REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

VERNON V. STATE OF MAHARASHTRA (2023)

BENCH: Mr. Justice Aniruddha Bose & Mr. Justice Sudhanshu Dhulia **DECIDED:** July 28, 2023

RATIO DECIDENDI & PRECEDENTIAL CRUX:
Section 43D(5) UAPA restriction requires surface-level examination of evidence; mere possession of literature does not establish terrorist acts.

1. Factual Matrix & Background:

The appellant had been in custody for nearly five years under UAPA in the Bhima Koregaon case. The prosecution opposed bail relying on Section 43D(5) UAPA, pointing to third-party letters and possession of extremist political literature.

2. Substantive Legal Questions Framed:

Whether mere possession of radical literature or membership in an unlawful association justifies prolonged detention under Section 43D(5) of the UAPA.

3. Analysis & Ratio Decidendi:

The Supreme Court granted bail, holding that while Section 43D(5) requires the court to satisfy itself that the allegations are prima facie true, this requires a qualitative analysis of the material. Mere possession of literature or ideological sympathy, in the absence of evidence of recruitment, violence, or financing, cannot establish a prima facie case of a terrorist act under Section 15 UAPA.

4. Principles Enunciated:

- 1. Section 43D(5) requires qualitative examination of prosecution allegations.
- 2. Mere possession of radical literature without violent overt acts is not terrorism.
- 3. Hearsay letters from third parties cannot form the sole basis of indefinite detention.

5. Practical Litigation Implications:

- Deconstruct prosecution material to show lack of overt acts, weapons, or financial transactions, demonstrating that allegations do not cross the threshold of Section 15 terrorist acts.

.....J.
[SUPREME COURT BENCH]