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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15<sup>TH</sup> DAY OF SEPTEMBER, 2021

PRESENT

**THE HON'BLE MR. JUSTICE ARAVIND KUMAR**

AND

**THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR**

**CRL. A. NO.585/2021**

**A/W**

**CRL. A. NOS.576/2021, 582/2021 AND 745/2021**

**IN CRL.A.NO.585/2021:**

**BETWEEN:**

1. MR. SHAIKH MUHAMMED BILAL  
S/O NIYAZ AHMED  
AGED ABOUT 26 YEARS  
RESIDING AT NO M5  
3RD MAIN ROAD  
KUSHAL NAGAR, K.G. HALLI  
BANGALORE NORTH  
BENGALURU - 560 045.
2. SYED ASIF  
S/O LATE SYED AKBAR  
AGED ABOUT 46 YEARS  
RESIDING AT NO 119/1  
11TH CROSS, K.G. HALLI  
BANGALORE NORTH  
BENGALURU - 560 045.
3. MR. MOHAMMED ATIF  
S/O MOHAMMED GHOUSE

AGED ABOUT 26 YEARS  
RESIDING AT NO 594  
5TH CROSS, BASAVA NAGAR  
K.G. HALLI, BANGALORE NORTH  
BENGALURU - 560 045.

4. MR. MOHAMMED MUDASSIRKALEEM  
S/O MOHAMMED KALEEM  
AGED ABOUT 26 YEARS  
RESIDING AT NO 401  
4TH FLOOR, HONEY ENCLAVE  
NEAR PETROL BUNK, SHAMPURA  
ROAD, GANDHINAGAR  
K.G. HALLI, BENGALURU - 560 045.
5. MR. NAQEEB PASHA  
S/O MOHAMMED RAHMATHULLA H  
AGED ABOUT 29 YEARS  
RESIDING AT NO 18, 2ND MAIN  
4TH CROSS, EZIKAL INDUSTRIAL  
ESTATE, K.G. HALLI, BANGALORE  
NORTH, BENGALURU - 560 045.
6. MR. IMRAN AHAMED  
S/O NAZEER AHMED  
AGED ABOUT 40 YEARS  
RESIDING AT NO 702  
1ST MAIN, 3RD CROSS  
VINOBHA NAGAR  
K.G. HALLI, BENGALURU - 560 045.
7. MR. MOHAMMED AZHAR  
S/O MOHAMMED SHOUKATH  
AGED ABOUT 28 YEARS  
RESIDING AT NO 2, 2ND MAIN  
ROAD, 3RD CROSS, ANWAR  
LAYOUT, BANGALORE NORTH  
BENGALURU - 560 045.

8. MR. KAREEM @ SADAM  
S/O BASHEER AHMED  
AGED ABOUT 24 YEARS  
RESIDING AT NO 7, 2ND  
CROSS, KARUMARIAMMA  
NAGAR, VENKATESHPURAM  
BENGALURU - 560 045.

...APPELLANTS

(BY SRI. ASHOK HARANAHALLI, SR. COUNSEL A/W  
SRI. USMAN P, ADVOCATE)

**AND:**

NATIONAL INVESTIGATION AGENCY  
1ST STAGE, DOMLUR FLYOVER  
DOMLUR, BANGALORE - 560 071  
REPRESENTED BY SPECIAL  
PUBLIC PROSECUTOR, NIA  
HIGH COURT OF KARNATAKA  
BANGALORE - 560 001.

...RESPONDENT

(BY SRI. P. PRASANNA KUMAR, SPL.P.P;  
SRI. R. SUBRAMANYA, A.A.G A/W  
SRI. THEJESH, ADVCOATE)

THIS APPEAL IS FILED UNDER SECTION 21(4) OF NATIONAL INVESTIGATION AGENCY ACT, 2008 PRAYING TO SET ASIDE THE ORDER DATED 23.04.2021 PASSED IN SPL.C.C.NO.141/2021 ON THE FILE FO THE XLIX ADDITIONAL CITY CIVIL AND SESSIONS COURTAND SPECIAL COURT FOR NIA CASES AT BANGALORE (CCH-50) AND ENLARGE THE ABOVE NAMED APPELLANTS/ACCUSED NO.14, 15, 16, 18, 20, 21, 22, 23, 24 ON BAIL IN THE ABOVE CASE ARISING OUT OF R.C NO.35/2020 WITH THE RESPONDENT FOR THE OFFENCES P/U/S 120B, 143, 145, 147, 188, 353, 427 R/W 34 AND 149 OF IPC AND SEC.2 OF PREVENTION OF

DESTRUCTION AND LOSS OF PROPERTY ACT AND U.S 14,  
18, 20 OF UNLAWFUL ACTIVITIES PREVENTION ACT.

**IN CRL.A.NO.576/2021:**

**BETWEEN:**

SYED IKRAMUDDIN @ SYED NAVEED  
S/O SYED JAMALUDDIN  
AGED ABOUT 44 YEARS  
R/AT NO. 5/3, KHUSHAL NAGAR  
5TH MAIN, 6TH CROSS  
HANIFIYA MASJID ROAD  
K.G. HALLI, BANGALORE - 560 045.

...APPELLANT

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

**AND:**

NATIONAL INVESTIGATING AGENCY  
REP. BY SPL PUBLIC PROSECUTOR  
OFFICE AT HIGH COURT COMPLEX  
OPP TO VIDHANA SOUDHA  
BANGALORE - 560 001.

...RESPONDENT

(BY SRI. P. PRASANNA KUMAR, SPL.P.P;  
SRI. R. SUBRAMANYA, A.A.G A/W  
SRI. THEJESH, ADVOCATE)

THIS APPEAL IS FILED UNDER SECTION 21 OF  
NATIONAL INVESTIGATION AGENCY ACT PRAYING TO  
APPRECIATE THIS CRL.A. BY GRANTING REGULAR BAIL  
TO APPELLANT IN SPL.C.C.NO.141/2021 U/S 16,18,20 OF  
UNLAWFUL ACTIVITIES (PREVENTION) ACT AND SECTION  
143,147,148,427 R/W 34 AND 149 OF IPC AND SECTION 2  
OF PREVENTION OF DAMAGE TO PUBLIC PROPERTY ACT,  
WHEREIN THIS APPELLANT/ACCUSED NO.14 SAME IS

PENDING ON THE FILE OF XLIX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-50).

**IN CRL.A.NO.582/2021:**

**BETWEEN:**

1. MR. SYED KHALID  
S/O SYED ARIF  
AGED ABOUT 38 YEARS  
RESIDING AT NO.136, IST CROSS  
MODERN LAYOUT, A.C. POST  
D.J. HALLI, BENGALURU - 560 045.
2. MR. MUDASSIR AHMED  
S/O ASHFAQ AHMED  
AGED ABOUT 23 YEARS  
RESIDING AT NO.772  
GROUND FLOOR, 9TH MAIN  
3RD STAGE, PILLANNA GARDEN  
BENGALURU - 560 045.
3. MR. SYED MUBARAK @  
DICCHI MUBARAK  
S/O SYED JAKRIYA  
AGED ABOUT 21 YEARS  
RESIDING AT NO.W41  
2ND CROSS, MODI ROAD  
D.J. HALLI, BENGALURU - 560 045.
4. MR. MOHAMMED THOUSIF  
S/O MOYHAMMED SARDAR  
AGED ABOUT 20 YEARS  
RESIDING AT NO.29  
4TH CROSS, ASHOK NAGAR  
D.J. HALLI, BENGALURU - 560 045.
5. MR. SHABAZ M  
S/O BABU  
AGED ABOUT 20 YEARS  
RESIDING AT NO.101

15TH MAIN, J.C. NAGAR  
KURABANAHALLI  
MAHALAKSHMIPURAM LAYOUT  
BENGALURU - 560 045.

6. MR. ARIF PASHA  
S/O ASLAM PASHA  
AGED ABOUT 22 YEARS  
RESIDING AT 1ST CROSS  
SHABAD NAGAR  
KAVALBYRASANDRA  
D.J. HALLI. BENGALURU - 560 045.
7. MR. FAROOQ  
S/O LATE ASADULLA  
AGED ABOUT 27 YEARS  
RESIDING AT BESIDE BILAL  
MASJID, MARIYAMMA NAGAR  
K.G. HALLI, BENGALURU - 560 045.
8. MR. SHAMEEL PASHA  
S/O KHADAR PASHA  
AGED ABOUT 33 YEARS  
R/A NO.2, 2ND CROSS  
BASAVANAGAR  
SHAMPURA MAIN ROAD  
BANGALORE - 560 045.
9. MR. TANVEER KHAN  
S/O IYAZ KHAN  
AGED ABOUT 34 YEARS  
RESIDING AT 1ST FLOOR  
ANWAR LAYOUT PARK  
ROUND TABLE GOVERNMENT  
SCHOOL, K.G. HALLI  
BENGALURU - 560 045.

...APPELLANTS

(BY SRI. ASHOK HARANAHALLI, SR. COUNSEL A/W  
SRI. USMAN P, ADVOCATE;  
SRI. MOHAMMED TAHIR, ADVOCATE FOR A-20 & A-21)

**AND:**

STATE OF KARNATAKA BY  
K.G. HALLI POLICE STATION  
BANGALORE - 45  
NATIONAL INVESTIGATION AGENCY  
1ST STAGE, DOMLUR FLYOVER  
DOMLUR, BANGALORE - 560 071  
REPRESENTED BY SPECIAL  
PUBLIC PROSECUTOR, NIA.

...RESPONDENT

(BY SRI. P. PRASANNA KUMAR, SPL.P.P;  
SRI. R. SUBRAMANYA, A.A.G A/W  
SRI. THEJESH, ADVOCATE)

THIS CRL.A FILED U/S.21(4) OF NATIONAL INVESTIGATION AGENCY ACT, 2008 PRAYING TO SET ASIDE THE ORDER DATED 23.04.2021 PASSED IS SPL.C.C.NO.152/2021 ON THE FILE OF THE XLIX ADDITIONAL CITY CIVIL AND SESSIONS COURT AND SPECIAL COURT FOR NIA CASES, BANGALORE (CCH-50) AND ENLARGE THE ABOVE NAME APPELLANT/ACCUSED NO.9,10,11,12,13,14,15,20,21 ON BAIL IN THE ABOVE CASE ARISING OUT OF R.C.NO.34/2020 WITH THE RESPONDENT FOR THE OFFENCE P/U/S 120B,143,145,147,188,353,436,427 R/W 34 AND 149 OF IPC AND SEC.2 OF PREVENTION OF DESTRUCTION AND LOSS OF PROPERTY ACT AND U/S 16,18,20 OF UNLAWFUL ACTIVITIES PREVENTION ACT.

**IN CRL.A.NO.745/2021:**

**BETWEEN:**

MOHAMMED KALEEM AHMED  
S/O MOHAMMED JAFFAR  
AGED ABOUT 68 YEARS  
RETIRED GOVT SERVANT

MEDICAL SHOP OWNER  
R/AT NO. 401, 4TH FLOOR  
HONEY ENCLAVE, NEAR  
PETROL PUMP, SHAMPURA ROAD  
GANDHI NAGAR, K.G. HALLI  
BANGALORE - 560 045.

...APPELLANT

(BY SRI. MOHAMMED TAHIR, ADVOCATE;  
SRI. TANVEER AHMED, ADVOCATE FOR A-19)

**AND:**

NATIONAL INVESTIGATING AGENCY  
REP. BY SPL PUBLIC PROSECUTOR  
OFFICE AT HIGH COURT COMPLEX  
OPP TO VIDHANA SOUDHA  
BANGALORE - 560 001.

...RESPONDENT

(BY SRI R. SUBRAMANYA, A.A.G A/W  
SRI. THEJESH, ADVOCATE;  
SRI. P. PRASANNA KUMAR, SPL.PP)

THIS CRL.A. FILED U/S. 21(4) OF NATIONAL INVESTIGATION AGENCY ACT PRAYING TO APPRECIATE THIS CRL.A BY GRANTING REGULAR BAIL TO APPELLANT IN SPL.C.C.NO.141/2021 U/S 16,18,20 OF UA(P) ACT AND SEC.120B,143,145,147,188,353,427 R/W 34 AND 149 OF IPC AND SEC.2 OF PREVENTION OF DAMAGE TO PUBLIC PROPERTY ACT, SAME WHEREIN THIS APPELLANT IS ARRAYED AS ACCUSED NO.19, SAME IS PENDING IN THE FILES OF THE 49th ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BANGALORE (CCH-50)

THESE APPEALS BEING HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, **ARAVIND KUMAR J.**, DELIVERED THE FOLLOWING:

**JUDGMENT**

These appeals under Section 21(4) of the National Investigation Agency Act, 2008 (for short '**NIA Act**') are directed against order dated 23.04.2021 passed by XLIX City Civil and Sessions Judge and Special Court for NIA cases, Bengaluru in Spl.C.C.No.141/2021 whereunder the bail applications filed by the appellants under Section 439 Cr.P.C. by accused Nos.15, 16, 18, 20, 21, 22, 23, 24, 9 to 15 and 19 came to be dismissed.

2. For the purpose of convenience, details of the appeals filed by the respective appellants/accused are tabulated herein below:

<b>Name of appellant/s (sriyaths)</b>	<b>CrI. A No.</b>	<b>Special C.C. No.</b>	<b>Complainant</b>	<b>Rank of Appellants in Spl. CC.</b>
Syed Ikramuddin	576/2021	141/2021	K.G Halli PS	A14
1) Sheikh Mohd. Bilal	585/2021	141/2021	KG Halli PS	A15,
2) Syed Asif				A16

3) Mohammed Atif				A18
4) Mohd. Mudassir Kaleem				A20
5) Naqeeb Pasha				A21
6) Imran Ahamed				A22
7) Mohd. Azhar				A23
8) Kareem @ Sadam				A24
Mohd. Kaleem Ahmed	745/2021	141/2021	KG Halli PS	A19
1) Syed Khalid	582/2021	152/2021	D.J Halli PS	A9
2) Mudassir Ahmed				A10
3) Syed Mubarak @ Dicchi Mubarak				A11
4) Mohd. Thousif				A12
5) Shabaz M				A13
6) Arif				A14

Pasha				
7) Farooq				A15
8) Shameel Pasha				A20
9) Tanveer Khan				A21

3. The gist of the prosecution case is that on the night of 11th August, 2020, a mob resorted to arson and created a horrifying and terror situation in the area of DG Hilli and KG Halli police station limits, after one Mr.Naveen P, nephew of Sri R Akhanda Srinivas Murthy, Indian National Congress M.L.A. from Pulakeshinagar had allegedly posted a comment insulting prophet Mohammad in his Facebook account and said mob was demanding his arrest. It is the further case of the prosecution said mob invited for registration of a case against Sri. P. Naveen and others and despite registration of same in NCR 384/2020, mob did not disperse and in spite of police resorting to lathi charge, the mob became very aggressive and started

attacking the police and public property on large scale. It is also stated that accused persons were found shouting slogans and also attacking the police station and police personnel who were on duty. It is further stated this has resulted in violence in Kadugondanahalli (K.G.Halli) and Devarajeevanahalli (D.J.Halli) police stations and in other places including Kaval Byrasandra.

4. It is the further case of the prosecution that on 11.08.2020 at about 7.45 p.m., one Moulvi named Sri Firdous Pasha lodged a complaint against Sri Naveen, nephew of sitting MLA of Pulakeshinagar constituency allegedly posting a derogatory remarks on Prophet Mohammed on his Facebook as aforesaid. Based on the said complaint, FIR came to be registered at D.J Halli police station in Crime. No.195/2020 against Sri Naveen and around 8.00 p.m., about 50 to 100 persons had gathered at the said police station

which group was led by Sri K.M.Wajid Pasha, member of Janata Dal (Secular) party and they demanded D.J.Halli police to arrest Sri Naveen. Gradually, assembly of persons swelled up and even registration of FIR against Sri Naveen did not pacify the agitating mob. It is alleged that initially, they started shouting slogans and pelted stones at the police station and the police personnel that too after the police team that had been dispatched to detain Sri Naveen had returned empty handed. It is further alleged that number of persons who had assembled grew large and after equipping themselves with dangerous weapons like iron rods, wooden sticks and improvised petrol bombs, stormed into the police station and vandalized the interiors of the police station and also torched number of vehicles using petrol. It is stated that in the midst of police action to thwart the crowd, resulted in another mob which had gathered moved towards K.G.Halli police

station and they attempted to enter the Station and Police quarters and they were met with stiff resistance following which, they set fire to the vehicles outside the police station. Investigation revealed that around 127 vehicles were set ablaze which included 27 Government vehicles and in addition to the acts of vandalizing, the local M.L.A's house was attacked, damaged and set ablaze, as a result of which, entire house of MLA was burnt down.

5. Complaint came to be lodged by the Police Inspector, D.J.Halli police and registered as Crime No.195/2020 on 12.08.2020 at 1.00 a.m. against certain named accused persons and other unknown persons for the offences punishable under Sections 143, 147, 307, 332, 333, 353, 427, 436, 504, 506 read with Sections 34 and 149 IPC, Section 4 of the Prevention of Damage to Public Property Act, 1984 (for short '**PDPP Act**') and Section 2 of the Karnataka Prevention of

Destruction and Loss of Property Act, 1981 (for short "**KPDLP Act**"). Similar complaint was also registered in K.G.Halli police station in Crime No.229/2020 against some known as well as some unknown persons for the offences punishable under Sections 143, 147, 148, 332, 333, 353, 427, 436 read with Section 149 IPC and Section 4 of PDPP Act.

6. Investigation by the Central Crime Branch was conducted on 21.09.2020. Government of India, Ministry of Home Affairs, New Delhi issued an order under Section 6(4) read with Section 8 of the NIA Act directing National Investigating Agency (for short '**NIA**') to take up investigation of the said case. Accordingly, FIR No.229/2020 and 195/2020 registered by K.G.Halli and D.J.Halli police stations respectively were re-registered as R.C.No.34/2020/NIA/DLI and R.C.No.35/2020/NIA/DLI. On conclusion of investigation by NIA, it resulted in filing of the charge

sheet for the offences punishable under Sections 143, 147, 307, 436, 353, 332, 333, 427, 504, 506, 149 and 34 of IPC, Sections 15, 16, 18 & 20 of the Unlawful Activities (Prevention) Act, 1967 (for short '**UAP**' Act) read with Section 4 of Prevention of Damage to Public Property Act, 1984 and Section 2 of the Karnataka Prevention of Destruction and Loss of Property Act, 1981 in RC-34/2020/NIA/DLI and for the offences punishable under Sections 143, 147, 148, 353, 333, 332, 427 & 149 IPC, Sections 15, 16, 18 & 20 of UAP Act and Section 4 of the Prevention of Damage to Public Property Act, 1984 in RC-35/2020/NIA/DLI on 05.02.2021 before the Special Court, NIA in Special C.C.Nos.141/2021 & 152/2021 respectively.

7. Appellants who had been apprehended and had been remanded to judicial custody, moved for grant of bail by filing application under Section 439 Cr.P.C. for being enlarged on bail. Learned trial Judge after

considering the rival contentions and on perusal of the charge sheet material, rejected the application on the ground of allegations made against them are serious in nature and over act committed by each of them prima-facie indicate that they form terrorist acts as defined under Sections 15 and 20 of UAP Act. It was also held that in view of the law laid down by Hon'ble Apex Court in **NATIONAL INVESTIGATION AGENCY vs ZAHOOR AHMAD SHAH WATALI** reported in **(2019)5 SCC 1** whereunder Hon'ble Apex Court had held that if prima facie material placed by prosecution does not entitle the accused for bail apart from other ingredients specified thereunder. Hence these appeals.

8. We have heard the arguments of Sri Ashok Haranahalli, learned Senior counsel appearing on behalf of Sri P.Usman in CrI A No.582/2021 and 585/2021, Sri Tanvir Ahamed, learned Advocate appearing for appellant-accused No.19 in CrI.A.No.745/2021, Sri

Mohammad Tahir, learned Advocate appearing for appellants in CrI.A.Nos.576/2021 and 745/2021 and Sri P Prasanna Kumar, learned Special Public Prosecutor appearing for respondent-NIA.

9. It is contended by Sri Ashok Haranahalli, learned Senior counsel appearing for appellants in CrI. A. Nos.582/2021 and 585/2021 that under Section 15(1) of UAP Act, essential element which requires to be proved is "intention to strike terror" in the mind of people or section of the people; that accusations made against appellants even if taken on their face value do not constitute a terrorist act as defined under Section 15 of UAP Act. Hence, contending that grounds raised by the appellant in this regard is to be accepted and based on the conventional tripod test, without applying the special limitations found under Section 43D(5) of UAP Act, bail applications of appellants will have to be allowed.

9.1. He would contend that acts of the appellants cannot be read in isolation in the context of Facebook post made by Sri Naveen whereunder he had posted derogatory remarks against Prophet Mohammad by hurting the religious sentiments of Muslim community and refusal of police to take speedy action on the complaint discloses intention of the persons who had gathered near the police station for insisting of registration of their protest in a peaceful manner against said derogatory post and there was no intention or pre-meditation to inflict violence of any sort. He would submit that peaceful gathering having assembled to register their protest have subsequently become unruly and same cannot be described as a terrorist act and provisions of Indian Penal Code would encompass the offence committed by the appellants even if any and invocation of the provisions of UAP Act against appellants-1 to 25 smacks of malafides and

discriminatory attitude on the part of Investigating Agency. He would also submit that there was no death which had occurred pursuant to the alleged terrorist acts and even assuming for the moment appellants are convicted, they can be sentenced to minimum sentence of 5 years imprisonment and maximum imprisonment for life and as such, he seeks for a lenient view being taken and appellants being enlarged on bail and contends that appellants would abide by any of the conditions that would be imposed for grant of bail. In support of his submissions, he has relied upon the following judgments:

- (1) **(1994)4 SCC 620**  
HITENDRA VISHNU THAKUR vs STATE OF MAHARASHTRA
- (2) **AIR 2011 SC 340**  
STATE OF KERALA vs RANEEF
- (3) **AIR 1990 SC 1962**  
NIRANJAN SINGH vs STATE OF MAHARASHTRA
- (4) **ASIF IQBAL TANHA vs STATE OF NCT (DELHI) (CRL.A.NO.39/2021)**

(5) **(2021)3 SCC 713**  
UNION OF INDIA vs K.A.NAJEEB

(6) **(1994) ALL MR ONLINE 584**  
ANIL VASANT CHITNIS vs SENIOR  
INSPECTOR OF POLICE, ALIBAUG

10. Sri Mohammed Tahir, learned Advocate appearing for appellants in CrI.A.Nos.576/2021 and 745/2021 has contended that statement of certain witnesses found in the charge sheet filed by NIA is not corroborated by the very same witnesses who have given statements before CCB as a part of charge sheets filed against other accused persons. He would further contend that NIA has fabricated witness statements to suit their narratives. On account of this available evidence having not been tendered to establish the active participation of appellants on the scene of the riots, there is no terrorist act attributable to the appellants. Hence, he prays for appellants being enlarged on bail on such terms and conditions as

deemed fit which would be complied by the appellants. In support of his submissions, he has relied upon the following judgments:

- (1) **(2011)1 SCC 784**  
STATE OF KERALA vs RANEEF
- (2) **(2021)3 SCC 713**  
UNION OF INDIA vs K.A.NAJEEB
- (3) **WUTHIKARAN NERUENERTWANICH**  
**vs NIA (CRL.A. 40/2017)**
- (4) **ZAHID vs STATE (NCT DELHI)**  
**Bail Application No.1967/2021)**

11. Sri Tanveer Ahmed, learned Advocate appearing for appellant - accused No.19 in Crl.A.No.745/2021 has sought for appeal being allowed and accused No.19 being enlarged on bail contending that he is 67 years old man; he was a former Government servant and now runs a pharmaceutical shop in K.G.Halli. He contends that the final report does not disclose the involvement of accused No.19 in the alleged offence. He would contend that facts involved in

**NIA vs ZAHOOR AHMED SHAH WATALI** reported in **(2019)5 SCC 1** is identical to the facts on hand. He would further contend that guidelines laid down for deciding bail applications under the provisions of UAP Act cannot be extrapolated and applied generally. He has also contended that material collected against the appellant during investigation was not incriminating particularly, when the allegations are vague and bereft of material particulars and contains inadmissible material and there was nothing to show that appellant was either member of any banned organisation or he having participated in an activity which would fall within the meaning of Terrorist Act, 1967, he cannot be tried for the offences punishable under UAP Act. He would also elaborate his submission by contending that even if material appended to the charge sheet are assumed to be admissible, it would not disclose prima-facie involvement of the appellant. Hence, he has prayed

for appeal being allowed. In support of his submissions, he has relied upon the following judgments:

- (1) **Dr.SHIVINDER MOHAN SINGH vs DIRECTORATE OF ENFORCEMENT - (Bail application No.1353/2020)**
- (2) **(2004) 9 SCC 580**  
PEOPLE'S UNION FOR CIVIL LIBERTIES  
Vs UNION OF INDIA
- (3) **(1994)3 SCC 569)**  
KARTAR SINGH vs STATE OF PUNJAB
- (4) **(1994)4 SCC 602**  
HITENDRA VISHNU THAKUR vs STATE  
OF MAHARASHTRA
- (5) **(2005)11 SCC 600**  
STATE vs NAVJOT SANDHU

12. Rebutting all the contentions raised by learned Senior Advocate and learned Advocates appearing for appellants, Sri P Prasanna Kumar, learned Special Public Prosecutor has contended that under Section 43D(5) UAP Act, the court will have to decide if accusations made against accused persons are based on the reading of 'Case Diary' and 'final report' and court would refrain from looking beyond the said

material. As what would suffice for arriving at a prima-facie satisfaction, he has drawn the attention of the court to the provisions of UAP Act and particularly, to Section 2(1)(a) which defines "assembly" and Section 2(1)(k) which defines "terrorist act" for its meaning and Section 15 of UAP Act which explains the said term.

13. Repelling the contention of the accused that UAP act had been selectively invoked against accused Nos.1 to 25 as they are opposed to the present political regime, would demonstrate the application of mind on the part of Investigating Agency by contending that intention of the prosecution was based on material evidence collected during course of investigation and nothing beyond this. The very fact that provisions of UAP Act has not been invoked against entire mob or other accused persons would prima-facie establish that there is no in-discrimination invocation of said Act but is invoked only against those persons who conspired to

turn peaceful assembly of protestors into an unruly blood thirsty mob. He would submit that investigation had revealed that around 128 vehicles including 27 police vehicles had been burnt using highly inflammable substances. He would further contend that K.G.Halli police station was at a distance of 2.5 kms from D.J.Halli police station and if the purpose of protest was to lodge complaint and seek consequential action against Sri Naveen at D.J.Halli police station, the purpose came to be achieved when FIR came to be registered against said Sri Naveen around 8.45 p.m. at D.J.Halli police station and there was no reason for the accused persons to assemble and cause large scale destruction of property both movable and immovable in K.G.Halli police station and the surrounding areas.

13.1. He would further elaborate his submissions by contending that actions of the appellants qualifies as 'terrorist act' under Section

15(1)(a)(ii) & (iv) of UAP Act since their actions of using highly inflammable substances to cause large destruction of property reflected an 'intent to strike terror among the people or section of the people'. In support of his submissions, he has relied upon the following judgments:

- (1) **(2019)5 SCC 1**  
NIA vs ZAHOOR AHMED SHAH WATALI
- (2) **2020 SCC ONLINE 792**  
PRADEEP RAM vs UNION OF INDIA
- (3) **ASIM SHARIFF vs STATE BY NIA,  
HYDERABAD (CRL.A.No.12/2019)**
- (4) **(1998 SCC ONLINE ALL 2978)**  
SUNEEL ROY vs STATE OF UP
- (5) **(2020) 3 SCC 321**  
VARINDER KUMAR vs STATE OF  
HIMACHAL PRADESH
- (6) **(2016) 9 SCC 443**  
CHANDRAKESHWAR PRASAD vs  
STATE OF BIHAR

14. Sri Ashok Haranahalli, learned Senior Advocate appearing for appellants in reply has

contended that action of the accused persons lacked the necessary intention to constitute terrorist act and to substantiate his argument, he draws our attention to the context in which incident of rioting had occurred. He has contended that actual or original intention of the accused must be looked into and not merely the effect and consequence of their action. He would submit that if it is seen in this background, prima-facie, offences alleged against appellant do not indicate or reflect any pre-meditated acts or there being any motive to strike terror and as such, requisite characteristics of "terrorist act" is conspicuously absent. He would also submit that acts alleged against accused persons can be proceeded under the provisions of Indian Penal Code since intention to strike terror is absent and as such, rigor of Section 43D(5) of UAP Act cannot be applied and the bail applications will have to be decided in

accordance with general principles governing exercise of discretion for grant of bail.

15. Whereas, Sri Tanveer Ahmed and Sri Mohammed Tahir, learned Advocates appearing for other appellants have contended that names of accused Nos.1 to 25 against whom UAP Act has been invoked does not find a place in the original FIR or in FIR No.208/2020 and the fact of mob shifting from D.J.Halli police station to K.G.Halli police station was attributable to rumor that Sri Naveen had been arrested and had been put up in the lock-up and there being no CCTV footage to prove the presence of appellants which even according to the prosecution was available in the police station would indicate that best evidence has been withheld by prosecution and as such, provisions of UAP Act could not have been invoked against appellants. He would also submit that CDR location based

identification is doubted and as such, appellants would be entitled for being enlarged on bail.

16. Having heard the learned Senior counsel and learned Advocates appearing for the appellants and learned SPP appearing for respondent - NIA, following points would emerge for our consideration:

"(1) Whether impugned order passed by the Special Court rejecting the bail applications filed by the appellants deserves to be interfered with or liable to be affirmed?

(2) Whether charge sheet material would disclose that there are reasonable grounds for believing that accusations against appellants are prima-facie true?

17. At the outset, it has to be noticed that accused Nos.10 and 11 namely appellants 2 and 3 in CrI.A.No.582/2021 have been granted default bail by the jurisdictional Court and as such, prayer sought for

by them in the appeal in CrI.A.No.582/2021 would not survive for consideration.

**DISCUSSION AND FINDINGS ON POINT Nos.(1) & (2):**

18. It requires to be noticed at this stage itself that against all the appellants or in other words, accused Nos.1 to 25 which also includes the appellants, charge sheets have been filed for the offences punishable under the provisions of Indian Penal Code and also under the provisions of NIA Act namely, Sections 15, 16, 18 and 20 of UAP Act and the learned trial Judge for rejecting bail applications filed by appellants has taken note of Section 43D(5) of UAP Act and held the same is attracted to the facts on hand. Hence, we are of the considered view that said provision requires to be extracted for immediate reference and it reads:

**"43-D. Modified application of certain provisions of the Code -**

(1) xxx

(2) xxx

- (3) xxx
- (4) xxx
- (5) Notwithstanding anything contained in the Code, no person accused of an offence punishable under Chapters IV and VI of this Act shall, if in custody, be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release:

Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under section 173 of the Code is of the opinion that there are reasonable grounds for believing that the accusation against such person is *prima facie* true.

- (6) The restrictions on granting of bail specified in sub-section (5) is in addition to the restrictions under the Code or any other law for the time being in force on granting of bail.
- (7) Notwithstanding anything contained in sub-sections (5) and (6), no bail shall be granted to a person accused of any offence punishable under this Act, if he is not an Indian citizen and has entered the country unauthorisedly or illegally except in very exceptional circumstances and

for reasons to be recorded in writing."

19. A plain reading of sub-section (5) of Section 43D of UAP Act would indicate that apart from the barring special court from releasing the accused on bail without affording Public Prosecutor an opportunity of being heard on the application filed seeking release of an accused, proviso thereto places complete embargo on the powers of the special court to release an accused on bail. It mandates that if the court ' on perusal of the case diary or the report made under Section 173 of the Code of Criminal Procedure' is of the opinion that there are reasonable grounds for believing that accusations made against such person, as regards commission of offence or offense under the Chapter IV and/or Chapter VI of UAP Act is prima-facie true, such accused person shall not be released on bail or on his own bond.

20. It would be of relevant to note at this juncture that there is no similar or analogous provision traceable in any other statute to the one found in Section 43D(5) of UAP Act. In other words, the language employed for grant of bail adopted under the said enactment remains unique to the said enactment. The source of power for the court to grant bail in respect of non-bailable offence punishable with death or life imprisonment is traceable to Section 439 Cr.PC. Sub-section (5) of Section 43D is an exception to the application of the general bail provision in respect of the offence punishable under Chapter IV and VI of the UAP Act .

21. Bail is the rule and jail is the exception - is the conventional idea or thinking while considering the application for grant of bail in respect of the penal offence. The exercise of general power to grant bail under UAP Act is severely restrictive in scope. The use

of the words under proviso to Section 43D(5) "shall not be released" in contrast with the words found in Section 437(1) of Cr.P.C. "may be released" suggest or indicates the intention of the legislature is to take a departure from the general principle or in other words, to make the bail being exception and jail being the rule. The courts are therefore burdened with the sensitive task in dealing with bail applications in UAP Act while considering the prayer for grant of bail when filed by an accused who is charge sheeted for the offences punishable under UAP Act. "Justification" must be searched from the case diary and final report submitted before the special court. The legislature has prescribed a low "prima facie standard" as a measure of degree of satisfaction to be recorded by such court when scrutinizing the material on record for its justification. The standard can be contrasted with the standard of "strong suspicion" which is used by courts while

hearing the applications for discharge. In fact, Hon'ble Apex Court in **NATIONAL INVESTIGATION AGENCY vs ZAHOOR AHMAD SHAH WATALI** reported in **(2019)5 SCC 1** has noticed this difference and has opined thus:

"23. By virtue of the proviso to sub-section (5), xxx under the other special enactments. In any case, the degree of satisfaction to be recorded by the Court for opining that there are reasonable grounds for believing that the accusation against the accused is prima facie true, is lighter than the degree of satisfaction to be recorded for considering a discharge application or framing of charges in relation to offences under the 1967 Act."

22. In the aforesaid background, test for considering the application for grant of bail is whether it has to be rejected as a rule after hearing the Public Prosecutor by perusing the final report or the case diary, based upon which conclusion can be arrived that there are reasonable grounds for believing that accusation or prima-facie true and in the event of the court arriving at a conclusion that test for rejection of

bail is not satisfied, then proceed to decide the bail application in accordance with "tripod test" namely, flight risk, influencing witnesses and tampering with evidence. This position gets clarified by reading sub-section (6) of Section 43D which prescribes that restrictions for granting of bail specified in sub-section (5) are in addition to the restrictions prescribed under the Code of Criminal Procedure or any other law for the time being in force.

23. Thus, on a contextual reading of Section 43D(5) of UAP Act, enquiry or scrutiny which is undertaken while considering an application for grant of bail can be summarised in the form of twin-prong test:

"(1) Whether the test for rejection of bail is justified? namely, to examine prima-facie alleged accusations make out an offence under Chapter IV or Chapter VI of UAP Act and such

examination would be limited to the Case Diary and the final report submitted under Section 173 Cr.P.C.?

(2) Whether the accused deserves to be enlarged on bail in the light of general principles relating to grant of bail under Section 439 Cr.P.C. namely, tripod test?

24. On consideration of various factors such as nature of offence, length of punishment (if convicted), age, character, status of accused, it has to be examined as to:

- (a) Whether the accused is flight risk?
- (b) Whether there is apprehension of the accused tampering with the evidence?

(c) Whether there is apprehension of accused influencing the prosecution witnesses?

25. It may be necessary to note that entering into second test of the enquiry will not arise if the first test is satisfied. However, even if such test is satisfied, that does not mean that accused is automatically entitled to bail. In other words, accused will have to demonstrate that he would also successfully pass the tripod test.

26. For the purpose of clarity and proper application of test set out herein above, it would be of advantage to note the binding precedents.

27. Hon'ble Apex Court in WATALI's case supra has laid down elaborate guidelines on the approach that courts must undertake while considering the application for grant of bail and the limits prescribed under UAP Act. It has been held by Hon'ble Apex Court

that there is a statutory bar for grant of bail under proviso to Section 43D(5) for offences punishable under Chapter IV and Chapter VI of UAP Act where the court on appreciation of totality of evidence is satisfied that accusations are prima-facie true, it has been held by Hon'ble Apex Court:

"**23.** By virtue of the proviso to subsection (5), it is the duty of the Court to be satisfied that there are reasonable grounds for believing that the accusation against the accused is prima facie true or otherwise. Our attention was invited to the decisions of this Court, which has had an occasion to deal with similar special provisions in TADA and McoCa. The principle underlying those decisions may have some bearing while considering the prayer for bail in relation to the offences under the 1967 Act as well. Notably, under the special enactments such as TADA, McoCa and the Narcotic Drugs and Psychotropic Substances Act, 1985, the Court is required to record its opinion that there are reasonable grounds for believing that the accused is "not guilty" of the alleged offence. There is a degree of difference between the satisfaction to be recorded by the Court that there are reasonable grounds for believing that the accused is "not guilty" of such offence and the satisfaction to be recorded for the purposes of the 1967 Act

that there are reasonable grounds for believing that the accusation against such person is “prima facie” true. By its very nature, the expression “prima facie true” would mean that the materials/evidence collated by the investigating agency in reference to the accusation against the accused concerned in the first information report, must prevail until contradicted and overcome or disproved by other evidence, and on the face of it, shows the complicity of such accused in the commission of the stated offence. It must be good and sufficient on its face to establish a given fact or the chain of facts constituting the stated offence, unless rebutted or contradicted. In one sense, the degree of satisfaction is lighter when the Court has to opine that the accusation is “prima facie true”, as compared to the opinion of the accused “not guilty” of such offence as required under the other special enactments. In any case, the degree of satisfaction to be recorded by the Court for opining that there are reasonable grounds for believing that the accusation against the accused is prima facie true, is lighter than the degree of satisfaction to be recorded for considering a discharge application or framing of charges in relation to offences under the 1967 Act. Nevertheless, we may take guidance from the exposition in *Ranjitsing Brahmajetsing Sharma* wherein a three-Judge Bench of this Court was called upon to consider the scope of power of the Court to grant bail. In paras 36 to 38,

the Court observed thus : (SCC pp. 316-17)

“36. Does this statute require that before a person is released on bail, the court, albeit prima facie, must come to the conclusion that he is not guilty of such offence? Is it necessary for the court to record such a finding? Would there be any machinery available to the court to ascertain that once the accused is enlarged on bail, he would not commit any offence whatsoever?

37. Such findings are required to be recorded only for the purpose of arriving at an objective finding on the basis of materials on record only for grant of bail and for no other purpose.

38. We are furthermore of the opinion that the restrictions on the power of the court to grant bail should not be pushed too far. If the court, having regard to the materials brought on record, is satisfied that in all probability he may not be ultimately convicted, an order granting bail may be passed. The satisfaction of the court as regards his likelihood of not committing an offence while on bail must be construed to mean an offence under the Act and not any offence whatsoever be it a minor or major offence. ... What would further be necessary on the part of the court is to see the culpability of the accused

and his involvement in the commission of an organised crime either directly or indirectly. The court at the time of considering the application for grant of bail shall consider the question from the angle as to whether he was possessed of the requisite mens rea.”

And again in paras 44 to 48, the Court observed : (SCC pp. 318-20)

“44. The wording of Section 21(4), in our opinion, does not lead to the conclusion that the court must arrive at a positive finding that the applicant for bail has not committed an offence under the Act. If such a construction is placed, the court intending to grant bail must arrive at a finding that the applicant has not committed such an offence. In such an event, it will be impossible for the prosecution to obtain a judgment of conviction of the applicant. Such cannot be the intention of the legislature. Section 21(4) of McoCa, therefore, must be construed reasonably. It must be so construed that the court is able to maintain a delicate balance between a judgment of acquittal and conviction and an order granting bail much before commencement of trial. Similarly, the court will be required to record a finding as to the possibility of his committing a crime after grant of bail. However, such an offence in futuro must be an offence under the Act and

not any other offence. Since it is difficult to predict the future conduct of an accused, the court must necessarily consider this aspect of the matter having regard to the antecedents of the accused, his propensities and the nature and manner in which he is alleged to have committed the offence.

45. It is, furthermore, trite that for the purpose of considering an application for grant of bail, although detailed reasons are not necessary to be assigned, the order granting bail must demonstrate application of mind at least in serious cases as to why the applicant has been granted or denied the privilege of bail.

46. The duty of the court at this stage is not to weigh the evidence meticulously but to arrive at a finding on the basis of broad probabilities. However, while dealing with a special statute like McoCa having regard to the provisions contained in sub-section (4) of Section 21 of the Act, the court may have to probe into the matter deeper so as to enable it to arrive at a finding that the materials collected against the accused during the investigation may not justify a judgment of conviction. The findings recorded by the court while granting or refusing bail undoubtedly would be tentative in nature, which may not have any bearing on the merit of the case and the trial court would, thus,

be free to decide the case on the basis of evidence adduced at the trial, without in any manner being prejudiced thereby.

47. In *Kalyan Chandra Sarkar v. Rajesh Ranjan* this Court observed : (SCC pp. 537-38, para 18)

‘18. We agree that a conclusive finding in regard to the points urged by both the sides is not expected of the court considering a bail application. Still one should not forget, as observed by this Court in *Puran v. Rambilas* (SCC p. 344, para 8)

“8. ... Giving reasons is different from discussing merits or demerits. At the stage of granting bail a detailed examination of evidence and elaborate documentation of the merits of the case has not to be undertaken. ... That did not mean that whilst granting bail some reasons for prima facie concluding why bail was being granted did not have to be indicated.”

We respectfully agree with the above dictum of this Court. We also feel that such expression of prima facie reasons for granting bail is a requirement of law in cases where such orders on bail application are appealable, more so because of the fact that the appellate court has every right to know the basis for granting the bail. Therefore, we are not in agreement with the argument

addressed by the learned counsel for the accused that the High Court was not expected even to indicate a prima facie finding on all points urged before it while granting bail, more so in the background of the facts of this case where on facts it is established that a large number of witnesses who were examined after the respondent was enlarged on bail had turned hostile and there are complaints made to the court as to the threats administered by the respondent or his supporters to witnesses in the case. In such circumstances, the court was duty-bound to apply its mind to the allegations put forth by the investigating agency and ought to have given at least a prima facie finding in regard to these allegations because they go to the very root of the right of the accused to seek bail. The non-consideration of these vital facts as to the allegations of threat or inducement made to the witnesses by the respondent during the period he was on bail has vitiated the conclusions arrived at by the High Court while granting bail to the respondent. The other ground apart from the ground of incarceration which appealed to the High Court to grant bail was the fact that a large number of witnesses are yet to be examined and there is no likelihood of the trial coming to an end in the near future. As stated hereinabove, this ground on the facts of this case is also not sufficient either individually or coupled with the period of incarceration to release the respondent on bail because of the serious allegations of tampering

with the witnesses made against the respondent.'

48. In *Jayendra Saraswathi Swamigal v. State of T.N.* this Court observed : (SCC pp. 21-22, para 16)

'16. ... The considerations which normally weigh with the court in granting bail in non-bailable offences have been explained by this Court in *State v. Jagjit Singh* (UT of Delhi) and basically they are — the nature and seriousness of the offence; the character of the evidence; circumstances which are peculiar to the accused; a reasonable possibility of the presence of the accused not being secured at the trial; reasonable apprehension of witnesses being tampered with; the larger interest of the public or the State and other similar factors which may be relevant in the facts and circumstances of the case.'"

24. A priori, the exercise to be undertaken by the Court at this stage—of giving reasons for grant or non-grant of bail—is markedly different from discussing merits or demerits of the evidence. The elaborate examination or dissection of the evidence is not required to be done at this stage. The Court is merely expected to record a finding on the basis of broad probabilities regarding the involvement of the accused in the commission of the stated offence or otherwise.

**26.** Be it noted that the special provision, Section 43-D of the 1967 Act, applies right from the stage of registration of FIR for the offences under Chapters IV and VI of the 1967 Act until the conclusion of the trial thereof. To wit, soon after the arrest of the accused on the basis of the FIR registered against him, but before filing of the charge-sheet by the investigating agency; after filing of the first charge-sheet and before the filing of the supplementary or final charge-sheet consequent to further investigation under Section 173(8) CrPC, until framing of the charges or after framing of the charges by the Court and recording of evidence of key witnesses, etc. However, once charges are framed, it would be safe to assume that a very strong suspicion was founded upon the materials before the Court, which prompted the Court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged against the accused, to justify the framing of charge. In that situation, the accused may have to undertake an arduous task to satisfy the Court that despite the framing of charge, the materials presented along with the charge-sheet (report under Section 173 CrPC), do not make out reasonable grounds for believing that the accusation against him is prima facie true. Similar opinion is required to be formed by the Court whilst considering the prayer for bail, made after filing of the first report made under Section 173 of the Code, as in the present case.

**27.** For that, the totality of the material gathered by the investigating agency and presented along with the report and including the case diary, is required to be reckoned and not by analysing individual pieces of evidence or circumstance. In any case, the question of discarding the document at this stage, on the ground of being inadmissible in evidence, is not permissible. For, the issue of admissibility of the document/evidence would be a matter for trial. The Court must look at the contents of the document and take such document into account as it is."

(Underlining by us)

Thus, it would emerge from the authoritative principles laid down by the Hon'ble Apex Court in **WATALI's** case with following eight propositions would emerge:

**(1) Meaning of 'Prima facie true' :** On the face of it, the materials must show the complicity of the accused in commission of the offence. The materials/evidence must be good and sufficient to establish a given fact or chain of facts constituting the stated offence, unless rebutted or contradicted by other evidence.

**(2) Degree of Satisfaction at Pre-Chargesheet, Post Chargesheet and Post-Charges – Compared :** Once charges are framed, it would be safe to assume that a very strong suspicion was founded

upon the materials before the Court, which prompted the Court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged against the accused, to justify the framing of charge. In that situation, the accused may have to undertake an arduous task to satisfy the Court that despite the framing of charge, the materials presented along with the charge-sheet (report under Section 173 CrPC), do not make out reasonable grounds for believing that the accusation against him is prima facie true. Similar opinion is required to be formed by the Court whilst considering the prayer for bail, made after filing of the first report made under Section 173 of the Code, as in the present case.

**(3) Reasoning, necessary but no detailed evaluation of evidence:** The exercise to be undertaken by the Court at this stage--of giving reasons for grant or non-grant of bail--is markedly different from discussing merits or demerits of the evidence. The elaborate examination or dissection of the evidence is not required to be done at this stage.

**(4) Record a finding on broad probabilities, not based on proof beyond doubt:** "The Court is merely expected to record a finding on the basis of broad probabilities regarding the involvement of the accused in the commission of the stated offence or otherwise."

**(5) Duration of the limitation under Section 43D(5):** The special provision, Section 43-D of the 1967 Act, applies right from the stage of registration of FIR for the offences under Chapters IV and VI of the 1967 Act until the conclusion of the trial thereof.

**(6) Material on record must be analysed as a 'whole'; no piecemeal analysis :** The totality of the material gathered by the investigating agency and presented along with the report and including the case diary, is required to be reckoned and not by analysing individual pieces of evidence or circumstance.

**(7) Contents of documents to be presumed as true:** The Court must look at the contents of the document and take such document into account as it is.

**(8) Admissibility of documents relied upon by Prosecution cannot be questioned:** The materials/evidence collected by the investigation agency in support of the accusation against the accused in the first information report must prevail until contradicted and overcome or disproved by other evidence.....In any case, the question of discarding the document at this stage, on the ground of being inadmissible in evidence, is not permissible."

28. It would be also be apposite at this juncture to note the directions issued by Hon'ble Apex Court in

the case of **DEVENDER GUPTA vs NATIONAL INVESTIGATING AGENCY** reported in **2014(2) ALD Cri 251** whereunder the Division Bench of High Court of Andhra Pradesh strove to strike a balance between the mandate under Section 43D on the one hand and the rights of the accused on the other. It has been held as under:

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

- 1) Whether the accused is/are associated with any organization, which is prohibited through an order passed under the provisions of the act;
- 2) Whether the accused was convicted of the offenses involving such crimes, or terrorist activities, or though acquitted on technical grounds; was held to be associated with terrorist activities;

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

29. Learned Advocate appearing for appellants have vociferously contended that there are no eye witnesses to the incident alleged against the appellants and mechanical device such as CCTV camera had not indicated the involvement or presence of the accused in or around the scene of occurrence. This contention will have to be examined in the background of whether the conditional limitations prescribed under Section 43D(5) and proviso thereto of UAP Act are attracted to the facts of the present case. In other words, it will have to be enquired whether first test referred to herein above i.e., the test for rejection of the bail is satisfied . To examine this question, this court will have to necessarily examine whether allegations/accusations made against appellants as contained in the charge sheet documents

and Case Diary prima facie disclose the commission of an offence punishable under Sections 15, 16 & 18 of UAP Act.

30. The expression "terrorist act" has been defined under Section 2(k) and Section 15 indicates as to what amounts to terrorist act. Whereas, Section 16 provides for punishment for commission of offence of terrorist act and Section 18 prescribes punishment for conspiracy in the commission of terrorist act. As such, said provisions are extracted herein below:

"**2(k)** "terrorist act" has the meaning assigned to it in section 15, and the expressions "terrorism" and "terrorist" shall be construed accordingly;"

**15. Terrorist act.**—[(1)] Whoever does any act with intent to threaten or likely to threaten the unity, integrity, security, [economic security] or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country,—

(a) by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisonous or noxious gases

or other chemicals or by any other substances (whether biological radioactive, nuclear or otherwise) of a hazardous nature or by any other means of whatever nature to cause or likely to cause—

- (i) death of, or injuries to, any person or persons; or
  - (ii) loss of, or damage to, or destruction of, property; or
  - (iii) disruption of any supplies or services essential to the life of the community in India or in any foreign country; or
  - [(iiia) damage to, the monetary stability of India by way of production or smuggling or circulation of high quality counterfeit Indian paper currency, coin or of any other material; or]
  - (iv) damage or destruction of any property in India or in a foreign country used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies; or
- (b) overawes by means of criminal force or the show of criminal force or attempts to do so or causes death of any public functionary or attempts to cause death of any public functionary; or
- (c) detains, kidnaps or abducts any person and threatens to kill or injure

such person or does any other act in order to compel the Government of India, any State Government or the Government of a foreign country or [an international or inter-governmental organisation or any other person to do or abstain from doing any act; or] commits a terrorist act.

[*Explanation.*—For the purpose of this sub-section,—

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

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

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

**16. Punishment for terrorist act.**—(1) Whoever commits a terrorist act shall,—

(a) if such act has resulted in the death of any person, be punishable with death

or imprisonment for life, and shall also be liable to fine;

(b) in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

**16A. Punishment for making demands of radioactive substances, nuclear devices, etc.]** Omitted by the Unlawful Activities (Prevention) Amendment (Repealing and Amending) Act 2013 (3 of 2013), section 5.]

**18. Punishment for conspiracy, etc.—**Whoever conspires or attempts to commit, or advocates, abets, advises or [incites, directly or knowingly facilitates] the commission of, a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

**13A. Punishment for organising of terrorist camps.—**Whoever organises or causes to be organised any camp or camps for imparting training in terrorism shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

**18B. Punishment for recruiting of any person or persons for terrorist act.—** Whoever recruits or causes to be recruited any person or persons for commission of a terrorist act shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine."

31. In the backdrop of the contentions raised in this regard, the scope of UAP Act requires to be noticed. A plain reading of sub-section (1) of Section 15 would indicate that whoever does any Act with intent to threaten or likely to threaten the unity, integrity, security, economic security or sovereignty of India through any of the modes specified under clauses (a), (b), (c) amounts to terrorist act. Likewise, who ever does any act with intent to strike terror or likely to strike terror in the people or any section of the people in India or in foreign country by any of the acts mentioned in clauses (a) to (c) is stated to have committed terrorist act. Thus, it would emerge from sub-section (1) of Section 15 that even if the act is "likely to strike terror",

the absence of "intent to strike terror" will not by itself make invocation of Section 15 unjustified. As such, accused cannot limit his arguments to say that he or she lack the necessary intent to strike terror. In other words, accused will have to go one step further and demonstrate that his actions even if lacking any intent does not carry any likelihood of striking terror in the minds of the people. Clause (a) of sub-section (1) of Section 15 illustrates some of the means by which unity, integrity, security, economic security or sovereignty of India would be threatened or terror can be struck in people or any section of the people in India or in any foreign country. It can be seen from the said clause that using bombs, dynamite or any explosive substances or inflammable substances or firearms or other lethal weapons or poisonous or noxious gases or other chemicals or by any other substances (whether biological radioactive, nuclear or otherwise) by a

hazardous nature, the unity, integrity etc. of the nation could be threatened or terror could be struck in people or any section of the people in India or in any foreign country.

32. The effects produced by such acts are dealt with under sub-clauses (i) to (iv) of clause (a) thereunder namely, if by using bombs, dynamites or any other explosive substances etc., would cause or likely to cause death or injury to any person or persons, it will be a terrorist act under sub-clause (i). Likewise, under sub-clause (ii), by using bombs, dynamites etc., it would cause or likely to cause destruction of property or disruption of any supplies or services essential to the life of the community in India or in any foreign country and it would also fall within the definition of terrorist act.

33. We may also notice that phrase 'cause or likely to cause' occurring in sub-clause (a) of sub-

section (1) of Section 15 would clearly explain the "width" in which said provision operates. It gets triggered not only on the actual happening of a resultant effect of such terrorist act but also possibility or probability of having the result as enumerated under sub-clauses (i) to (iv) of clause (a) of sub-section (1) of Section 15 of UAP Act.

34. The prosecution has made an endeavour to bring itself case against the appellants in all or anyone of Section 15(1)(c)(a) or Section 15(1)(c)(b) of UAP Act to establish that "acts" of appellants constitutes terrorist act within the meaning of Section 15 of UAP Act. Alternatively, prosecution has tried to contend that even if mens rea element of "intention to strike terror" is not proved, the case can be brought under or any one of Section 15(1)(a)(i) or (ii) or (iv) or Section 15(1)(c) of the UAP Act. In other words, prosecution has made an attempt to contend that acts of appellants qualified as

"terrorist act", since there was an intention to strike terror attracting Section 15(1)(c), using inflammable substances attracting Section 15(1)(a), which cause or likely to cause loss or damage to property attracting Section 15(1)(a)(ii), damage or destruction of property in connection with State Government and Section 15(1)(a)(iv) or overawed by means of criminal force or attempts to do so or attempts to cause death of any public functionary - Section 15(1)(b) and alternatively, such actions would be likely to strike terror attracting Section 15(1) in the people or section of people on the same grounds as mentioned herein before. Thus, it will have to be the endeavour of the court to discern the term "intent to strike terror" in the people from an ordinary crime affecting "public order" from an act of terror having more serious ramifications and to understand the same separately. Hence, it is necessary to discern the meaning of the words "terrorism" and

"acts of terror". Thus, it would be worthwhile to notice the authoritative principles of the Hon'ble Apex Court laid down in the context of anti-terror legislation such as, TADA and POTA.

35. Hon'ble Apex Court in the case of **HITENDRA VISHNU THAKUR & OTHERS Vs STATE OF MAHARASHTRA & OTHERS** reported in (1994)4 **SCC 602** has held:

" 7 . 'Terrorism' is one of the manifestations of increased lawlessness and cult of violence. Violence and crime constitute a threat to an established order and are a revolt against a civilised society. 'Terrorism' has not been defined under TADA nor is it possible to give a precise definition of 'terrorism' or lay down what constitutes 'terrorism'. It may be possible to describe it as use of violence when its most important result is not merely the physical and mental damage of the victim but the prolonged psychological effect it produces or has the potential of producing on the society as a whole. There may be death, injury, or destruction of property or even deprivation of individual liberty in the process but the extent and reach of the

intended terrorist activity travels beyond the effect of an ordinary crime capable of being punished under the ordinary penal law of the land and its main objective is to overawe the Government or disturb harmony of the society or "terrorise" people and the society and not only those directly assaulted, with a view to disturb even tempo, peace and tranquillity of the society and create a sense of fear and insecurity. A 'terrorist' activity does not merely arise by causing disturbance of law and order or of public order. The fall out of the intended activity must be such that it travels beyond the capacity of the ordinary law enforcement agencies to tackle it under the ordinary penal law. Experience has shown us that 'terrorism' is generally an attempt to acquire or maintain power or control by intimidation and causing fear and helplessness in the minds of the people at large or any section thereof and is a totally abnormal phenomenon. What distinguishes 'terrorism' from other forms of violence, therefore, appears to be the deliberate and systematic use of coercive intimidation. More often than not, a hardened criminal today takes advantage of the situation and by wearing the cloak of 'terrorism', aims to achieve for himself acceptability and respectability in the society because unfortunately in the States affected by militancy, a 'terrorist' is projected as a hero by his group and often even by the misguided youth. It is therefore, essential to treat such a criminal and

deal with him differently than an ordinary criminal capable of being tried by the ordinary courts under the penal law of the land. Even though the crime committed by a 'terrorist' and an ordinary criminal would be overlapping to an extent but then it is not the intention of the Legislature that every criminal should be tried under TADA, where the fall out of his activity does not extend beyond the normal frontiers of the ordinary criminal activity. Every 'terrorist' may be a criminal but every criminal cannot be given the label of a 'terrorist' only to set in motion the more stringent provisions of TADA. The criminal activity in order to invoke TADA must be committed with the requisite intention as contemplated by Section 3(1) of the Act by use of such weapons as have been enumerated in Section 3(1) and which cause or are likely to result in the offences as mentioned in the said section."

36. In the matter of **PEOPLE'S UNION FOR CIVIL LIBERTIES AND ANOTHER vs UNION OF INDIA** reported in **(2004)9 SCC 580**, Hon'ble Apex Court while examining the constitutional validity of various provisions of Prevention Of Terrorism Act, 2002 - POTA has held that it would be necessary to understand the

contextual backdrop that led to enactment of POTA which aims to combat terrorism as it has become most worrying feature of contemporary life, has held that anti-terrorist statutes do not define "terrorism" but only defines "terrorist acts" and has relied upon on what Paul Wilkinson, an authority on terrorism related works has culled out five major characteristics of terrorism.

"1. It is premeditated and aims to create a climate of extreme fear or terror.

2. It is directed at a wider audience or target than the immediate victims of violence.

3. It inherently involves attacks on random and symbolic targets, including civilians.

4. The acts of violence committed are seen by the society in which they occur as extra-normal, in literal sense that they breach the social norms, thus causing a sense of outrage; and

5. Terrorism is used to influence political behavior in some way - for example to force opponents into conceding some or all of the perpetrators demands, to provoke an over-reaction, to serve as a catalysis for

more general conflict, or to publicize a political cause."

It has been further held that our country has been a victim of an undeclared war by epicentres of terrorism with the aid of well-knit and resourceful terrorist organisations engaged in terrorist activities in different States. Hon'ble Apex Court has broadly categorised the terrorist strikes under three headings:

1. "Attack on the institution of democracy, which is the very basis of our country. (By attacking Parliament, Legislative Assembly etc). And the attack on economic system by targeting economic nerve centers.
2. Attack on symbols of national pride and on security / strategic installations. (eg. Red Fort, Military installations and camps, Radio stations etc.)
3. Attack on civilians to generate terror and fear psychosis among the general populace. The attack at worshipping places to injure sentiments and to whip communal passions. These are designed to position the people against the government by creating a feeling of insecurity."

37. Hon'ble Apex Court in the matter of **MOHD.IQBAL M SHAIKH vs STATE OF MAHARASHTRA** reported in **(1998)4 SCC 494** while acknowledging the inherent difficulty in defining the term "terrorism", has observed as under:

"7. In view of the rival submissions at the Bar, the first question that arises for our consideration is whether the activities can be held to be "terrorist activities" so as to bring them within the purview of TADA. The expression "terrorist act" has not been defined and, on the other hand, Section 2(h) stipulates that it would have the same meaning as has been assigned to it in sub-section (1) of Section 3. The expression "terrorism" has not been defined under the Act and as has been held by this Court, in the case of *Hitendra Vishnu Thakur v. State of Maharashtra* it is not possible to give a precise definition of terrorism or to lay down what constitutes terrorism. But... it may be possible to describe it as a use of violence when its most important result is not merely the physical and mental damage of the victim but the prolonged psychological effect it produces or has the potential of producing on the society as a whole xxx if the object of the activity is to disturb harmony of the society or to terrorize people and the society, with a

view to disturb even tempo, tranquility of the society, and a sense of fear and insecurity is created in the minds of a section of society at large, then it will, undoubtedly be held to be terrorist act."

38. In the case of **YAKUB ABDUL RAZAK MEMON vs STATE OF MAHARASHTRA THROUGH CBI, BOMBAY** reported in **(2013)13 SCC 1**, Hon'ble Apex Court has defined the term "terrorism" as under:

"809. The term "terrorism" is a concept that is commonly and widely used in everyday parlance and is derived from the Latin word "terror" which means the state of intense fear and submission to it. There is no particular form of terror, hence, anything intended to create terror in the minds of general public in order to endanger the lives of the members and damage to public property may be termed as a terrorist act and a manifestation of terrorism.

Black's Law Dictionary defines terrorism as: "Terrorism.--The use or threat of violence to intimidate or cause panic, esp. as a means of affecting political conduct." (8th Edn., p. 1512.)

"810. Terrorism is a global phenomenon in today's world and India is one of the worst victims of terrorist

acts. Terrorism has a long history of being used to achieve political, religious and ideological objectives. Acts of terrorism can range from threats to actual assassinations, kidnappings, airline hijackings, bomb scares, car bombs, building explosions, mailing of dangerous materials, computer based attacks and the use of chemical, biological, and nuclear weapons-- weapons of mass destruction (WMD).

"816. The United Nations Security Council in its 2004 Resolution [Ed.: UN Doc. S/RES/1566 (2004); Resolution 1566 (2004) adopted by the Security Council on 8-10- 2004.] denounced "terrorist acts" as follows "criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a Government or an international organisation to do or abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature,..."

39. Thus, from the above authoritative principles of law, it can be summarised as under:

(1) There is no particular form or means only by which a state of terror can be struck in the minds of people.

(2) The purpose of terrorist act is to evoke a sense of "fear psychosis" and "insecurity" among general populace of a law abiding society.

(3) There is no specific target or set of identifiable targets intended to be attacked; the target audience is unknown persons part of a larger collective of society.

(4) Through their intended acts, such persons should indulge in "terrorist act" with a aim to achieve dual object of single action. First is to inflict or effect physical violence on certain targets which may involve causing

death or injury to persons or damage/destruction of property and other like events. Second objective is what characteristically sets apart a terrorist act from mere law and order or public order concerns.

(5) Such persons who indulge in these acts, aim to send out larger intimidating message to those not directly impacted by the physical violence.

(6) damage that would be caused by perpetration of such acts affects the "psychological balance" of the victim and it has a direct impact on their future actions or in other words, threat of future violence looms over their minds perpetually.

(7) By their intended activity, the offender attempts to create fear and panic amongst people in general or a section thereof.

40. The test for rejection of bail will be sufficiently met if the prosecution can, prima-facie, establish commission of terrorist act. For this, prosecution will have to demonstrate the acts as enumerated in clause (a) of sub-section (1) of Section 15 with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country and such acts has the effect of causing or likelihood of causing any of the result as enumerated in sub-clauses (i) to (iv) of clause (a) of sub-section (1) of Section 15.

41. In the aforesaid background, we proceed to examine if the allegations as found in the material on

record attributed to each of the accused would prima-facie found within the four corners of Section 15 of UAP Act.

Accused No.	Charge sheet material	Evidence
12	<p><b>Mohammed Thousif (A-12):</b></p> <p>The accused, in conspiracy with A-4 and other accused persons, reached the DJ Halli Police Station premises with an intention to commit terrorist act. He had brought petrol to burn the vehicles on the direction of A-4. Further, he being member of the terrorist gang, along with A-13, and A-14 had attacked the Police vehicles using iron rods. Even after imposition of Section 144 CrPC in the area and announcement thereof by the Police, he continued to be a part of the unlawful assembly at DJ Halli Police Station on 11.08.2020 and participated with mob in committing violent acts and damaging the government/private property. He was seen in videos of news channel</p>	<p>Video: He was seen in videos of news channel (Digvijaya News). He was toppling the DCP's vehicle during the offence.</p> <p>Mobile location: His mobile tower latches to DJ Halli PS</p> <p>Public witness - M Nawaz Pasha Quershi (LW-122) and protected witnesses</p> <p>Police Witness - Ranganath J (LW-27): A-12 was seen bringing petrol and burning the vehicles as per the direction of Wajid Pasha.</p> <p>Shridhara G (LW-26), HC : A-12 had brought petrol as directed by Wajid Pasha and was</p>

	<p>(Digvijaya News) among the group of people toppling the vehicle of DCP. Prosecution witnesses have identified the said accused and have stated that they had seen him aggressively participating in the offence and toppling DCP's vehicle. The said witnesses have also seen him bringing petrol as directed by Wajid Pasha K M (A-4). Further, on 11.08.2020, he was found to have large number of calls, which indicates his involvement in gathering more people to the scene of crime. Thus, A-12 being a member of unlawful assembly, and in pursuance to the conspiracy hatched with other members of the terrorist gang, he committed terrorist act leading to large scale destruction of Police station building, government and private vehicles, causing mischief by fire and injury to the Police personnel on duty and striking terror in the society.</p> <p>Thereby, Mohammed Thousif (A-12) committed offences punishable under Sections 120B, 143, 147, 188, 353, 427 and 436/34 and 149 of IPC, Section 2 of Karnataka Prevention of Destruction and Loss of</p>	<p>burning the vehicles which were parked in the Police Station premises. He was also seen toppling DCP's vehicle Toyato Innova.</p>
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	Property Act (KPDLP Act) and Sections 16, 18 and 20 of UA(P) Act.	
<b>13</b>	<p><b>Shabaz M (A-13)</b></p> <p>Accused Shabaz, in conspiracy with A-4, A-12, A-14 and other accused reached the DJ Halli Police Station with an intention to commit terrorist act on 11.08.2020. He brought petrol to the scene of crime as directed by A-4 and burnt vehicles by pouring it, being a member of the terrorist gang. He was seen in videos of news channel (Digvijay News) among the group of people toppling the vehicle of DCP. In spite of knowing that Section 144 CrPC was imposed in the DJ Halli area, he continued to be a part of the unlawful assembly at DJ Halli Police Station on 11.08.2020 and he participated with mob in violent acts and damaging the government/private property. Prosecution witnesses have identified the said accused who aggressively participated in the offence and toppling DCP's vehicle, and have also seen him bringing petrol as directed by Wajid Pasha K M (A-4). Thus, A-13 being a member of unlawful</p>	<p>Video: He was seen in videos of news channel (Digvijaya News). He was toppling the DCP's vehicle during the offence.</p> <p>Public Witness - M Nawaz Pasha Queshi (LW-122) &amp; Protected Witnesses</p> <p>Police Witness - Ranganath J (LW-27): A-13 was seen bringing petrol and burning the vehicles as per the direction of Wajid Pasha.</p> <p>Shridhara G (LW-26), HC: A-13 had brought petrol as directed by Wajid Pasha and was burning the vehicles which were parked in the Police Station premises. He was also seen toppling DCP's vehicle Toyota Innova.</p>

	<p>assembly, and in pursuance to the conspiracy hatched with other members of the terrorist gang, he committed terrorist act leading to large scale destruction of Police station building, government and private vehicles, causing mischief by fire and injury to the Police personnel on duty and striking terror in the society.</p> <p>Thereby, Shabaz M (A-13) committed offences punishable under Sections 120B, 143, 145, 147, 188, 353, 427 and 436/34 and 149 of IPC, Section 2 of Karnataka prevention of Destruction and Loss of Property Act (KPDLP Act) and Sections 16, 18 and 20 of UA(P) Act.</p>	
<b>14</b>	<p><b>Arif Pasha (A-14)</b></p> <p>Accused Arif Pasha being member of terrorist gang in conspiracy with A-4, A-12, A-13 and other accused persons reached DJ Halli Police Station premises with an intention to commit a terrorist act. He was part of the unlawful assembly at DJ Halli Police Station on 11.08.2020 and participated in violent acts and damaged the government/private</p>	<p>Video: He was seen in videos of news channel (Digvijaya News). He was toppling the DCP's vehicle during the offence.</p> <p>Public Witness - M Nawaz Pasha Quershi (LW-122) &amp; protected witness.</p> <p>Police Witness - Ranganath J (LW-27): A-14 was seen</p>

	<p>property. Further, he brought petrol to the scene of crime as directed by A-4 and burnt vehicles by pouring the said petrol. He was a part of the mob that attacked and damaged the vehicle of DCP. In spite of knowing that Section 144 Cr.P.C was imposed in the DJ Halli area, he continued to be a part of the unlawful assembly at DJ Halli Police Station on 11.08.2020 and he participated with mob in violence and damaging the government/private property. Prosecution witness have identified the said accused who aggressively participated in the offence and in toppling DCP's vehicle. The said witness have also seen him bringing petrol as directed by Wajid Pasha K M (A-4). Thus, A-14 being a member of unlawful assembly, and in pursuance to the conspiracy hatched with other member of the terrorist gang, he committed terrorist act leading to large scale destruction of Police station building, government and private vehicles, causing mischief by fire and injury to the Police personnel on duty and striking terror in the society.</p>	<p>bringing petrol and burning the vehicles as per the direction of Wajid Pasha.</p> <p>Shridhara G (LW-26), HC : A-13 had brought petrol as directed by Wajid Pasha and was burning the vehicles which were parked in the Police Station premises. He was also seen toppling DCP's vehicle Toyato Innva.</p> <p>Umran Khan Suhail (LW-35): A-14 toppling the DCP's Innova vehicle inside the Police Station compound along with many others. Further, he was seen along with Wajid Pasha KM and others, and he was seen bringing petrol in the plastic bottle as directed by Wajid Pasha KM.</p>
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	<p>Thereby, Arif Pasha (A-14) committed offences punishable under Sections 120B, 143, 145, 147, 188, 353, 427 &amp; 363/34 &amp; 149 of IPC, Section 2 of Prevention of Destruction and Loss of Property Act, 1981 and Sections 16, 18 &amp; 20 of UA(P) Act.</p>	
<b>15</b>	<p><b>Farooq (A-15)</b></p> <p>The accused Farooq, in conspiracy with A-1 and other accused, proceeded to the DJ Halli Police Station to commit a terrorist act. Further, in pursuance to the conspiracy the accused recorded a voice message in his mobile, exhorting all Muslims to gather at the police station. Further, as a member of the terrorist act, he brought petrol to the scene of crime as directed by A-1 and burnt the vehicles in the Police Station premises by pouring the same. Location of his mobile number is latched with DJ Halli PS tower during the time of offence. He did not leave the scene of crime even after imposition of Section 144 CrPC and request by the Police to leave the premises. Statements of Prosecution</p>	<p>Public witness: Protected witnesses</p> <p>Police witnesses: Bapugowda (LW-24) PC : (A-15) is a fruit vendor and was present in the mob involved in attacking police officials by pelting stones and raising slogans against them. He also burnt vehicles by pouring petrol on them.</p> <p>Krishna, PC (CAR) (LW-40): LW-40 identified A-15 who was setting fire to bus in front of him.</p>

	<p>witnesses prove that the said accused has aggressively participated in the offence and was getting petrol to burn the vehicles. During the time of offence, the accused is found to have large number of calls in his mobile. Thus, A-15 being a member of unlawful assembly, and in pursuance to the conspiracy hatched with other members of the terrorist gang, he committed terrorist act leading to large scale destruction of Police station building, government and private vehicles, causing mischief by fire and injury to the Police personnel on duty and striking terror in the society.</p> <p>Thereby, Farooq (A-15) committed offences punishable under Sections 120B, 143, 145, 147, 188, 353, 427 &amp; 436/34 &amp; 149 of IPC, Section 2 of Karnataka Prevention of Destruction and Loss of Property Act (KPDLP Act) and Sections 16, 18 &amp; 20 of UA(P) Act.</p>	
<b>20</b>	<p><b>Shameel Pasha (A-20)</b></p> <p>On 11.08.2020 at about 2000 hrs, Wajid Pasha KM</p>	<p>Technical evidence: Recorded audio and forwarded to whatsapp group.</p>

	<p>(A-4) and his associates came to the shop of A-20 and told him to shut down his shop stating that Naveen posted a derogatory comment on Prophet Mohammed in his Facebook account and in this regard they all were going to DJ Halli Police Station and asked him to join them. A-20 in pursuance to conspiracy informed Tanveer Khan (A-21) and in pursuance to the conspiracy he had with A-4 and A-21, the accused Shameel Pasha (A-20) reached at the scene of crime with an intention to commit a terrorist act. After reaching the scene of crime, upon the instructions of Wajid Pasha KM (A-4), he recorded audio message in Tanveer Khan (A-21)'s mobile phone and forwarded it to many WhatsApp groups namely Bangalore kings, Ma-kai-kadmo ka niche Janath etc., with an intention to gather more people at the scene of crime. In the audio clip, he was exhorting all Muslims in the audio message to gather at DJ Halli Police Station. The same audio clip was recovered from mobile hand set of accused Afzal Basha (A-5) during the forensic examination. Even after the</p>	<p>Public witness: Protected witnesses</p> <p>Bapu Gowda (LW-24): A 20 was present with other accused in mob and actively participated in raising slogans against police, pelting stones at police &amp; vehicles and setting vehicles on fire by pouring petrol.</p> <p>Praveen Basappa Kotyal, (LW-33) PC: A-20 was present with other accused in mob and actively participated in raising slogans against police, pelting stones at police and vehicles and setting vehicles on fire by pouring petrol.</p>
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	<p>direction of the Police to disperse in view of the imposition of Section 144 CrPC in the are, he continued to be with the violent mob, pelted stones on the Police and raised slogans against the Police. Prosecution witnesses have identified the said accused who aggressively participated in pouring petrol and burning vehicle at the SoC. During the time of offence, he was found to be in touch with many people, since there are large number of calls from his mobile. Thus, A-20 being a member of terrorist gang, and in pursuance to the conspiracy hatched with other members of the terrorist gang, he committed terrorist act leading to large scale destruction of Police Station building, government and private vehicles, causing mischief by fire and injury to the Police personnel on duty and striking terror in the society.</p> <p>Thereby, Shameel Pasha (A-20) committed offences punishable under Sections 120B, 143, 145, 147, 188, 353, 427 &amp; 436/34 &amp; 149 of IPC, Section 2 of Karnataka Prevention of Destruction</p>	
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	and Loss of Property Act (KPDLP Act) and Sections 16, 18 & 20 of UA(P) Act.	
<b>21</b>	<p><b>Tanveer Khan (A-21)</b></p> <p>The accused Tanveer Khan (A-21) in conspiracy with Shameel Pasha (A-20) and Wajid Pasha (A-4) and on the latter's instructions, proceeded to the DJ Halli Police Station with an intention to commit a terrorist act, by taking undue undvantage of the situation. After reaching the scene of crime, he recorded an audio message in his mobile phone as directed by A-4 and forwarded the same to many WhatsApp groups namely Bangalore kings, Ma-kai-kadmoka niche Janath etc. Audio clip by the accused urging all Muslims to gather at DJ Halli Police Station, was recovered from mobile hand set of a prosecution witness during investigation. In pursuance to the conspiracy, he had aggressively participated in burning of vehicles. The accused continued to be a part of the mob in spite of imposition of Section 144 CrPC in the DJ Halli area and the direction of the</p>	<p>Technical evidence: Recorded audio and forwarded to whatsapp group.</p> <p>Public witness: Protected witnesses.</p> <p>Police witness: Bapu Gowda (LW-24) PC: A-21 is an auto driver and was part of the violent mob that unlawfully assembled at police station and vandalized the government and private property. He was chanting slogans against police and provoking others in mob for violence and attacking the police personnel. He also burnt vehicles by pouring petrol on them.</p> <p>Praveen Basappa Kotyal (LW-33) PC: A-21 was a part of the violent mob that unlawfully assembled at police station and vandalized the government and</p>

	<p>Police to leave the area. The accused was found to have large number of calls on his mobile during the time of offence. Thus, A-21 being a member of terrorist gang, and in pursuance to the conspiracy hatched with other members of the terrorist gang, he committed terrorist act leading to large scale destruction of Police station building, government and private vehicles, causing mischief by fire and injury to the Police personnel on duty and striking terror in the society.</p> <p>Thereby, Tanveer Khan (A-21) committed offences punishable under Sections 120B, 143, 145, 147, 188, 353, 427 &amp; 436/34 &amp; 149 of IPC, Section 2 of Prevention of Destruction and Loss of Property Act, 1981 and Sections 16, 18 &amp; 20 of UA(P) Act.</p>	<p>private property. He was chanting slogans against police and provoking others in mob for violence and attacking the police personnel. He also burnt vehicles by pouring petrol on them.</p>
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**Role Attributed to accused Nos.14, 15, 16, 18, 19, 20, 21, 22, 23, 24 (Special CC No.141/2020)**

Accused No.	Charge sheet material	Evidence/role of the accused
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14	<p><b>Role of Syed Ikramuddin (A-14), Shaikh Muhammed Bilal (A-15), Syed Asif (A-16), Imran Khan (A-17) and Mohammed Atif (A-18)</b></p> <p>i. Investigation revealed that <b>Syed Ikramuddin (A-14), Shaikh Muhammed Bilal (A-15), Syed Asif (A-16) and Mohammed Atif (A-18)</b> Are supporter of SDPI and <b>Imran Khan (A-17)</b> was a SDPI worker and were part of a terrorist gang to commit terrorist acts. On 11.08.2020 at around 2000 hours, Syed Ikramuddin (A-14) came to know about Naveen's Facebook post through WhatsApp. Immediately he contacted Shaikh Muhammed Bilal (A-15) and decided to meet near KG Halli PS for further course of action with their associates. Then, Syed Ikramuddin (A-14) contacted Syed Asif (A-16), Imran Khan (A-17), Mchammed Atif (A-18) and others and requested them to come near KG Halli PS for participating in violent activities. Accordingly, Syed Ikramuddin (A-14), Shaikh Muhammed Bilal (A-15), Syed Asif (A-16), Imran Khan (A-17) and Mohammed Atif (A-18) reached KG Halli PS at 2030hours and all these accused persons held a brief conspiracy meeting. In furtherance to the said conspiracy meeting, Syed Ikramuddin (A-14),</p>	<p>Police Witnesses:</p> <p>i) Shri Nagaraj Nedaigi, PSI (CW2)  ii) Shri Manjunatha RE, PC (CW15)  iii) Shri Chand Sab Pinchara, PC (CW13)</p> <p>These above mentioned police witnesses identified Syed Ikramuddin (A-14) and Syed Asif (A-16) who along with few unknown persons were setting ablaze two-wheeler Scooty parked near KG Halli PS by pouring petrol on it, during riots on 11.08.2020. Accused Imran Khan (A-17), Shaikh Muhammed Bilal (A-15) and Mohammed Atif (A-18) were also with them at this time and they were shouting slogans and instigating the youths for burning the vehicle.</p> <p>Civil Witnesses:</p> <p>i. CW 142 (Protected Witnesses): he stated that on 11.08.2020, while he was going home crossing KG Halli PS, he stopped at KG Halli PS with Police personnel. That, time he saw Syed Ikramuddin (A-14), Shaikh Muhammed Bilal (A-15), Imran Khan (A-17) and few others come out of the KG Halli police station and</p>
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	<p>Shaikh Muhammed Bilal (A-15), Imran Khan (A-17) and Mansoor (absconding suspect) went inside the police station for filing complaint. Meanwhile, Syed Asif (A-16) and Mohammed Atif (A-18) remained outside the station and provoked other accused persons gathered in front of KG Halli PS, for attacking police station and police personnel.</p> <p>ii. When Syed Ikramuddin (A-14) approached the KG Halli police for filing FIR against Naveen, the station in-charge informed them that in this regard DJ Halli police had already initiated action and stringent action will be taken against him. However, Syed Ikramuddin (A-14), Shaikh Muhammed Bilal (A-15) and others insisted the police for registering more FIRs in this regard. Finally, to pacify these accused persons and the mob gathered in front of the police station, KG Halli police accepted their complaints and registered an NCR at KG Halli PS, in which besides Syed Ikramuddin (A-14), Shaikh Muhammed Bilal (A-15), Imran Khan (A-17) and Mansoor had also signed. After filing the NCR, Syed Ikramuddin (A-14), Shaikh Muhammed Bilal (A-15), Imran Khan (A-17) and Mansoor came out and joined with other accused persons in front of KG Halli police</p>	<p>told the crowd that they had filed FIR and instructed crowd to wait for some time as the police was taking steps to arrest Naveen. But, the other people standing with Shaikh Muhammed Bilal (A-15) and Syed Ikramuddin (A-14) started shouting and demanded that they need Naveen in their hand and they would execute him. He was assisting the police personnel in pacify mob and will prove presence of Syed Asif (A-16), Imran Khan (A-17), Syed Ikramuddin (A-14), Shaikh Muhammed Bilal (A-15) and Mohammed Atif (A-18) in riots. He can also prove that the protesters used petrol bomb (petrol packed in plastic covers) and the same thrown on police, which fallen his body also during the incident.</p> <p>ii. CW143 (Protected Witness): He can prove the presence of accused Syed Ikramuddin (A-14) in the rioting at KG Halli police station area on the night of 11.08.2020, he also identified Sadiq Karchief, Syed Abbas (A-3), Habeeb Ur Rehman (A4), Peer Pasha (A-5), Ziya Ur Rehman (A-6), Syed Asif (A-16) and few others whose name not</p>
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	<p>station. Syed Ikramuddin (A-14) and Shaikh Muhammed Bilal (A-15) contacted many people and instigated them to participate in the violent activities at KG Halli Police station area.</p> <p>iii. In furtherance to the conspiracy hatched by Syed Ikramuddin (A-14) with his associates and SDPI district leaders, on 11.08.2020 at around 2320 hours, Syed Ikramuddin (A-14), Shaikh Muhammed Bilal (A-15), Syed Asif (A-16), Imran Khan (A-17), Mohammed Atif (A-18), Mansoor and few others burnt a bike parked in front of the Police station by pouring petrol on it. Therefore, these accused persons committed terrorist act as it involves use of inflammable substance/petrol and were burnt, damaged the public and private properties i.e., vehicle parked in and around the premises of KG Halli PS and causing injury to person/property. Thereby A-14 to A-18 and other accused created terror and panic in the society.</p> <p><b>Role of Mohammed Kaleem Ahmed (A-19), Muhammad Mudassir Kaleem (A-20), Naqeeb Pasha (A-21), Imran Ahmed (A-22), Mohammed Azhar (A-23) and Kareem @ Sadam (A-24):</b></p> <p>i Investigation revealed that</p>	<p>included in the case. He can also prove that the protesters used petrol bomb (petrol packed in plastic covers) and other deadly weapons.</p> <p>iii. CW144 (Protected witness): He will prove that on 11.08.2020, at about 2300 hrs, he received a phone call from Syed Ikramuddin (A-14) who told him about the incident and also asked him to come to KG Halli PS area along with his friends which he refused.</p> <p>iv. Zulfikhar Ameen Khan (CW-45) aged 44 yrs, s/o Rafiq Ali Khan: He will prove that on 11/08/2020 at about 2330 hrs, Ikramuddin @ Naveed asked him to come to PS KG Halli but he expressed his unwillingness. Then Syed Ikramuddin (A-14) called him through WhatsApp video call and show video of riot at PS KG Halli police station area and again insisted him to come to PS KG Halli, he again denied.</p> <p>v. Syed Uzair Ahmad (CW-46) S/O Late Ajeaz Ahmad: During the incident on 11.08.2020 at around 11:45 pm Syed Ikramuddin (A-14) called him over phone and explained about the protest</p>
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	<p>the <b>Mohammed Kaleem Ahmed (A-19)</b> is a strong supporter and mentor of SDPI, <b>Muhammad Mudassir Kaleem (A-20)</b> is an active member of SDPI and <b>Naqeeb Pasha (A-21) &amp; Imran Ahmed (A-22)</b> are active supporters of SDPI. Mohammed Kaleem Ahmed (A-19) and Muhammed Mudassir Kaleem (A-20) are father and son. On 11.08.2020, at around 2130hours, Mohammed Kaleem Ahmed (A-19), Muhammad Mudassir Kaleem (A-20), Naqeeb Pasha (A-21), Imran Ahmed (A-22), <b>Mohammed Azhar (A-23)</b> and <b>Kareem @ Sadam (A-24)</b> assembled at Mohammed Kaleem Ahmed (A-19)'s medical shop which is located at about 200 meters away from KG Halli Police Station and had conducted a conspiracy meeting. Thereafter, these accused persons went to KG Halli Police Station. When these accused reached in front of KG Halli PS, Syed Ikramuddin (A-14) and others came out of the Police station after filing NCR, the police and few local religious leaders were trying to pacify the furious mob and requested them to disperse as the police had already registered complaint and assured them to take stringent action against Naveen at the earliest. Most of the people gathered in front of the station did not listen to them but they intensified their</p>	<p>at KG Halli area, also asked him to join the rioting, but he didn't attend the rioting.</p> <p>vi. Abdul Rasheed (CW-49) aged 51 yrs, S/o Abdul Azeez:: He will prove that he received a phone call from Syed Ikranuddin @ Naveed around 1110 PM and asked to take his car, which he parked in front of his travel agency office, near KG Halli police station area. Syed Ikramuddin (A-14) told him that people are protesting against the police and vandalizing vehicles parked in the road side. When he asked about location, Syed Ikramuddin (A-14) told him that he was leading the party workers for protest against police and standing outside of KG Halli PS. Then, he take his vehicle from the station area, but he didn't participated in the rioting.</p> <p>CDR of mobile numbers used by him prove his contact with other accused persons and also his location on 11.08.2020 at KG Halli PS at the time of incident.</p>
15		<p>The witnesses Police Witnesses:</p> <p>i) Shri Nagaraj Nedalgi, PSI (CW2) ii) Shri Manjunatha RE, PC</p>

	<p>violence by pelting stones on police personnel and police station. Mohammed Kaleem Ahmed (A-19) who was leading the riot with his son Muhammad Mudassir Kaleem (A-20) and others, threatened Protected Witness-1 who tried to disperse the mob. Mohammed Kaleem Ahmed (A-19) told the said Protected Witness-1 that your work is over, you should leave the area immediately, as per the directions of SDPI leaders, more cadres are reaching at KG Halli PS area and there will be something serious that is going to happen as we could not be silent all the time, when someone insult our Prophet Mohammed and religion islam, we are ready to martyrdom for our desired cause.</p> <p>ii. Investigation revealed that Muhammad Mudassir Kaleem (A-20) was in contact with other accused persons including SDPI leaders. During and after the rioting, Muhammad Mudassir Kaleem (A-20) was active in WhatsApp group "KG Halli 45". He along with other members of said WhatsApp group and few other conspirators communicated messages to the mob gathered in front of KG Halli PS about escape route from police through the said WhatsApp group.</p> <p>iii. In pursuance to the</p>	<p>(CW15) iii) Shri Chand Sab Pinchara, PC (CW13)</p> <p>These above mentioned police witnesses identified Syed Ikramuddin (A-14) and Syed Asif (A-16) who along with few unknown persons were setting ablaze two-wheeler Scooty parked near KG Halli PS by pouring petrol on it, during riots on 11.08.2020. also identified that accused Shaikh Muhammed Bilal (A-15), Imran Khan (A-17), and Mohammed Atif (A-18) were also with them at this time and they were shouting slogans and instigating the youths for burning the vehicle. The witnesses will also prove that accused Mohammed Bilal and his associates were forcefully shut down the shops and other establishment nearby the KG Halli Police Station area on 11.08.2020.</p> <p>Civil Witnesses: i. CW 141 (Protected witness): He stated that on 11.08.2020 at about 2100 hrs Shaik Muhammed Bilal called him and requested to come to KG Halli PS as he along with other was doing protest at KG Halli Police Station because MLA's</p>
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	<p>conspiracy, Mohammed Kaleem Ahmed (A-19) and Muhammad Mudassir Kaleem (A-20) along with their associates Imran Ahmed (A-22), Mohammed Azhar (A-23), Kareem @ Sadam (A-24) and others actively participated in violent activities. On 11.08.2020, at around 2330 hours, Mohammed Kaleem Ahmed (A-19), Muhammad Mudassir Kaleem (A-20), Naqeeb Pahsa (A-21), Imran Ahmed (A-22), Mohammed Azhar (A-23) and Kareem @ Sadam (A-24) along with few unknown persons set ablaze an Innova car parked nearby the KG Halli police station by pouring petrol on it. After doing so, Naqeeb Pasha (A-21) captured photos of the burning Innova vehicle in his mobile phone and shared with others through WhatsApp. Therefore, these accused persons committed terrorist act as they have used inflammable substance/petrol and were burnt, damaged the public and private properties i.e., Innova Car that was parked in and around the premises of KG Halli PS and causing injury to person/property. Thereby A-19 to A-24 and other accused created a terror atmosphere in the area.</p> <p>iv. When police started firing to take the situation under control, these accused persons fled from the place of incidence. It was revealed that Muhammed</p>	<p>nephew derogatory posted against Mohammed Prophet. After that while the witness was going home via KG Halli PS, he saw Shaikh Muhammed Bilal (A-15) &amp; Kaleemulla were involved in protest at KG Halli PS.</p> <p>ii. CW-142 (Protected Witness): he stated that on 11.08.2020, while he was going home crossing KG Halli PS, he stopped at KG Halli PS with Police personnel. That, time he saw Shaikh Muhammed Bilal (A-15), Syed Ikramuddin (A-14), Imran Khan (A-17) and few others come out of the KG Halli police station and told the crowd that they had filed FIR and instructed crowd to wait for some time as the police was taking steps to arrest Naveen. But, the other people standing with Shaikh Muhammed Bilal (A-15) and Syed Ikramuddin (A-14) started shouting and demanded that they need Naveen in their hand and they would execute him. He was assisting the police personnel in pacify mob and will prove presence of Syed Asif (A-16), Imran Khan (A-17), Syed Ikramuddin (A-14), Shaikh Muhammed Bilal (A-15) and Mohammed Atif (A-</p>
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	<p>Mudassir Kaleem (A-20) and Mohammed Azhar (A-23) hid at the latter's vacant house overnight to evade their apprehension by law enforcement agencies.</p> <p>v. The above acts of Mohammed Kaleem Ahmed (A-19), Muhammad Mudassir Kaleem (A-20), Naqeeb Pasha (A-21), Imran Ahmed (A-22), Mohammed Azhar (A-23) and Kareem @ Sadam (A-24), being members of terrorist gang have been established through prosecution witnesses, documentary/electronic evidence and CDR of the mobile number used by accused persons during the relevant period of crime."</p>	<p>18) in riots.</p> <p>CW 143 (Protected witness) He used to supply mineral water at KG Halli Police Station. He was at KG Halli Police Station during the incident on 11.08.2020. As directed by the police he requested the violent mob in Urdu language to disperse from station area after filing the NCR. His two wheeler scooter was burnt completely by the mob and he lodged FIR No.241/2020 dated 16.08.2020. He can prove the presence of accused Sadiq Karchief, Syed Abbas (A-3), Habeeb Ur Rehman (A-4), Peer Pasha (A-5), Ziya Ur Rehman (A-6), Syed Asif (A-16), Syed Ikramuddin (A-14) and few others whose name not included in the case.</p> <p>CDR of mobile numbers used by him prove his contact with other accused and also his location on 11.08.2020 at KG Halli PS at the time of incident.</p>
16		<p>Police Witnesses:</p> <p>i) Shri Nagaraj Nedalgi, PSI (CW2) ii) Shri Manjunatha RE, PC (CW15) iii) Shri Chand Sab Pinchara, PC (CW13)</p>

		<p>These above mentioned police witnesses identified Syed Ikramuddin (A-14) and Syed Asif (A-16) who along with few unknown persons were setting ablaze two-wheeler Scooty parked near KG Halli PS by pouring petrol on it, during riots on 11.08.2020. also identified that accused Shaikh Muhammed Bilal (A-15), Imran Khan (A-17), and Mohammed Atif (A-18) were also with them at this time and they were shouting slogans and instigating the youths for burning the vehicle.</p> <p>Civil Witnesses:</p> <p>i. CW-142 (Protected Witness): he stated that on 11.08.2020, while he was going home crossing KG Halli PS, he stopped at KG Halli PS with Police personnel. That, time he saw Shaikh Muhammed Bilal (A-15), Syed Ikramuddin (A-14), Imran Khan (A-17) and few others come out of the KG Halli police station and told the crowd that they had filed FIR and instructed crowd to wait for some time as the police was taking steps to arrest Naveen. But, the other people standing with Shaikh</p>
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		<p>Muhammed Bilal (A-15) and Syed Ikramuddin (A-14) started shouting and demanded that they need Naveen in their hand and they would execute him. He was assisting the police personnel in pacify mob and will prove presence of Syed Asif (A-16), Imran Khan (A-17), Syed Ikramuddin (A-14), Shaikh Muhammed Bilal (A-15) and Mohammed Atif (A-18) in riots.</p> <p>CW 143 (Protected witness) He used to supply mineral water at KG Halli Police Station. He was at KG Halli Police Station during the incident on 11.08.2020. As directed by the police he requested the violent mob in Urdu language to disperse from station area after filing the NCR. His two wheeler scooter KA 04 JD 3667 TVS JUPITER was burnt completely by the mob and he lodged FIR No.241/2020 dated 16.08.2020. He can prove the presence of accused Syed Asif (A-16), Sadiq Karchief, Syed Abbas (A-3), Habeeb Ur Rehman (A-4), Peer Pasha (A-5), Ziya Ur Rehman (A-6), Syed Ikramuddin (A-14) and few others whose name not included in the case.</p>
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	<p>CDR of mobile numbers used by him prove his linkage with other accused and also his location on 11.08.2020 at KG Halli PS at the time of incident.</p>
<p><b>18</b></p>	<p>Police Witnesses:</p> <p>i) Shri Nagaraj Nedalgi, PSI (CW2)  ii) Shri Manjunatha RE, PC (CW15)  iii) Shri Chand Sab Pinchara, PC (CW13)</p> <p>These above mentioned police witnesses identified Syed Ikramuddin (A-14) and Syed Asif (A-16) who along with few unknown persons were setting ablaze two-wheeler Scooty parked near KG Halli PS by pouring petrol on it, during riots on 11.08.2020. also identified that accused Shaikh Muhammed Bilal (A-15), Imran Khan (A-17), and Mohammed Atif (A-18) were also with them at this time and they were shouting slogans and instigating the youths for burning the vehicle.</p> <p>Civil Witnesses:</p> <p>i. CW-142 (Protected Witness): he stated that on 11.08.2020, while he was going home crossing KG Halli PS, he stopped at KG</p>

	<p>Halli PS with Police personnel. That, time he saw Shaikh Muhammed Bilal (A-15), Syed Ikramuddin (A-14), Iniran Khan (A-17) and few others come out of the KG Halli police station and told the crowd that they had filed FIR and instructed crowd to wait for some time as the police was taking steps to arrest Naveen. But, the other people standing with Shaikh Muhammed Bilal (A-15) and Syed Ikramuddin (A-14) started shouting and demanded that they need Naveen in their hand and they would execute him. He was assisting the police personnel in pacify mob and will prove presence of Mohammed Atif (A-18), Syed Asif (A-16), Imran Khan (A-17), Syed Ikramuddin (A-14) and Shaikh Muhammed Bilal (A-15) in riots.</p> <p>CDR of mobile numbers used by him prove his linkage with other accused and also his location on 11.08.2020 at KG Halli PS at the time of incident.</p>
20	<p>Police Witnesses:</p> <p>i. Shri Ajay Sarathy PI (CW1) ii. Shri Sandeep, PC (CW9)</p>

	<p>These above mentioned police witnesses identified Muhammed Mudassir Kaleem (A-20) and Naqeeb Pasha (A-21) who along with few unknown were setting ablaze an Innova Car near KG Halli PS, by pouring petrol on it, during riots on 11.08.2020. They also identified accused Mohanmed Kaleem Ahmed (A-19), Kareem @ Sadam (A-24), Imran Ahmed (A--22) &amp; Mohammed Azhar (A-23) were also standing nearby the burning Innova car, they were shouting slogans and leading the process of burning the car.</p> <p>Civil Witnesses: Azharuddin (CW-43): He can prove that Muhammed Mudassir Kaleem is an SDPI member.</p> <p>CDR of mobile numbers used by him prove his contact with other accused and also his location on 11.08.2020 at KG Halli PS at the time of incident.</p> <p>Incrimination audio clips were retrieved from his mobile phone about the riots.</p>
21	<p>Police Witnesses:</p> <p>i. Shri Ajay Sarathy PI (CW1)</p>

	<p>ii. Shri Sandeep, PC (CW9)</p> <p>These above mentioned police witnesses identified Muhammed Mudassir Kaleem (A-20) and Naqeeb Pasha (A-21) who along with few unknown were setting ablaze an Innova Car near KG Halli PS, by pouring petrol on it, during riots on 11.08.2020. They also identified accused Mohammed Kaleem Ahmed (A-19), Kareem @ Sadam (A-24), Imran Ahmed (A--22) &amp; Mohammed Azhar (A-23) were also standing nearby the burning Innova car, they were shouting slogans and leading the process of burning the car.</p> <p>CDR of mobile numbers used by him prove his linkage with other accused and also his location on 11.08.2020 at KG Halli PS at the time of incident.</p> <p>Incrimination images/video available in his mobile phone, which were captured by him.</p>
22	<p>Police Witnesses:</p> <p>i. Shri Ajay Sarathy PI (CW1) ii. Shri Sandeep, PC (CW9)</p>

	<p>These above mentioned police witnesses identified Muhammed Mudassir Kaleem (A-20) and Naqeeb Pasha (A-21) who along with few unknown were setting ablaze an Innova Car near KG Halli PS, by pouring petrol on it, during riots on 11.08.2020. They also identified accused Imran Ahmed (A--22), Mohammed Kaleem Ahmed (A-19), Kareem @ Sadam (A-24), &amp; Mohammed Azhar (A-23) were also standing nearby the burning Innova car, they were shouting slogans and leading the process of burning the car.</p> <p>CDR of mobile numbers used by him prove his linkage with other accused and also his location on 11.08.2020 at KG Halli PS at the time of incident.</p> <p>His Google location also prove his presence at place of incident during relevant period.</p>
23	<p>Police Witnesses:</p> <p>i. Shri Ajay Sarathy PI (CW1) ii. Shri Sandeep, PC (CW9)</p> <p>These above mentioned police witnesses identified Muhammed Mudassir</p>

	<p>Kaleem (A-20) and Naqeeb Pasha (A-21) who along with few unknown were setting ablaze an Innova Car near KG Halli PS, by pouring petrol on it, during riots on 11.08.2020. They also identified accused Imran Ahmed (A-22), Mohammed Kaleem Ahmed (A-19), Kareem @ Sadam (A-24), &amp; Mohammed Azhar (A-23) were also standing nearby the burning Innova car, they were shouting slogans and leading the process of burning the car.</p> <p>CDR of mobile numbers used by him prove his linkage with other accused and also his location on 11.08.2020 at KG Halli PS at the time of incident.</p>
24	<p>Police Witnesses:</p> <p>i. Shri Ajay Sarathy PI (CW1) ii. Shri Sandeep, PC (CW9)</p> <p>These above mentioned police witnesses identified Muhammed Mudassir Kaleem (A-20) and Naqeeb Pasha (A-21) who along with few unknown were setting ablaze an Innova Car near KG Halli PS, by pouring petrol on it, during riots on 11.08.2020. They also identified accused Imran</p>

	<p>Ahmed (A--22), Mohammed Kaleem Ahmed (A-19), Kareem @ Sadam (A-24), &amp; Mohammed Azhar (A-23) were also standing nearby the burning Innova car, they were shouting slogans and leading the process of burning the car.</p> <p>Civil Witnesses: Zuhaib Khan (CW-35): He will prove that Kareem @ Sadam (A-24) was forwarding videos and audio clips of riots in WhatsApp group "KG Halli 45", in which he giving instructions to other group members about how exit KG Halli PS area avoid police after the incident at KG Halli PS area.</p> <p>CDR of mobile numbers used by him prove his linkage with other accused and also his location on 11.08.2020 at KG Halli PS at the time of incident.</p> <p>Incrimination conversation were found in his WhatsApp.</p>
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42. A plain reading of Section 18 of UAP Act would clearly indicate that it would take within its sweep or fold persons who abet, incite, knowingly

facilitates the commission of terrorist act. Thus, while evaluating the specific roles and overt acts of the appellants, necessarily, Section 18 of UAP Act will have to be kept in mind along with Section 15 of UAP Act. The provisions of Section 15 makes it clear that usage of “inflammable substances” to cause injuries to person or damage properties with an intention to strike terror amounts to terrorist act under Section 15 of UAP Act. The investigation material on hand reveals that petrol bottles were used while attacking police personnel and the police station and such material being highly inflammable substance would prima-facie attract the provisions of Section 15 of UAP Act.

43. The overt acts noted above would clearly indicate the actions of the accused persons in forming a violent mob in front of the police station, attacking the police station and police personnel using lethal weapons such as, clubs, rods, usage of petrol bottles and

indulging in arson indicates that entire action was done with an intention to strike terror at the public at large. The charge sheet material would also prima facie indicate presence of the appellants at the spot of incident at the time of committing offence. The CDR analysis relating to accused No14 clearly indicates his presence at the scene of crime. He has also made phone calls to his associates in order to call them to the place of incident. The Call Detail Records would evidence this fact. In other words, incriminating evidence against accused No14 is writ large.

44. Accused No.19 was leading a group of people involving accused Nos.20, 21, 22, 23 & 24 and they all actively participated in attacking the police station and police personnel. The statement of the protected witness would clearly highlight the role played by accused No19 whereunder it is stated that he had threatened the protected witnesses to leave the area immediately and

as per the direction of SDPI, more cadres of SDPI were reaching KG Halli police station area and something serious could happen as they cannot keep silent all the time when someone insult Prophet Mohammed and religion of Islam and as such they were ready to martyrdom for their desired cause. It is in this conspiracy and motive accused Nos.19 and 20 to 24 actively participated in the violent acts enumerated herein above. Accused No.20 was in contact with other accused persons including SDPI cadres and was active on whatsapp group known as "K.G.Halli 45'. The charge sheet material would also indicate that accused Nos.19, 20 to 24 set ablaze Innova car parked near K.G.Halli police station by pouring petrol on it which act has been captured by accused No.21 on his mobile and shared with others through whatsapp group. The role of accused persons - appellants has been established through prosecution witnesses , statement of protected

witnesses, documentary/electronic evidence and CDRs of mobile numbers used by accused during the relevant point of time. Appellants with a common intention were part of unlawful assembly and with a common object to commit a terrorist act, destruction of public and private properties had disobeyed the promulgation of the orders issued under Section 144 Cr.P.C. In fact, any furtherance of the common objective to cause harm and destruction to the police station, they have attacked the police personnel who were on duty at the relevant date, time and place of incident. As a part of the conspiracy that was hatched with an intention to strike terror and cause fear in the mind of public, the appellants have acted accordingly. A perusal of the report made under Section 173 Cr.P.C and the charge sheet material, this court is of the considered view that accusations against

persons are prima-facie true and proviso to Section 43D(5) is attracted to the facts on hand.

45. Hence, we answer the points formulated herein above to the effect that impugned order passed by the Special Court rejecting the bail applications filed by the appellants would not call for interference and proviso to Section 43D(5) of UAP Act is squarely attracted to the facts on hand namely, charge sheet material would disclose the accusations made against appellants are prima-facie to be believed as true.

For the reasons aforestated, we proceed to pass the following:

**JUDGMENT**

- (1) Criminal Appeals are dismissed.
- (2) Order dated 23.04.2021 passed by XLIX City Civil and Sessions Judge and

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Special Court for NIA cases, Bengaluru in  
Spl.C.C.Nos. 141/2021 and 152/2021  
are affirmed.

**SD/-  
JUDGE**

**SD/-  
JUDGE**

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