

IN THE COURT OF SPECIAL JUDGE,  
CITY CIVIL AND SESSIONS COURT, GR.BOMBAY

BAIL APPLICATION EXH.648  
IN  
NIA SPECIAL CASE NO.414 OF 2020  
(NIA CASE NO.RC 01/2020/NIA/MUM)

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**Gautam P. Navlakha**

**... Applicant/accused no.11**

Vs.

**The State of Maharashtra**  
(Through, National Investigation  
Agency, Mumbai)

**... Prosecution.**

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Advocate Mr. Harshwardhan Akolkar h/f Advocate Mr. Wahab Khan for  
applicant/accused no.11.

SPP Mr. Prakash Shetty along with Mr. Vishal Goutham for NIA.

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**CORAM : HIS HONOUR THE SPECIAL JUDGE**  
**SHRI. RAJESH J. KATARIYA, (C.R.NO.25)**  
**DATED : 05<sup>th</sup> SEPTEMBER 2022.**

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**(DICTATED AND PRONOUNCED IN OPEN COURT)**

**ORAL ORDER**

Heard learned advocate Mr.Harshwardhan Akolkar for  
applicant/accused no.11 and Learned SPP Mr. Prakash Shetty for NIA.

2. Present application is filed by the applicant/accused for

grant of bail. The applicant/accused is prosecuted for the offence punishable under Sections 153(A), 505(1)(B), 117, 120(B), 121, 121(A), 124(A) & 34 of IPC and Sections 13, 16, 17, 18, 18(A), 18(B), 20, 38, 39 & 40 of the Unlawful Activities (Prevention) Act, 1967.

3. It is the case of the prosecution that on 08.01.2018, informant Tushar Ramesh Damgude lodged report with Vishrambaug Police Station in connection with the programme organized under the banner "Elgar Parishad" at Shanivar wada, Pune held on 31.12.2017. Initially, crime was registered for the commission of the offences punishable under sections 153A, 505(1)(b), 117 r/w 34 of I.P.C. Subsequently, offences under sections 120B of I.P.C. and under sections 13, 16, 17, 18, 18-B, 20, 38, 39 and 40 of UAPA were added in the crime.

4. It is contended in the application that applicant is a writer, peace and Civil rights activist and journalist associated with the economic and political weekly and other well regarded publications. The applicant has no criminal antecedents. He belongs to the People's Union of Democratic Rights (PUDR). On 28.08.2018, the applicant's house was raided by the Pune police and 3 hard disks, 1 memory card, 5 Pen drives, 1 phone with SIM card, 1 I-Pad, 1 charger, 3 floppy disks, Bharat gas connection card, email ID and password, photographer's 2 memory cards of videography of the house search were seized vide panchanama. It is contended that on 14.02.2020, Hon'ble High Court rejected applicant's anticipatory bail application no.2461 of 2019, however, he was granted protection from arrest for 4 weeks. On

14.04.2020, he surrendered to NIA as per the orders of the Hon'ble Apex Court. On 18.04.2020, house of applicant was searched and 1 laptop with charger, 7 CDs, miscellaneous papers regarding letters to CPI (M), 1 notebook, 1 book, 1 bank book were seized vide panchanama. On 18.04.2020, applicant's partner Sahba Hussain produced 2 mobiles with SIM cards, 1 laptop, PAN card of Gautam Navlakha on a notice issued by respondent.

5. Learned advocate for applicant submitted that applicant is falsely implicated in the crime. He has no concern with the alleged offence. It is not the case of the prosecution that applicant was present at the spot of incident on the day of incident. The FIR was lodged on 08.01.2018. There is nothing on record to connect the applicant with a larger conspiracy. The provisions of UAP Act are not applicable. There is no material in the entire charge-sheet which show that applicant has in any manner intended or supported any act which disrupts the sovereignty or territorial integrity of India. The applicant is of old aged. He is in prison since last 1 year and 10 months. The applicant have number of ailments. He has no criminal antecedents. He is ready to abide by conditions imposed. The trial is delayed and it would take long time, hence prayed for allowing the application. Learned advocate for applicant placed reliance on the ratio laid down in the case of **Iqbal Ahmed Kabir Ahmed Vs The State of Maharashtra [Criminal Appeal No.355 of 2021; decided on 13.08.2021]** wherein Hon'ble Apex Court held as under:

*“42. The Supreme Court has thus explicated the legal position that the statutory restriction like section 43-D(5) of the UAPA per se*

*does not operate as an impediment on the powers of the constitutional Court to grant bail, if a case of infringement of the constitutional guarantee of protection of life and personal liberty is made out, and the rigours of such statutory restriction would melt down in the face of long incarceration of an under trial prisoner. In such a situation, the prayer of entitlement for bail on the count of prolonged delay in conclusion of trial is required to be appreciated in the backdrop of period of incarceration, the prospect of completion of trial in a reasonable time, the gravity of the charge and attendant circumstances.”*

6. Per contra, say filed at Exh.669, Learned SPP opposed application. It is contended in the say that during course of investigation, it revealed that applicant is a member of CPI (Maoist) and he was in possession of incriminating documents related to CPI (Maoist), accessible exclusively to party members. He was actively involved in the activities of 'Coordination of Democratic Rights Organisation (CDRO) and used to receive group emails. It is further contended in the say that applicant have actively involved in fixing appointments and meetings between active urban cadres and underground leaders of CPI under the garb of fact finding mission. He had delivered speeches at different forum on many issues related to the Kashmir separatist movement and Maoist movement.

7. Learned SPP submitted that applicant has nexus with the crime. The documents and materials seized during the raid at the house of the applicant shows his involvement. He submitted that there are

ample materials against the applicant to show his nexus and involvement with the crime. Hence, prayed for rejection of the application.

8. Considering the matter, it is specifically alleged that applicant has nexus in the said crime. It is contended that during course of investigation, the applicant was found in possession of incriminating documents related to CPI (Maoist). It is alleged that applicant delivered speeches on many issues related to Kashmir Separatist movement and Maoist and supported it. The documents alleged to be seized from the possession of the applicant shows the nexus of the applicant with the case. Perusal of charge-sheet, there is ample material against the applicant. Prima-facie the applicant seems to be connected with the alleged offence. The offence is very serious in nature. I have gone through case law relied by the applicant cited Supra. With great respect to the ratio laid down therein, same is not helpful to applicant. In view of seriousness of offence and prima-facie material against him, he is not entitled for the grant of bail. Hence, I proceed to pass following order:-

**ORDER**

Bail Application Exh.648 is rejected and disposed off.



**Date : 05.09.2022**

Dictated on : 05.09.2022.

Typed on : 05.09.2022.

Signed on : 05.09.2022.

**(Rajesh J. Katariya)**  
**Special Judge, NIA**  
**City Civil & Sessions Court,**  
**For Greater Bombay**

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”

UPLOAD DATE	TIME	NAME OF STENOGRAPHER
05.09.2022		Umesh G. Jadhav
Name of the Judge		HHJ Shri R.J.KATARIYA (CR No.25)
Date of Pronouncement of Judgment/Order.		05.09.2022
Judgment/order signed by P.O on		05.09.2022
Judgment/order uploaded on		05.09.2022