments on charge.

2. According to Ld. Counsel Sh. Mehmood Pracha, appearing for the accused, he has raised the aforementioned pleas, based on the following chronology of events that have taken place qua the present case (the written submissions made by Ld. Counsel Sh. Pracha in this respect are being reproduced herein below) :

i) On 13.02.2012, the incident is stated to have taken place, resulting in registration of the FIR on the same day. Sections 16 and 18 of the Unlawful Activities (Prevention) Act, 1967 were invoked in the case, with the UAPA offences being scheduled offences under the National Investigation Agency Act, 2008 ('NIA Act, 2008').

ii) On 06.03.2012, the accused came to be arrested and on 07.03.2012. the first remand of the accused was given by the Ld. Chief Metropolitan Magistrate (Central), who was pleased to order twenty days of police custody. On 24.03.2012, the accused was remanded to Judicial Custody.

iii) On 02.06.2012, the accused was produced before the Ld. CMM as his 90 days custody was expiring on 03.06.2012. Vide order of even date, the judicial custody of the accused was extended till 22.06.2012, while later during the day, the period of investigation was extended by 90 days by the Ld. CMM under provisions of Section 43D(2)(b) of the UAPA.

iv) Order dated 02.06.2012 extending the period of investigation, passed by the

Ld. CMM, came to be challenged by the accused before the Ld. Sessions Court by way of Criminal Revision No. 86 of 2012 and vide order dated 08.06.2012, the Ld. Sessions Court made certain observations regarding the provisions of the NIA Act, 2008, and the power of the Ld. CMM to even extend the judicial custody in a scheduled offence under the NIA Act. Observations were made in the order dated 08.06.2012 on the role and power of the Ld. Addl. P.P. for the State. Time was granted to the parties to assist the court and matter was fixed for 03.07.2012.

v) The order dated 08.06.2012 was challenged by the State before the Hon'ble High Court of Delhi by way of Crl. M.C. No. 2180 of 2012 titled 'State vs. Sayed Mohd. Ahmad Kazmi', wherein by way of order dated 02.07.2012, the proceedings before the Ld. Sessions Judge in Criminal Revision No. 86 of 2012 were stayed by the Hon'ble High Court and notice on the petition was issued.

vi) On 22.06.2012, the accused filed his first application seeking statutory bail, which came to be dismissed, and the matter was referred by the Ld. CMM to the Ld. District and Sessions Judge, who directed the judicial custody of the accused to be extended till 03.07.2012.

vii) On 03.07.2012, the accused came to be produced before the Ld. CMM again in as much as his remand was expiring. The Ld. CMM is stated to have forwarded the application to the Ld. Sessions Judge on account of an order dated 22.06.2012 of the Ld. Officiating Sessions Judge. The application is hence stated to have been marked to the Ld. Additional Sessions Judge Central-01, who notified the matter for 06.07.2012, while extending the judicial custody of the accused.

viii) On 04.07.2012, the State moved Crl. M.A. No. 7932 of 2012 in Crl. M.C. No. 2180 of 2012, seeking urgent directions that during pendency of Crl. M.C. No. 2180 of 2012, the Ld. CMM may be directed to extend the remand and to take cognizance of the offences under UAPA. The Hon'ble High Court directed the application to be listed on 06.07.2012.

ix) On 06.07.2012, the Hon'ble High Court was pleased to stay all the observations of the Ld. ASJ in C.R. No. 86 of 2012 particularly those contained

in orders dated 08.06.2012 and 03.07.2012 and it was clarified that *"...till the question of law raised in the present proceedings is decided by this Court, Chief Metropolitan Magistrate is directed to extend the remand of accused and take cognizance of offences under Unlawful Activities (Prevention) Act, 1967..."* *(emphasis added).*

x) In light of the above, on 07.07.2012, the accused moved the Hon'ble High Court by way of Crl. M.A. No. 12120 of 2012 in Crl. M.C. No. 2180 of 2012, seeking liberty to agitate Criminal Revision No. 86 of 2012, pending before the Ld. ASJ, on other grounds apart from the question of law relating to the competence of the Ld. CMM to remand the accused to custody beyond 15 days in offences punishable under the UAPA.

xi) Vide order dated 13.07.2012, the Hon'ble High Court was pleased to allow the application to this extent, permitting the accused to pursue the revision petition on grounds other than the issue on which the Hon'ble High Court had admitted Crl. M.C. No. 2180 of 2012 on 02.07.2012.

xii) Consequently, Criminal Revision No. 86 of 2012 was heard by the Ld. ASJ on 16.07.2012, on the issues that on 02.06.2012, the Ld. CMM had wrongly marked the presence of the accused and his Counsel even though they were not present, and that before passing the impugned order dated 02.06.2012, the accused was not given notice, nor an opportunity of being heard. The State took a vacillating stand before the Ld. ASJ, stating first that the remand of the accused was extended on 02.06.2012 prior to the application for extension of investigation having been allowed, but then changed the stand that the extension order was passed prior to the remand order. While disposing of Criminal Revision No. 86 of 2012 on 17.07.2012, the Ld. ASJ observed that it was not fit for the court to initiate an inquiry into the aspect of when the accused was remanded to custody, nor could the court controvert the factum of the presence of the accused and Counsel being marked in the order of remand. On the second aspect, the Ld. ASJ observed that it was the right of the accused to be given notice of an extension application, apart from an opportunity to be heard, which was not done by the Ld. CMM on 02.06.2012. Further, the Ld. ASJ observed that the order dated 02.06.2012 allowed the extension of investigation by 90 days in one go. The report of the Ld. Addl. PP was also

found wanting on the aspect of application of mind to the progress of investigation. The Ld. ASJ hence remanded the matter back to the Ld. CMM with the public prosecutor being granted liberty to move a fresh report seeking extension of investigation within one week.

xiii) The accused, on 13.07.2012 itself, moved an application under Section 167 (2) Cr.P.C. seeking statutory bail, which came up for hearing on 17.07.2012 and the Ld. CMM posted the same for 18.07.2012.

xiv) On 18.07.2012, the State moved another application seeking extension of the custody of the accused for another 90 days and the Ld. CMM hence posted the application of the accused seeking statutory bail and the application of the State seeking an extension of custody to 20.07.2012.

xv) On 20.07.2012, the Ld. CMM granted the extension with retrospective effect from 02.06.2012 and dismissed the application of the accused for grant of statutory bail.

xvi) The accused hence filed Criminal Revision No. 96 of 2012 challenging the orders dated 18.07.2012 and 20.07.2012 passed by the Ld. CMM. Vide order dated 30.07.2012, the Ld. ASJ dealing with the revision, observed that in light of the aforesaid order dated 13.07.2012 of the Hon'ble High Court the matter be kept pending till 12.10.2012 awaiting further orders from the Hon'ble High Court.

xvii) In the meantime, owing to the order dated 13.07.2012 of the Hon'ble High Court, the Ld. ASJ had also sent a reference (Crl. Ref. 1 of 2012) to the Hon'ble High Court raising sixteen different issues, in case FIR No. 01 of 2012 PS Special Cell (SC No. 39 of 2012).

xviii) The State filed the chargesheet on 31.07.2012 and the Ld. CMM is stated to have taken cognizance thereon on 09.08.2012.

xix) The accused hence approached the Hon'ble High Court vide Crl. M.A. No. 13484 of 2012 seeking early hearing of Crl. M.C. No. 2180 of 2012 on 03.08.2012.

xx) Vide order dated 06.08.2012, the Hon'ble High Court was pleased to dismiss the early hearing application.

xxi) That in the above backdrop, accused approached the Hon'ble Supreme court of India by way of Special Leave Petition (Crl.) Nos. 6965-6967 of 2012 which were decided on 19.10.2012 by the Hon'ble Supreme Court. Herein, the accused challenged orders dated 02.07.2012 (whereby notice was issued and stay was granted), 06.07.2012 (whereby the Ld. CMM was directed to extend the remand and take cognizance) and 06.08.2012 (whereby early hearing application of the petitioner was dismissed) of the Hon'ble High Court in Crl. M.C. No. 2180 of 2012. The accused also filed Crl. M.A. Nos. 1983-85 of 2012 for grant of statutory bail. The Hon'ble Supreme Court was pleased to allow the SLP and set aside the order dated 20.07.2012 of the Ld. CMM extending the period of investigation with retrospective effect from 02.06.2012. The Hon'ble Supreme Court also set aside the orders of the Hon'ble High Court passed on 02.07.2012, 06.07.2012 and 06.08.2012. The accused was hence granted statutory bail, while the various proceedings, including the two revision petitions (86 of 2012 and 96 of 2012) and the two matters before the Hon'ble High Court (Crl M.C. 2180 of 2012 and Crl. Ref. No. 1 of 2012) remained pending.

3. In view of the aforementioned facts on record, it is the submission of Ld. Counsel Sh. Pracha that till the reference made to the Hon'ble High Court, in FIR No. 01 of 2012, PS:Special Cell which is being adjudicated along with the aforesaid Crl. M.C. No. 2180 of 2012 filed by the State (qua the present case), is decided, this court must not proceed with the present case. It is his submission that it is the Hon'ble Delhi High Court which has to decide whether the questions in the reference stand resolved by the Hon'ble Supreme Court of India in '*Naser Bin Abu Bakr Yafai vs. State of Maharashtra (2022) 6 SCC 308'*, or whether it is the judgment in '*Bikramjit Singh vs. State of*

Punjab (2020) 10 SCC 616' which answers some, or all, of the questions in the reference. According to Ld. Counsel Sh. Pracha, the determination of this initial issue would thence entail as to how the questions of the reference are answered, and would have a bearing on further adjudication of the present matter.

4. It is further submitted by Ld. Counsel Sh. Pracha that whether the cognizance taken by the Ld. Chief Metropolitan Magistrate on 09.08.2012, in pursuance of the order dated 06.07.2012 of the Hon'ble High Court passed in Crl. M.C. No. 2180 of 2012, is proper, or whether this Hon'ble Court is required to take fresh cognizance of the case in terms of Section 16 of the NIA Act, 2008, or whether the case is liable to be dismissed on account of violation of the mandatory provisions of the NIA Act, 2008, are issues which remain to be addressed by the Hon'ble High Court in Crl. M.C. No. 2180 of 2012 and criminal reference No. 1 of 2012.

5. In rebuttal to the aforementioned submissions made by Ld. Counsel Sh. Pracha, Ld. SPP for the State Sh. Irfan Ahmed, submits that this court must proceed with the present case for the Hon'ble Delhi High Court vide its order dated 11.12.2019 in criminal MC No. 2180/2012 has categorically clarified that there is no stay of the trial court's proceedings and that the court must proceed to hear the arguments on charge. He has further submitted that even in the criminal reference, Hon'ble Delhi High Court vide its order dated 23.03.2023 on an application filed by Ld. Counsel Sh. Pracha has categorically

directed that there is no stay order passed in the criminal reference proceedings. Copy of both the aforementioned orders of Hon'ble Delhi High Court have been placed on record by Ld. SPP for the State.

6. In the considered opinion of this court, taking into consideration the aforementioned two orders of the Hon'ble Delhi High Court, it is apparent that there is no stay of the proceedings in the present case and in fact the Hon'ble Delhi High Court has categorically directed the trial court to proceed with hearing the arguments on charge. It would not be out of place to mention at this stage that one of the Ld. Predecessors of this court, on 19.09.2024 i.e almost two years back, had brought the attention of Ld. Counsel Sh. Pracha to the said orders of the Hon'ble Delhi High Court and on 24.10.2024, a submission was made on behalf of the Defence that the court may proceed with hearing the arguments on charge.

7. Despite the aforementioned facts on record, it is the submission of Ld. Counsel Sh. Pracha that it would not be appropriate for this court to proceed in the present case. He has now sought to submit that despite there being no stay of the proceedings before this court, this court must take note of the provisions of Section 395 (3) of the Cr.P.C / Section 436 (3) BNSS. He has pointed out the same make it clear that in case a reference has been sent by a court, the further course is to either commit the accused to jail or release him on bail to appear when called upon, pending the decision of the High Court. It has been further submitted that the language of the provision entails that until

the High Court gives a decision on the issues raised, the matter is to remain in abeyance. According to Sh. Pracha, this contention is further fortified by the provisions of Section 396 Cr.P.C / 437 BNSS, which mandates that the court which has made the reference is to dispose of the case conformably to the order of the High Court on such reference. It is therefore being submitted that until the Hon'ble High Court decides the reference, and the issues, *inter alia*, relating to the proper forum for cognizance, are answered, till then, as per the statutory scheme, balance of convenience, and other considerations which may be relevant, the matter may be kept pending at the present stage.

8. With respect to the aforementioned submission of Ld. Counsel Sh. Pracha, it is to be noted that the criminal reference has not been made in the present case. In such view, there is no question of applicability of the provisions of Section 395 (3) of Cr.P.C / Section 436 (3) of BNSS to the proceedings of the present case.

9. In the considered opinion of this court, in view of the order of the Hon'ble Delhi High Court dated 11.12.2019 in criminal MC No. 2180/2012, this court is duty bound to proceed with the present case. In all humility, this court wishes to specifically record that it has no intention of encroaching upon the powers of the Hon'ble High Court as is being sought to be contended by ld. Counsel Sh.Pracha. Having gone through the entire records of this case carefully, (this case is one of the oldest cases pending in the court of the undersigned) this court does not agree with the ld. Counsel Sh.Pracha that the

issues raised in the reference will have a bearing on the facts of the present case. This is so in view of the order dated 19.10.2012 pronounced by the Hon'ble Supreme Court in the present case. In fact, it is the same very order which is being relied upon by ld. Counsel Sh.Pracha to contend that there is no valid cognizance on record in the present case.

10. The contention of Ld. Counsel Sh. Pracha in this respect is that the cognizance taken by Ld. CMM vide order dated 09.08.2012, in the present case is completely vitiated in view of the order dated 09.10.2012 of the Hon'ble Supreme Court. Apart from the said order, Ld. Counsel Sh. Pracha has also relied upon the pronouncement of the judgment of the Hon'ble Supreme court in the case titled and reported as '***Bikramjeet Singh Vs State of Punjab (2020) 10 SCC 616'***. It is the contention of Sh. Pracha that in both Kazmi's case and Bikramjeet's case, the Hon'ble Supreme Court has held that the Magistrate has no powers to take cognizance of the cases arising from the scheduled offences under the NIA Act, 2008 and that it is only the Special Court, or the jurisdictional Sessions Court, in the absence of Special Court having being constituted under Section 22 of NIA Act, 2008, which is empowered to deal with the scheduled offences under NIA Act, 2008. It is his submission that since in the present case it is the Ld. Chief Metropolitan Magistrate who took the cognizance of the scheduled offences namely the offences punishable under UAPA Act, the cognizance taken by the Magistrate is vitiated. According to Ld. Counsel Sh. Pracha, the consequence of the such cognizance being vitiated is that the present matter is liable to be dismissed. It is, therefore, his

submission that this court may not insist that he advance arguments on charge without first dealing with his preliminary objection regarding the issue of cognizance.

11. With respect to the aforementioned contention of the Defence, Ld. SPP has sought to submit that the cognizance in the present case is not vitiated in view of the provisions of Section 460 of Cr.P.C and also in view of judgment pronounced by the Hon'ble Supreme Court in the case titled and reported as '*Naser Bin Abu Bakr Yafai Vs State of Maharashtra (2022) 6 SCC 308'*. Ld. SPP has pointed out that provisions of Section 460 Cr.P.C inter alia make it clear that if any Magistrate, not empowered by law to take cognizance of an offence erroneously in good faith does take cognizance, his proceedings shall not be set aside merely on the ground of him not being so empowered. It is the submission of Ld. SPP that since in the present case the Ld. CMM, in good faith had taken cognizance only after he was so directed by the Hon'ble High Court vide its order dated 06.07.2012, the entire proceedings of the Ld. CMM will not stand vitiated. In the alternative, it is his submission that if in view of the order dated 19.10.2012 passed by the Hon'ble Supreme Court in the present matter, the cognizance taken by Ld. CMM vide order dated 09.08.2012 no longer exists, this Court may take cognizance of the offences afresh as per the mandate of Section 16 of NIA Act, 2008.

12. In reply to the said contention of ld.SPP, Ld. Counsel Sh. Pracha has sought to contend that no cognizance can be taken by this court, at this

stage, for the same will amount to taking double cognizance which is impermissible in law. Ld.Counsel Sh.Pracha has submitted, that before the Hon'ble Delhi High Court, the stand of the prosecution is that the ld.CMM was empowered to take cognizance of the present case and that the bar of Section 193 Cr.PC operates against any Sessions Court taking cognizance of an offence, including a scheduled offence under the National Investigation Agency Act, 2008. It is his submission that the prosecution now cannot be permitted to take a contrary stand namely that the this court may consider the cognizance taken by ld CMM as vitiated. According to ld. Counsel Sh.Pracha since according to the Prosecution, the cognizance taken by ld.CMM was proper, if this Court now takes cognizance, it will amount to double cognizance.

13. In rebuttal, ld.SPP has sought to submit that the prosecution is entitled to take alternative pleas on questions of law. He submits that though, before the Hon'ble Delhi High Court, at the time that the State had challenged the orders of the ld.ASJ, dated 08.06.2012 and 03.07.2012, a plea had been taken that the cognizance taken by the ld.CMM was proper, the Prosecution is now entitled to take an alternative plea, in view of the order dated 19.10.2012 of the Hon'ble Supreme Court pronounced in the present case. Ld. SPP has further submitted that in fact nothing survives in the criminal revision filed by the State and that the same is pending only because it is tagged with the reference before Hon'ble Delhi High in FIR No. 01 of 2012.

14. In the considered opinion of this court, the submission being

made by ld.SPP is to be accepted, for nothing prohibits either the Prosecution or the Defence to take alternative pleas with regard to questions of law. Further, this Court is of the considered opinion that in view of the order dated 19.10.2012 pronounced by the Hon'ble Supreme Court in the present case, it is clear that the cognizance taken by Ld. CMM vide order dated 09.08.2012 no longer survives and the provisions of Section 460 Cr.P.C cannot be relied upon by the prosecution to contend that the cognizance taken by the Ld. CMM is merely irregular. It is a matter of record that the said cognizance was taken by Ld. CMM pursuant to the order of the Hon'ble Delhi High Court dated 06.07.2012 vide which the Ld. CMM had been directed to extend the remand of the accused and to take cognizance of the offences under UAPA. Once the said order of the Hon'ble Delhi High Court stands set aside by the Hon'ble Supreme Court, the only corollary is that the order of Ld. CMM passed pursuant to the order dated 06.07.2012 is also no longer in operation. Further in such view, there arises no occasion for this Court to touch upon any of the issues raised in the reference or in the Criminal Appeal filed by the State.

15. Thus this court agrees with Ld Counsel Sh Pracha that in view of the order dt 19.10.12 of the Hon'ble Supreme Court passed in the present case, the cognizance taken by Ld CMM stands vitiated. However having said so, this Court does not at all agree with the submission of Ld. Counsel Sh. Pracha that once it is held that the cognizance taken by the Ld. CMM stands vitiated, the present case is liable to be dismissed on the said account. Neither in the order dated 19.10.2012 of the Hon'ble Supreme Court pronounced in the present case

nor in **Bikramjit's case** (*supra* – the judgment relied upon by Ld. Counsel Sh. Pracha), has the Hon'ble Supreme Court held that due to the lack of jurisdiction of a Magistrate to deal with the offences committed under UAPA, the entire proceedings have to be dropped. In **Bikramjit's Case,** the Hon'ble Supreme Court was dealing with the power of Magistrate to extend the time of investigation of a scheduled offence. After examining the scheme of NIA Act, it was held by the Hon'ble Supreme Court that as per the provisions of National Investigating Agency Act, it is only the Special Court constituted under the said Act, which can take cognizance of any scheduled offence and further that in the absence of a notification specifying a Special Court, it is the court of Sessions of the Division in which the scheduled offence has been committed, which will take the cognizance. However, it has not been held in the said case at all that the entire proceedings conducted before the court of Sub Divisional Judicial Magistrate stand vitiated and the case is to be dismissed. After taking into consideration that the Magistrate did not have the powers to extend the remand of an accused arrested for having committed a scheduled offence, the Hon'ble Supreme Court granted default bail to the accused before it. In fact, the Hon'ble Supreme Court even after grant of default bail made it clear that its judgment does not prohibit or otherwise prevent the arrest or re-arrest of the petitioner on cogent grounds. The order passed by the Hon'ble Supreme Court in the present case also similarly granted default bail to the present accused.

16. In the considered opinion of this court, in view of the fact the Honble Supreme Court in the aforementioned two cases has categorically held

that it is only the Special Court constituted as per the provisions of the NIA Act (Section 13 and 16) which can take cognizance of a scheduled offence, it is this court which is required to take cognizance in the present case. Further, in such view of the matter, there is no question of there being a double cognizance. Once the cognizance taken by the Ld. Chief Metropolitan Magistrate stands vitiated in view of order dated 19.10.2012 of Hon'ble Supreme Court, the cognizance being taken by this court is the first cognizance and not the second cognizance as is being contended by Ld. Counsel Sh. Pracha.

17. At this stage, it will be relevant to mention that on 24.10.2026, Ld. Counsel Sh. Pracha had also made a submission namely that in case this court at this stage, wishes to take cognizance, he must be heard. According to him the principle *audi alteram partem* mandates that no court should take cognizance without giving an opportunity to the accused to make his submissions.

18. Though Ld. SPP for the State Sh. Irfan Ahmed, in rebuttal to the aforementioned contention of Sh. Pracha had filed judicial dicta to contend that an accused has no right to be heard at the stage of taking cognizance by a court, in the peculiar facts and circumstances of the present case namely that the accused has been appearing in the present case for the last fourteen years and it was on his petition before the Hon'ble Supreme Court that the order of taking cognizance by Ld. Chief Metropolitan Magistrate is being held to be vitiated, this court has heard Ld. Counsel Sh. Pracha on the issue whether or not there is

sufficient material to take cognizance of any offence in the present case.

19. Briefly stated the charge-sheet filed *inter-alia* mentions that the present FIR was registered on 13.02.2012 in connection with a explosion involving the Israeli Embassy vehicle namely an Innova car carrying the wife of an Israeli Diplomat. According to the prosecution, a magnetic explosive device was stuck on the rear side of the Innova car by a motorcycle rider at about 3:15 p.m at Aurangzeb road – Safdarjung Road crossing and that within a few seconds an explosion took place in the Innova car due to which the car caught fire and the occupants of the car namely driver and the wife of Israeli Diplomat were injured. Some passers by also sustained injuries. That soon after the incident of fire and blast, the experts from CFSL were summoned at the spot. They collected the exhibits from the spot and FIR was therefore registered in respect of the offences alleged to have been committed under Section 307, 427 and 120B of IPC and also under Section 16 and 18 of Unlawful Activities (Prevention) Act, 1967 (herein after referred to as UAPA). During investigation, it was one Houshang Afsar Irani, who was found to have been the motorcycle rider who stuck the magnetic explosive device on the Innova car. The detailed report of the CFSL submitted, during further investigation, on 11.04.2012 made it clear that an improvised explosive device (IED) had been used in the terrorist attack. It is also been alleged that a similar incident on the same day also took place in the capital of Georgia and further that on 14.02.2012, two terrorist incidents took place in Bangkok. Further investigation also revealed that in the terror incidents that occured in Georgia

and Bangkok, three Iranian Nationals were involved. According to the Prosecution, in the present case Houshang Afsar Irani along with the said three Iranian National and the present accused namely Sayed Mohd. Ahmad Kazmi had conspired to commit the terrorist act in India.

20. Now with respect to the aforementioned assertions made in the charge-sheet, there are two main contentions made by Ld. Counsel Sh. Pracha. He has firstly sought to contend that the report of the FSL itself makes it clear that the blast in the car had taken place due to presence of inflammable material inside the car itself. He has also sought to point out that the condition of the car makes it apparent that the rear end of the car was blown away and this according to Ld. Counsel could have happened only when the explosion would have taken place inside the car. His submission therefore is that the story put forward by the prosecution that a person had planted the magnetic explosive device on the outer side of the car by sticking the same, falls to the ground. The submission therefore is that the facts of the present case reflect that no offence ever took place and therefore there arises no question of this court taking cognizance. It is also his stand that the existence of the so call accused Houshang Afsar Irani is itself questionable for till date the investigating agency has not been able to trace any detail of the said accused.

21. In rebuttal to the aforementioned contention, Ld. SPP Sh. Irfan Ahmed has vehemently contended that the submissions made by Ld. Counsel Sh. Pracha are totally contrary to the record. He has pointed out that the CFSL

in its detailed report dated 11.04.2012 has *interalia* opined that the IED appeared to have been planted towards the right side portion on the dickey/back door outer surface of the Innova car and the recovery of the 2mm (app) thick magnetic strip pieces from the scene of crime, is indicative of use of Magnetic strip for sticking the IED to the metallic surface of the car.

22. Ld. SPP has further pointed out that there are statements of public witnesses to the effect that on the date of the incident, one motorcycle rider stuck something on the rear right side of the Innova car, while the said vehicle was waiting for the traffic signal to turn green at Bhinder point on Aurangzeb road and that after about a few seconds an explosion took place in the said car. It has also been pointed out that one of the eye witnesses namely Sh. Gopal Krishnan was also shown the CCTV footage of the movements of Houshang Afsar Irani in Hotel High 5 Land, Paharganj, Delhi and after watching the CCTV footage, he stated that Houshang Afsar Irani resembles, as per his body structure and jacket worn by him, to the person who planted bomb on the Israel Embassy's Innova car on 13.02.2012. It has been further submitted by Ld. SPP for the State that the factum of sticking of some device, explosion and fire also stands confirmed by witnesses / injured Ms. Tal Yehoushua, Sh. Manoj Sharma, Sh. Manjeet Singh and Sh. Arun Sharma.

23. In his written submissions filed, ld.SPP has also sought to bring the following facts to the notice of this court (the same are being reproduced from the said written submissions).

- During analysis of call details of mobile number 8860484945 of Houshang Afshar Irani, it is revealed that during both of his visits in India he communicated with Sedaghatzadeh Masoud (detained in Malaysia in connection with blast in Thailand) on his mobile number 989123944144 on 25.04.2011 at 12:58 hrs, on 04.05.2011 at 19:14 hrs, on 05.05.2011 at 18:01 hrs, on 06.05.2011 at 16:07 hrs and on 29.01.2012 at 13:58 hrs.

- During his first visit in India, Houshang Afshar Irani received call from an Iranian mobile number 989190153249 on 05.05.2011 at 16:11 hrs. Immediately after receiving this call from Seyed Ali Mahdiansadr, Houshang Afshar Irani made a call to Sayed Mohhmmad Ahmad Kazmi on 05.05.2011 at 16:13 hrs on his mobile number 9811272415.

- During analysis of mobile number 9811272415 of Sayed Mohd. Ahmad Kazmi, it was revealed that he had received calls from Seyed Ali Mahdiansadr from his mobile number 989126488717 on 05.05.2011 at 18:04 hrs and 06.05.2011 at 10:08 hrs. Sayed Mohhmmad Ahmad Kazmi made outgoing calls to Seyed Ali Mahdiansadr on 06.05.2011 at 10:00 hrs and 10:03 hrs.

- It is pertinent to mention here that Sayed Mohd. Ahmad Kazmi communicated with Seyed Ali Mahdiansadr and Houshang Afshar Irani on the same day and almost the same time period.

- The movements of two Iranian nationals ie. Sedaghatzadeh Masoud and Ali Akbar Norouzi Shayan were noticed in Malaysia and later Sedaghatzadeh Masoud was detained there on 15.03.2012 in Malaysia in connection with blast in Thailand.

- Two Iranian nationals Moradi Said s/o Majid r/o Tehran, Iran, bearing Passport No. F22592957 and Mohammad Khazaei s/o Eidi r/o Tehran, Iran bearing Passport No. M22168781 were arrested on 14.02.2012 in Thailand.

- During the last week of May 2011, Seyed Ali Mahdiansadr and

Mohammadreza Abolghasemi visited India and stayed in Delhi. During their stay, they had meetings with Sayed Mohammad Ahmad Kazmi and they conducted recce of Israel Embassy in the Maruti Alto car of Sayed Mohammad Ahmad Kazmi.

- Sedaghatzadeh Masoud and Ali Akbar Norouzi Shayan applied for Indian VISA at Indian Embassy in Tehran.

- From the analysis of call details of mobile Number 8860484945 of Houshang Afshar Irani, it is revealed that, on 25th June 2011, he was in Georgia. It is pertinent to mention here that a similar kind of terrorist incident was reported in Georgia on 13.02.2012 (the same day on which terrorist strike took place in Delhi).

- From the analysis of Immigration details of Houshang Afshar Irani, it is clear that after terrorist strike on 13.02.2012 in Delhi, he left for Malaysia. It is pertinent to mention here that movements of two Iranian nationals, Sedaghatzadeh Masoud and Ali Akbar Norouzi Shayan were noticed in Malaysia and later Sedaghatzadeh Masoud was detained there on 15.03.2012 and it is also to mention here that Houshang Afshar Irani, during both his visits in India, was in contact with Sedaghatzadeh Masoud on his mobile Number 989123944144.

- Sayed Mohd. Ahmad Kazmi had arranged one Air ticket for Seyed Ali from M/s Pacific Travels, 206, Prakashdeep, 7, Tolstoy Marg, New Delhi from Delhi to Muscat in the month of May 2011. In this regard, information was collected from M/s Pacific Travels, 206, Prakashdeep, 7, Tolstoy Marg, New Delhi and AIR INDIA. According to their report, one Air Ticket No. ETKT 0985174097715 for date 31.05.2011 was issued on 30.05.2011 in the name of MEHDIAN/SADRSEYEDALI MR. on Air India to travel between Delhi and Muscat. The ticket was found issued on the request of Mr. Kazmi through his mobile number 9811272415.

- Report from Mahan Air was sought which revealed that accused Sayed Mohd. Ahmad Kazmi had visited Tehran, Iran 8 times through this

Airline since 2004, Houshang Afshar Irani travelled 3 times and Abolghasemi Mohammadreza travelled once.

24. The submission therefore is that a terrorist attack did take place and that the investigation has revealed that one Houshang Afsar Irani in conspiracy with the present accused Sayed Mohd. Ahmad Kazmi and three other Iranian Nationals had carried out the same. Ld. SPP has further submitted that though the investigating agency was successful in apprehending the present accused, the other accused persons could not be arrested till date and Red Corner Notices have been issued against them.

25. Having considered the submissions made by both the Ld.Counsels and having perused the entire material on record, this Court is of the considered opinion that the CFSL report , the statements of witnesses referred to by Ld. SPP and the facts discovered during investigation, are sufficient to hold at this stage that a criminal offence namely a terrorist act did take place, in pursuance of a conspiracy. It is to be taken note that the Sanctions accorded by the competent authority under Section 45 of the UAPA and under Section 7 of Explosive Substances Act, have been filed on record by the Prosecution. Hence, this court hereby takes cognizance of the offences punishable under Section 307, 323, 427, 120B IPC and of the offences punishable under Section 16 and 18 of the UAPA and Section 3 of Explosive Substances Act.

26. Now that this court has dealt with the preliminary objections

taken by Ld Defence Counsel Sh. Pracha, both he and the ld.SPP are directed to advance their arguments on charge on **07.12.2026 (the date has been specifically as per the convenience of the ld.Defence Counsel)**. Before the said date, in case there is any deficiency of documents provided to the accused, ld.Counsel Sh.Pracha may bring the same to the notice of this court.

ANU GROVER BALIGA
Digitally signed by ANU GROVER BALIGA
Date: 2026.11.19 15:51:06 +0530

Announced in the open Court
on this 19th Day of November, 2026

(Anu Grover Baliga)
Special Exclusive Court-04
(NIA Act, 2008, UAPA)