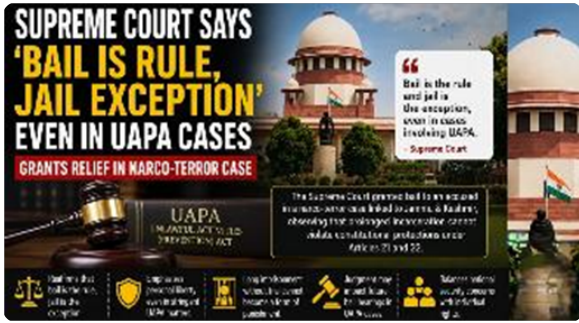




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# Supreme Court's UAPA Bail Ruling Highlights Importance of Article 21

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The Supreme Court of India recently reiterated that “bail is the rule and jail is the exception” even in cases registered under the Unlawful Activities (Prevention) Act (UAPA). The observation came while the Court granted bail to a Jammand Kashmir-based accused in a narco-terror case investigated by the National Investigation Agency (NIA). The ruling has revived debate over the balance between national security laws and constitutional protections related to personal liberty under Article 21 of the Constitution.?

## Supreme Court's Observation

A bench of Justices B.V. Nagarathna and Ujjal Bhuyan expressed serious reservations regarding an earlier Supreme Court decision that denied bail to accused persons such as Umar Khalid and Sharjeel Imam in the Delhi riots conspiracy case. The Court observed that prolonged incarceration and delay in trial could violate Article 21, which guarantees protection of life and personal liberty.

The Court referred to the principle laid down in the 2021 K.A. Najeeb judgment, where the Supreme Court held that stringent bail restrictions under UAPA may “melt down” if long detention and delayed trial infringe fundamental rights.

## About UAPA and Bail Restrictions

The Unlawful Activities (Prevention) Act, 1967 is India's primary anti-terror law. Section 43D(5) of UAPA makes grant of bail difficult if the court believes that accusations against the accused are “prima facie true.” This provision creates a statutory embargo on bail and is considered stricter than ordinary criminal law provisions.

In the NIA vs Zahoor Ahmad Shah Watali case (2019), the Supreme Court held that courts should not conduct a detailed examination of evidence at the bail stage and only need to determine whether accusations appear prima facie true. This judgment significantly tightened bail standards under UAPA.

## Article 21 and Personal Liberty

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### **Article 21 of the Indian Constitution states:**

No person shall be deprived of his life or personal liberty except according to procedure established by law.

The Supreme Court has gradually expanded the scope of Article 21 through several landmark judgments. In the *Maneka Gandhi v. Union of India* case, the Court held that the “procedure established by law” must be just, fair, and reasonable.

The recent observations indicate that constitutional guarantees under Article 21 may override statutory restrictions if prolonged imprisonment without trial violates personal liberty.

### **Difference in Judicial Approaches**

Different benches of the Supreme Court have adopted varying approaches in UAPA bail matters:

Some benches have prioritised national security concerns and strict interpretation of Section 43D(5).

Other benches have emphasised constitutional liberties, speedy trial, and presumption of innocence.

The *Indian Express* analysis highlighted that this has created differing judicial interpretations regarding the balance between anti-terror laws and fundamental rights.

### **About UAPA:**

Enacted in: 1967

#### **Objective:**

Prevent unlawful activities and terrorism

#### **Administered by:**

Ministry of Home Affairs (MHA)

#### **Major amendments:**

2004

2008

2012

2019

### **Key Features of UAPA**

Allows designation of individuals as terrorists (2019 amendment)

Extended detention periods

Strict bail conditions under Section 43D(5)

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Cases are generally investigated by the National Investigation Agency (NIA)

### **About Article 21**

Part of Fundamental Rights

#### **Guarantees:**

Right to life

Personal liberty

Right to live with dignity

Speedy trial (through judicial interpretation)

#### **Important UAPA-Related Cases**

NIA vs Zahoor Ahmad Shah Watali (2019) – strict interpretation of bail provisions

Union of India vs K.A. Najeeb (2021) – prolonged incarceration can justify bail under Article 21

Maneka Gandhi vs Union of India (1978) – expanded interpretation of personal liberty