

IN THE SUPREME COURT OF INDIA

APPELLATE JURISDICTION / LANDMARK PRECEDENT

Union of India v. K.A. Najeer

Registry Status : REPORTED PRECEDENT -- OFFICIAL RECORD

1. EXECUTIVE SUMMARY & KEY HIGHLIGHTS

In a watershed judgment delivered by Justice Surya Kant, the Supreme Court ruled that statutory restrictions on bail contained in special penal statutes -- such as Section 43-D(5) of the Unlawful Activities (Prevention) Act, 1967 (UAPA) -- do not and cannot oust the constitutional jurisdiction of High Courts and the Supreme Court to grant bail on the ground of violation of the fundamental right to a speedy trial under Article 21. Where an undertrial prisoner has spent substantial time in custody and the trial is unlikely to conclude within a reasonable period, pre-trial incarceration becomes punitive and unconstitutional, requiring the grant of bail despite statutory embargoes.

- * Supremacy of Article 21: Constitutional right to a speedy trial overrides statutory bail embargoes contained in Section 43-D(5) UAPA.
- * Constitutional Courts vs Special Courts: Special Courts and regular appellate courts are bound by negative statutory conditions, but Constitutional Courts retain plenary writ powers to protect fundamental rights.
- * Proportionality of Incarceration: Undertrial detention of over five years with hundreds of unexamined witnesses renders custody punitive and violative of due process.
- * Harmonization with Watali: Reconciled with NIA v. Zahoor Ahmad Shah Watali (2019) by clarifying that Watali applies to regular bail merits, whereas Najeer addresses constitutional bail for systemic trial delay.
- * Stringent Conditions Permissible: Bail granted on constitutional grounds can be accompanied by robust conditions to ensure trial attendance and public security.

2. FACTUAL MATRIX & IMPUGNED PROCEEDINGS

The respondent, K.A. Najeer, was an alleged member of the Popular Front of India (PFI). In 2010, an armed assault was committed against Professor T.J. Joseph in Muvattupuzha, Kerala, during which the professor's right hand was chopped off over allegations of blasphemy in an exam question paper.

The National Investigation Agency (NIA) registered an FIR under various provisions of the IPC, Explosive Substances Act, and Sections 16, 18, 18-B, 19, and 20 of UAPA. While several co-accused were tried and convicted in 2015, Najeer was absconding and was arrested only on 10 April 2015.

Following his arrest, Najeer spent more than five and a half years in continuous custody as an undertrial prisoner in a split-up trial. The NIA cited 276 witnesses, none of whom had been examined in his separate proceedings.

Najeer approached the High Court of Kerala, which granted him regular bail on 23 July 2019, observing that prolonged undertrial detention with little prospect of early trial conclusion violated Article 21.

The Union of India (NIA) appealed to the Supreme Court, contending that Section 43-D(5) of UAPA statutorily bars bail when accusations are prima facie true, as held in Zahoor Ahmad Shah Watali (2019).

5. POINTS OF LAW FRAMED & ANSWERED

Legal Issue Framed	Supreme Court's Holding
Does Section 43-D(5) UAPA bar Constitutional Courts from granting bail for violation of the right to speedy trial?	No. The Supreme Court held that statutory restrictions do not override the fundamental right to personal liberty and speedy trial under Article 21.

How does the principle in K.A. Najeeb reconcile with NIA v. Zahoor Ahmad Shah Watali (2019)?	Watali governs the threshold 'prima facie true' test when evaluating regular bail merits, whereas Najeeb operates on an independent constitutional plane under Article 21 when excessive trial delay renders custody punitive.
What factors determine whether undertrial detention has become unconstitutionally punitive?	The length of custody undergone, the proportion of cited witnesses examined, the complexity of trial, and the lack of delay attributable to the accused.

6. STATUTORY FRAMEWORK & MODERN LEGISLATIVE ALIGNMENT

Precedent Reference / Former Statute	Modern Act (BNSS / BNS / BSA / CPA)	Doctrinal & Procedural Analysis
UAPA Section 43-D(5) (Negative Bail Bar)	UAPA Section 43-D(5)	Statutory bar on bail where accusations are prima facie true; Najeeb establishes that this bar yields to Article 21 constitutional guarantees of speedy trial.
CrPC Section 439 (High Court / Sessions Bail)	BNSS Section 483	Powers of High Court to grant bail; under BNSS Section 483, constitutional scrutiny remains paramount over special law statutory obstacles.
Constitution Article 21 (Speedy Trial)	Constitution Article 21	Fundamental right to life and liberty; guarantees timely trial, prohibiting open-ended pre-trial detention disguised as statutory custody.

7. SUBSEQUENT JUDICIAL TREATMENT & LINEAGE

- * Vernon v. State of Maharashtra (2023) 2 SCC 520:Applied K.A. Najeeb to grant bail in UAPA Bhima Koregaon proceedings after prolonged custody.
- * Mohd. Muslim v. State (NCT of Delhi) (2023) 7 SCC 399:Extended Najeeb reasoning to Section 37 NDPS Act commercial quantity bail applications.
- * Javed Gulam Nabi Shaikh v. State of Maharashtra (2024) 8 SCC 417:Reaffirmed that bail is the constitutional remedy where trial cannot conclude within a reasonable period.
- * Prem Prakash v. Union of India (2024) 9 SCC 722:Applied Najeeb principles to PMLA Section 45 twin conditions in prolonged custody cases.

8. PRACTICAL LITIGATION PLAYBOOK & STRATEGIC CHECKLIST

- * Streamline Witness Schedules in UAPA Matters:Prune overlapping witnesses under Section 294 CrPC / 330 BNSS; complete material witness depositions within 1-2 years.
- * Document Defense-Caused Delays:Keep an accurate, certified record of trial court order sheets showing dates when the defence sought adjournments or filed repetitive interlocutory applications.
- * Propose Fast-Track Special Court Calendars:When faced with a Najeeb-based bail plea, submit a concrete day-to-day trial timeline to the High Court to avert bail.
- * Construct a Mathematical Custody Chart:Present a detailed chart showing total days incarcerated, total witnesses cited versus examined, and zero adjournments attributable to the defence.
- * Invoke Article 21 Directly Before High Court:Move bail under Section 483 BNSS / 439 CrPC read with Article 21, citing K.A. Najeeb to transcend the Section 43-D(5) threshold.
- * Offer Stringent Undertakings:Volunteer restrictive conditions such as electronic surveillance, local surety bonds, and surrender of passport to mitigate prosecutorial flight-risk arguments.