(2026) 02 KAR CK 1435

In the Karnataka High Court, Principal Bench

Case No : Criminal Appeal No. 598 Of 2025 [21(NIA)]

Ahamed Abdul Cader @ Kaka — APPELLANT

Vs

National Investigation Agency Branch Office, Bengaluru 3rd Floor, Bsnl Exchange 80 Feet Road, Indiranagar Hal 2nd Stage, Bengaluru-560009 & Ors — RESPONDENT

Date of Decision : 27-02-2026

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 124A, 125, 153A
Unlawful Activities (Prevention) Act, 1967 — Section 13, 15, 17, 18, 18B, 20, 43D
Code Of Criminal Procedure, 1973 — Section 173

Citation : (2026) 02 KAR CK 1435

Hon'ble Judges : H.P. Sandesh, J;Venkatesh Naik T, J

Bench : Division Bench

Advocate : Chandrashekar R.P, Sachin C.

Final Decision : Dismissed

Judgement

Venkatesh Naik T, J

1. Heard Sri Chandrashekar R.P., learned counsel for the appellant-accused No.5, and Sri Sachin C., learned counsel appearing for Sri P. Prasanna Kumar, learned Special Public Prosecutor for the respondent-National Investigation Agency (for short, 'NIA'), and perused the material available on record.

2. The appellant-accused No.5 has filed this appeal under Section 21(4) of the National Investigation Agency Act, 2008, to set aside the order dated 26-6-2024 passed by the learned XLIX Additional City Civil and Sessions Judge (Special Court for trial of NIA cases), (CCH-50), Bengaluru, in Special Case No.595 of 2021 and prays to enlarge him on bail in RC-33/2020/NIA/DLI pending in Special Case No.595 of 2021 before the Special Court.

3. The brief facts of the case of the prosecution are that on 20-3-2020, a case was registered by NIA, New Delhi, in RC-11/2020/NIA/DLI for commission of

offences punishable Sections 120B, 124A and 153A of the Indian Penal Code, 1860 (for short, 'IPC') and under Sections 13 and 20 of the Unlawful Activities (Prevention) Act, 1967 (for short, 'UAPA') arising out of F.I.R. No.85 of 2020 dated 8-3-2020 of the Special Cell (SB) Police Station, Lodhi Colony, New Delhi, after arrest of Jahanzaib Sami and his wife, Hina Bashir Beigh, on 8-3-2020, for having affiliation with banned terrorist organisation, i.e. Islamic State Khorasan Province, which is part of banned terror organisation ISIS/Daesh and both were planning some subversive/anti-national activities in India. During further investigation of the case, another accused, Abdullah Basith, was arrested on 17-3-2020 by the Special Cell, Delhi Police.

4. During investigation, three more accused, including Abdul Rahman @ Dr. Brave, were arrested on 17-8-2020. During custodial interrogation of Abdul Rahman, he revealed that he along with Afroz Ahmed visited Syria in 2013-14 and his visit was funded by members of a group namely "Quran Circle". His explanation led to busting of a module of pro-ISIS activists/terrorists, who had been active in Bengaluru in identifying and radicalising gullible Muslim youths, recruiting, raising funds and facilitating their visit to Syria illegally via Turkey for joining and fighting for ISIS.

5. Subsequently, in compliance to the Ministry of Home Affairs, Government of India, CTCR Division, Order No.11011/61/2020/NIA dated 18-9-2020, NIA registered the instant case as RC-33/2020/NIA/DLI dated 19-9-2020 under Sections 120B and 125 of IPC and under Sections 17, 18 and 18B of UAPA.

6. Investigation further revealed that Irfan Nasir (accused No.3) and Ahamed Abdul Cader (accused No.5-appellant herein) entered into criminal conspiracy along with Mohd. Tauqir Mahmood (accused No.1), Zohaib Manna (accused No.2) and Mohd. Shihab (accused No.4) and other associates to wage war against Syria, Asiatic Power in alliance with the Government of India by radicalising, recruiting gullible Muslim youths, raising funds and sending them to Syria illegally via Turkey to join ISIS and to further ideology and activities of ISIS.

7. In this regard, the appellant-accused No.5 was arrested on 7-10-2020 as arrived in the charge-sheet, and since then, he is in judicial custody. Thus, accused No.5 moved bail application before the Special Court and the same was dismissed on 26-6-2024.

8. Being aggrieved by the order of dismissal of the bail application by the Special Court, accused No.5 has preferred this appeal. The Special Court by the impugned order, rejected the bail application holding that there are reasonable grounds to believe that accused No.5 committed offences alleged against him. The Special Court further held that having regard to the material available on record with regard to commission of offences under the provisions of UAPA, the Court is barred from granting bail in view of Section 43D of UAPA. Challenging the bail rejection, accused No.5 has preferred this appeal.

9. Sri Chandrasekhar R. P., learned counsel for the appellant-accused No.5,

submits that there is a delay in conducting trial by the Special Court. The offences alleged against accused No.5 under Sections 17, 18 and 18B of UAPA are per se not attracted in the given set of facts and circumstances. The necessary ingredients attracting Section 15 of UAPA are not made available in the charge-sheet. Hence, the offences punishable under Sections 17, 18 and 18B of UAPA would not get attracted at all. The allegations made by PWs.1 and 2 are vague, indefinite and flippant. The delay, at all levels which is emanating in the case, casts serious doubt on the credibility of the case of the prosecution. The prosecution has not been able to provide clear and unambiguous material to support the allegations that are made in the charge-sheet. On the contrary, the prosecution has built up its case picking up some stray material and also, those material have been used out of context to make them appear incriminating. The allegations leveled in the charge-sheet are not substantiated by any strong material at all. The allegations leveled are slipshod, slack and bungled up without there being any interlink to each of the material collected. He further contended that there is no mention of accused No.5 in an F.I.R. and thus, non-mentioning of the name of accused No.5 in the F.I.R. goes to the root of the matter and the shakes the very substratum of the case. Further, MHA Order No.11011/61/2020/ NIA dated 18-9-2020 also does not mention the name of accused No.5. This fact of non-registration of the case against accused No.5 is very critical, as NIA case is registered after thorough examination and only after MHA order. The non-figuring of the name of accused No.5 in the initial stage, in the given set of facts and circumstances, assumes lot of relevance and in the context of the way in which NIA cases are registered, shows that accused No.5 had no role to play in the alleged case, hence his name rightly was not found in the F.I.R. There is no explanation forthcoming in the charge-sheet as to why the name of accused No.5 was not found in the F.I.R. The inclusion of the name of accused No.5 in the charge-sheet at later stages is also not based on any sound and legal basis. Further, after due deliberation and several concoctions, the name of accused No.5 has been included falsely. As per the case of the prosecution, accused No.5 was present on 2-10-2020 and 3-10-2020. Accused No.5 was left out on 2-10-2020 and again he came back on 3-10-2020 to NIA Office, Bengaluru, and his arrest is shown as 7-10-2020, which is wholly incorrect and false statement made by NIA. He further contended that, accused No.5 has 14 years of expertise in business analysis in consulting, GRC (Governance, Risk and Compliance) technology implementation, Information Security and IS audit. Accused No.5 has completed significant number of projects helping organisations improve governance and operational efficiency, improving management of IT and operational risk, and increasing compliance with regulatory requirements in the United States, Europe and Asia. He married in the year 2015 and is blessed with baby boy in the year 2017. Further, he is highly qualified person and has been a full time employee in the reputed Companies. Now, he has been in custody for nearly four years and five months. The prosecution has cited nearly forty-eight witnesses in the case and the trial is in initial stages, there are no likely chances of completion of trial in near future. His father is aged more than 75 years and due to his advanced age, he is suffering from age-old related ailments. Hence, the presence of accused No.5 is very much required in his family. Hence, he prays to allow the appeal.

10. In support of his contentions, the learned counsel relied on the following citations:

i. Gulfisha Fatima and Others v. State (Govt. of NCT of Delhi) reported in 2026 SCC OnLine SC 10;

ii. Vernon v. State of Maharashtra and Another reported in (2023) 15 SCC 56;

iii. Sudesh Kedia v. Union of India reported in (2021) 4 SCC 704;

iv. Jahir Hak v. State of Rajasthan reported in (2022) 18 SCC 389;

v. Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari v. State of Uttar Pradesh in Criminal Appeal No.2790 of 2024 disposed off on 18-7-2024, and

vi. National Investigation Agency, Ministry of Home, Government of India v. Areeb Ejaz Majeed reported in 2021 SCC OnLine Bom 239.

11. Per contra, Sri Sachin C., learned counsel appearing for Sri P. Prasanna Kumar, learned Special Public Prosecutor for the respondent-NIA, vehemently contended that the appellant-accused No.5 previously approached the Special Court seeking bail on three occasions and the same were rejected by the Special Court. Accused No.5 has not indicated any changes in law or circumstances to justify the filing of successive bail applications before the Special Court and without any such change, the successive application was not maintainable before the Special Court. He further contended that during the course of investigation, the Investigating Officer collected the material evidence indicating that accused No.5 was active worker of unlawful organisation and he had organised several meetings and had participated in the crime. He has further contended that the investigation report clearly reveals that accused No.5 was member of Terrorist group and was part of criminal conspiracy to wage war against the Government of Syria; he was member of unlawful assembly with common object to commit Terrorist act. The role of accused No.5 has been established through the prosecution witnesses, statement of protected witnesses and documentary/ electronic evidence, and hence, prima-facie case was made out against him. Hence, the final report was filed under Section 173 of the Code of Criminal Procedure, 1973, before the Special Court and the Special Court took cognizance of the offences committed by accused No.5 and therefore, he prays for rejection of the appeal.

12. Considering the submissions made by both sides and examining the material available on record, the point that arises for consideration of this Court is:

"Whether the impugned order of rejection of bail application suffers from any arbitrariness or illegality warranting interference at the hands of this Court?"

13. We have perused the material available on record. Having conducted the investigation and the material collected, the Investigating Officer filed the charge-sheet against accused No.3 and the appellant-accused No.5. Thereafter, accused No.1 was apprehended on 23-10-2021 and accused No.2 was apprehended on 17-11-2021. The respondent-NIA, after completion of investigation as against accused Nos.1 and 2, have filed supplementary charge-sheet on 16-4-2022 and accused No.4 is shown as absconding and evading the investigation.

14. The investigation report clearly revealed that the appellant-accused No.5, being active member of ISIS, along with other co-accused and his associates had conspired to wage war against the Government of Syria, the Asiatic Power in alliance with the Government of India, by radicalising, recruiting, providing funds and sending gullible Muslim youths to Syria illegally via Turkey to join ISIS. It has come on record that two of his associates, namely, Faiz Masood and Muhammed, reached Syria illegally via Turkey and both were killed while fighting for ISIS against the Government of Syria. Investigation report further revealed that accused No.5 along with other accused involved in identifying and radicalising gullible Muslim youths, recruiting, raising funds and facilitating their visit to Syria illegally via Turkey for joining and fighting for ISIS against the Government of Syria.

15. Accused No.5 misutilised the IQRA Camp and Quran Circle classes by showing said gullible Muslim youths doctored videos, depicting atrocities allegedly committed by the Syrian Government against Muslims. Accused No.5 provided documentary videos/audio to the Muslim youths in hard disks and pen drives and also shared links of websites, where they could obtain material related to ISIS. Accused No.5 also collected funds from the members of Hizb-ut-Tahrir. Accused No.1 also shared emails showing his associates intending to establish the Islamic State. The Investigation report and the statement of witnesses appear that one Faiz Masood had handed over Rs.50,000/- to accused No.1 and accused No.1 handed over the same to Anas Furruq to travel to Syria and to fight on behalf of the banned terrorist organisation/ISIS. It is further revealed in the investigation that accused No.1 along with accused No.2 and the appellant-accused No.5 have provided Rs.2.00 lakh to Afroz Ahmad for the purpose of tickets and visa. Accused No.5 and other accused persons collected funds and provided the same to CWs.1 and 2 to enable them to act on behalf of their ideology in establishing the Islamic State and fighting against the Government of Syria. Faiz Masood and Muhammed were killed in Syria, whereas Anas Furruq and Abdur Rahman sustained bullet injuries while fighting for ISIS in Syria.

16. From the material available on record, it clearly shows that accused No.5 was member of Terrorist group and was part of criminal conspiracy to wage war against the Government of Syria, he was member of unlawful assembly with common object to commit Terrorist act. The role of the accused No.5 has been established through the prosecution witnesses, statement of protected witnesses and electronic evidence and prima-facie, case has been laid out against accused

No.5. The final report was filed under Section 173 of Cr.P.C. before the Special Court and the Special Court took cognizance for the aforesaid offences. Learned counsel for the respondent-NIA relied on the depositions of PW19, who has clearly stated about the role played by accused No.5 in sending PW19 to Syria. He has categorically stated that the appellant and others induced PW19 to go through Quran and to read the Quran properly, and also induced him that there was atrocity in Syria against Muslims and also shown several emails, documentary videos, etc. and they induced him to go Syria and accordingly, they funded him to visit Syria. PW19 in categorical terms stated how he visited Syria, suffered injuries and how he came back to Bengaluru. It shows that accused No.5 also funded PW19 to visit Syria, which is a part of ISIS activities.

17. Learned counsel for the appellant-accused No.5 relied on the decisions of the Hon'ble Apex Court in the case of Gulfisha Fatima and Others v. State (Govt. of NCT of Delhi) reported in 2026 SCC OnLine SC 10; in the case Vernon v. State of Maharashtra and Another reported in (2023) 15 SCC 56; in the case Sudesh Kedia v. Union of India reported in (2021) 4 SCC 704; in the case of Jahir Hak v. State of Rajasthan reported in (2022) 18 SCC 389; in the case of Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari v. State of Uttar Pradesh in Criminal Appeal No.2790 of 2024 disposed off on 18-7-2024, and in the case of National Investigation Agency, Ministry of Home, Government of India v. Areeb Ejaz Majeed reported in 2021 SCC OnLine Bom 239.

18. While the principle of "bail is the rule" applies generally, the Hon'ble Apex Court has clarified that it does not apply to 'UAPA cases'. Further, even if a trial is delayed, bail can be rejected, if the accusations are grave and appear credible.

19. Perusal of the aforesaid decisions makes it clear that the principles laid down in the decisions cited supra are not aptly applicable to the case on hand since the appellant-accused No.5 was member of Terrorist group and was part of criminal conspiracy to wage war against the Government of Syria, he funded PW19 to visit Syria, suffered injuries and returned India (Bengaluru). PW19 has categorically stated before the Court on oath that accused No.5 was actively involved in Terrorist activities.

20. Considering the entire material available on record, the Special Court rightly rejected the bail application of the appellant-accused No.5 and the same does not require interference at the hands of this Court. Accordingly, we pass the following

ORDER

i. Criminal appeal is dismissed.

ii. The Special Court is directed to expedite the trial.

In view of the dismissal of the appeal, pending applications, if any, stands dismissed.

