

IN THE HIGH COURT AT CALCUTTA
Criminal Appellate Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

CRA(DB) 137 of 2025
Md. Imadul Haque
Vs.
National Investigating Agency

For the Appellant	: Mr. Sabyasachi Banerjee, Sr. Adv. Ms. Diksha Ghosh, Adv. Ms. Pragya Banerjee
For the NIA	: Mr. Arun Kumar Maiti (Mohanty) Ld.Spl.PP., NIA Mr. Anirban Mitra, Ld. Spl.PP., NIA Mr. Bhaskar Prosad Banerjee, Ld.SPl.PP., NIA Mr. Debashish Tandon, Ld.PP., NIA
Hearing Concluded on	: August 13, 2025
Judgement on	: August 26, 2025

DEBANGSU BASAK, J.:-

1. Appellant has assailed the Order No. 66 dated March 10, 2025 passed by the learned Chief Judge, City Sessions Court, Calcutta in NIA Case No. 05 of 2022.
2. By the impugned order, learned Judge has refused the prayer for Bail of the appellant.

3. Learned Senior Advocate appearing for the appellant has submitted that, appellant was initially granted Bail in the police case on May 21, 2022. Thereafter, provisions of the Unlawful Activities (Prevention) Act, 1967 had been added to the police case on the National Investigating Agency (NIA) taking over the investigations. NIA had submitted charge sheet on December 12, 2023.

4. Learned Senior Counsel appearing for the appellant has contended that, subsequently, learned Judge had cancelled the bail on March 10, 2025, on the addition of provisions of the Act of 1967 in the police case. Appellant had prayed for Bail which was rejected by the impugned order.

5. Learned Senior Advocate appearing for the appellant has drawn the attention of the Court to the provisions of Section 2(k), Section 15 and Section 18 of the Act of 1967. He has submitted that, there are differences between a terrorist activity as defined under the Act of 1967 and other criminal offences which are governed by the provisions of the Indian Penal Code, 1860.

6. Referring to the facts and circumstances of the present case, learned Senior Advocate appearing for the appellant has

contended that mere seizure of explosive substances or Crude Bombs allegedly from the possession of the appellant does not attract the provisions of the Act of 1967 without the essential ingredients of the Act of 1967 being fulfilled.

7. Learned Senior Advocate appearing for the appellant has contended that, so far as the Act of 1967 is concerned, the sine qua non thereof is the existence of terrorism as against the country, or the people of the country or any other nation. In this regard, he has drawn the attention of the Court to provisions of Section 15 of the Act of 1967.

8. Learned Senior Advocate appearing for the appellant has drawn the attention of the Court to the 43rd Report of the Law Commission of India on offences against the national security. He has referred to Chapter 2 of such report dealing with the constitutional aspect, the extent and application of provision relating to offences against the national security.

9. Learned Senior Advocate appearing for the appellant has contended that, although, criminal activities constituting a terrorist act and offences under the penal law may at times overlap, nonetheless, one has to distinguish terrorism from every forms of violence.

10. Learned Senior Advocate appearing for the appellant has relied upon **1994 Volume 4 Supreme Court Cases, 602 (Hitendra Vishnu Thakur and Ors. Vs. State of Maharashtra and Ors.)** as well as **2021 Supreme Court Cases OnLine Del 3254 (Natasha Narwal Vs. State (NCT of Delhi))** in support of his contention that, Court must ensure that those whom the legislature did not intend to be covered by the express language of the statute are not roped in by stretching the law.

11. Learned advocate appearing for the NIA has relied upon Sections 6 and 15 of the Act of 1967. He has contended that, appellant stockpiled crude bombs in excess of one hundred in number with the intention to strike terror in the people of his neighbourhood.

12. Learned advocate appearing for the NIA has drawn the attention of the Court to the materials in the case diary including the statements recorded by protected witnesses. He has contended that, investigations as against the appellant and his involvement in the present case have thrown up a situation where, the appellant was involved in terrorising persons at the locality. He has contended that, since,

appellant was terrorising persons in the locality, therefore, provisions of Sections 15 and 18 of the Act of 1967 stands attracted.

13. Learned Advocate appearing for the NIA has referred to the earlier order of rejection of bail of the co-accused Mansur Ali @ Mansur Seikh dated March 17, 2025 passed in CRA (DB) 15 of 2024. He has contended that, the appellant before us stand in the same footing, if not being involved in the crime to a greater extent than such co-accused whose prayer for bail was rejected.

14. Learned advocate appearing for the NIA has relied upon **2019 Volume 5 Supreme Court Cases 1 (National Investigation Change vs. Zahoor Ahmad Shah Watali)** for the proposition that, all parameters for deciding an application for bail in favour of the appellant are not fulfilled, in the facts and circumstances of the present case.

15. In respect of an incident of bomb blast occurring on January 17, 2022, police had registered a First Information Report with regard thereto being Beldanga Police Station Case No. 26/2022 dated January 17, 2022 under Sections 120B/324/326/34 of the Indian Penal Code, 1806 and

Sections 3/4/5 of the Explosive Substances Act, 1908. Police had seized 75 live socket/pipe bombs from the place of occurrence on January 17, 2022. Thereafter, police had recovered 20 live socket bombs on the leading statement made by the persons arrested. Police had seized 15 live socket bombs on the basis of the leading statements made by one Tahabul Sk. and 12 numbers of small iron pipe (socket) bombs were seized under Section 27 of the Evidence Act, from the scene of crime.

16. NIA had taken over the investigations subsequently. On NIA taking over the investigations, it had re-registered the instant case on September 20, 2022.

17. NIA had completed investigations and submitted a charge-sheet against 7 accused persons including the appellant before us, under Sections 120B/201/304 of the Indian Penal Code, 1960, Sections 4/5/6 of the Explosive Substances Act, 1908 and Section 18 of the Unlawful Activities (Prevention) Act, 1967 on December 12, 2023.

18. Learned jurisdictional Court had granted bail to the appellant on May 21, 2022. Learned jurisdictional Court had

cancelled such bail on March 10, 2025 after the NIA filed charge sheet dated December 23, 2023.

19. According to the NIA, appellant was leading a group of gang of one Surrabudin in the village. Appellant was involved in procuring explosives illegally and terrorising the common villagers.

20. Records have revealed that, appellant is involved in 8 several criminal cases involving inter alia the Explosives Act, and the Arms Act.

21. The Case Diary has transcription of a video recording of the deceased victim. NIA has claimed that, the victim made a dying declaration implicating the appellant. The transcript of the video recording has materials to suggest that, the appellant before us called the victim at the place of occurrence for the purpose of preparing crude bombs and in preparation of the crude bombs the blast happened.

22. Materials in the Case Diary have implicated the appellant before us in being involved in a gang warfare relating to a particular area in a village and having used crude bombs for the purpose of terrorising the villagers in such locality in relation to such gang warfare. Such involvement of

the appellant has transpired from the statements recorded of protected witnesses as also other witnesses.

23. Our attention has not been drawn to any material in the case diary suggesting that the appellant was involved in threatening the unity, integrity, security including economic security and sovereignty of India.

24. The Act of 1967 has defined “terrorist act” in Section 2(k) to have the same meaning assigned to it in Section 15 thereof and the expression “terrorism” and “terrorist” to be construed accordingly.

25. Section 15 of the Act of 1967 is as follows :-

“ 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 6 [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.”

26. In our view, opening portion of Section 15(1) of the Act of 1967 can be divided into 5 parts. The first part is a person doing any act with the intent to threaten or likely to threaten the unity, integrity, security, economic security or sovereignty of India. The second part is doing any act with the intent to strike terror or likely to strike terror in the people of India. The third part is doing any act with the intent to threaten or likely to threaten any section of the people in India. The fourth part is doing any act with the intent to threaten or likely to threaten any foreign country. The fifth part in our view is that, the terrorist act is not confined to the geographical location of India. It transcends the territorial boundaries of India. In other words, if a terrorist activity occurs at a place outside the territory of India, but falls within the first four parts as noted herein, the same will nonetheless attract the definition of terrorist act under Section 15(1) of the Act of 1967.

27. Section 15 (1)(a) has noted the tools that may be used to commit a terrorist act as also the end result of such terrorist act. Section 15 (1) (b) and (c) of the Act of 1967 have noted the criminal activities which comes within the purview of a terrorist act. The explanation to Section 15 has defined the public functionary and the high quality counterfeit Indian currency which will fall within Section 15(1) of the Act of 1967. Sub section (2) of Section 15 of the Act of 1967 has prescribed that, any act which constitutes an offence within the scope of and as defined in any of the treaties specified to the second schedule to the Act of 1967 will be treated as a terrorist act.

28. The 43rd Law Commission of India in Chapter 2 of its report has considered the constitutional aspect, extent and application of National Security Bill. In doing so, it has taken note of **1950 SCR 594 (Ramesh Thappar vs. State of Madras)** and **1960 (2) SCR 821 (Superintendent, Central Prison, Fatehgar and Anr. vs Ram Manohar Lohia)**, amongst various other authorities. It has observed that, on the basis of the pronouncement of judicial authorities that, public order in Entry 1 of List 2 should normally be given a

narrow meaning as referring to the absence of disorder and involving relatively minor breaches of peace of a purely local significance, in contradistinction to those serious and aggravated form of public disorder which are calculated to endanger the security of the State.

29. *Ramesh Thappar (supra)* as noted in by the Law Commission, has held that, Constitution requires a line to be drawn in the field of public order or tranquillity marking of which may be roughly the boundary between those of serious and aggravated form of public disorder which are calculated to endanger the security of the State and the relatively minor breaches of the peace of a purely local significance.

30. *Hitendra Vishnu Thakur and Ors. (supra)* has considered the provision of Terrorist and Disruptive Activities (Prevention) Act, 1987 and the issue as to when terrorist act stands attracted. It has noticed that the words ‘terrorist act’ were not defined in the Act of 1987.

31. *Natasha Narwal (supra)* has held that, the Act of 1967 deals with matters of profound impact on the defence of India, nothing more and nothing less.

32. All forms of public disorder therefore, cannot be classified as one which is threatening the safety and security of the nation. Distinction has to be therefore, drawn between a public disorder calculated to endanger the security of the nation and the public disorder of a purely local significance.

33. In our view, Section 15 of the Act of 1967, has defined a terrorist act to be something which impinges upon the safety and security of the nation. The nature of the criminal activities which impinges upon the safety and security of the nation are enumerated in Section 15 (1) (a) to (c) of the Act of 1967. Citizens constitute a nation. The threat or the likelihood thereof to the people must be in relation to the unity, integrity, security including economic security and/or sovereignty of India for the Act of 1967 to be attracted in all its rigours.

34. Therefore, in order to qualify as a terrorist act within the meaning of the Act of 1967, the criminal activity must be such so as to affect the unity, integrity, security including economic security or sovereignty of India. Any other activity howsoever heinous not affecting India in the manner as delineated under Section 15 of the Act of 1967 would not

constitute a terrorist act within the meaning of the Act of 1967 even though directed against a section of the people in India.

35. *Zahoor Ahmad Shah Watali (supra)* has noted the settled legal position about matters to be considered for deciding an application for bail. It has held that, by virtue of the proviso to Section 43D of the Act of 1967, 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. It has explained that, by its very nature, the expression “*prima facie* true” would mean that the material/evidence collected 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.

36. In the facts and circumstances of the present case, the materials in the case diary does not suggest that, the appellant before us was involved in any subversive activities with regard to the unity, integrity, security including economic

security and sovereignty of India. Therefore the rigours under Section 43D of the Act of 1967 may be attracted.

37. As to whether or not, the charge under Section 18 of the Act of 1967 as against the appellant before us, can be sustained at the trial is debatable. Our attention has not been drawn to any material in the case diary which suggests that any of the witnesses or the persons examined either as prosecution witness or as protected witness have stated that, the appellant was threatening the unity, integrity, security, economic security or sovereignty of India and was therefore striking terror in the locality for such purpose.

38. Jurisdictional Court had granted bail to the appellant on May 21, 2022. Such bail had been cancelled on March 10, 2025 on NIA filing charge sheet incorporating Section 18 of the Act of 1967. Nothing has been placed on record to suggest that, appellant misused his liberty between the period May 21, 2022 and March 10, 2025.

39. Although there are a number of criminal cases pending as against the appellant, nothing has been placed on record to suggest that, the appellant stood convicted in any of such criminal cases.

40. Investigating agency has completed the investigations and submitted chargesheet before the jurisdictional Court. We are informed that the jurisdictional Court has framed charges as against the appellant.

41. There is hardly any likelihood of the trial concluding any time soon given the number of witnesses that the prosecution proposes to examine, even after assuming that the prosecution will drastically reduce the number of witnesses cited in the chargesheet.

42. We had declined the prayer for bail of the co-accused Mansur Ali @ Mansur Seikh on March 17, 2025 passed in CRA (DB) 15 of 2024. With regard to the co-accused, we had noted the involvement of such co-accused and the fact that, there were materials requiring such co-accused to stand trial for the charges levelled in the charge sheet as against him. We had also taken into consideration the period of his detention.

43. In the course of hearing of the present appeal we have enquired of the learned advocate for the NIA as to the number of prosecution witnesses that may be examined at the trial. Although the charge sheet has named prosecution witness in excess of one hundred, learned advocate appearing for NIA

has submitted that at the trial usually, NIA scales down the number of witnesses drastically.

44. Be that as it may, the trial is likely to take considerable period time given the nature of incident and the number of prosecution witnesses that the prosecution may have to examine at the trial.

45. In such circumstances we grant bail to the appellant.

46. Accordingly, we direct that the appellant shall be released on bail upon furnishing a bond of Rs. 50,000/- (Rupees Fifty Thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the Chief Metropolitan Magistrate, Kolkata subject to the condition that the appellant shall appear before the Trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The appellant will not enter into the jurisdiction of the local police station, save and except for attending the learned Trial Court on all the dates specified for hearing. Appellant will inform the Officer-in-Charge of the local police station as well as the Officer-in-Charge of the police station under whose jurisdiction he resides. In the

event the appellant fails to appear before the Trial Court without any justifiable cause, the Trial Court shall be at liberty to cancel the bail of the appellant without further reference to this Court.

47. The prayer for bail of the appellant is allowed.

48. CRA (DB) 137 of 2025 is allowed.

[DEBANGSU BASAK, J.]

49. I agree.

[MD. SHABBAR RASHIDI, J.]