

THE UNLAWFUL ACTIVITIES PREVENTION ACT, 1967

BY
L.H.RAJESHWER RAO
SR.APP-JMFC COURT,
NIZAMABAD.

📞 9848844936

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**THE UNLAWFUL ACTIVITIES PREVENTION ACT, 1967
NOTES.**

By
L.H.Rajeshwer Rao
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What does the topic ring in your mind.

The term Unlawful activities- what does it cover; what are the punishments; what is the procedure; what are the precautions to be followed at the time of investigation and Trial., etc .

Without much ado, let us dive into the subject.

VII Chapters- 53 Sections

Let me start as to WHO and WHY.

Who should know and Why should we know about this Act :

There is a special court which is NIA Court which deals with these cases.

There is a special investigating officer not below the rank of DSP/ACP.

The prosecutor of the NIA Court or the I AMSJ or I ADJ court is the special prosecutor to deal with these cases.

So, is it not sufficient for these officers, who deal with these offences, to know about these offences. Is it necessary for others to know about the act.

The answer to this is also given by this act itself.

Do you know that the only offences which are triable by Sessions court, which areailable are the offences under Sec 489C IPC. Possession of Fake notes.

In the year 2012, an amendment had been introduced in the act, by which FICN offences are also included as offences under this act. Why.

Because the same was disturbing the economic security of the nation.

Ignorance of law is no excuse.

So, if we treat those cases, ignorant of the said amendment, an SHO or some other subordinate officer investigates the case, then the accused will not only be out on bail, but will also be able to take technical plea of ineffectual investigation and get acquittal.

So, it is mandatory to know about this act, in order to pave way for better prosecution.

What About the already investigated cases by an officer below the rank of DCP/ACP?

We have an answer for it. We will keep it at the end.

WHY was this act enacted or What was the need for this Act

During the period from 1962 to 1967,

1. there was emergency due to Sino-India (20th October, 1962) on ground of external aggression.
2. During the same time period, a domestic crisis was brewing with Mr. C.N. Annadurai, leader of the Dravida Munnetra Kazhagam's (DMK) openly advocating his party's agenda of self-determination, including secession of Tamil Nadu from the Indian Union.

3. The Central Government was in complete panic and wanted to put some restrictions on citizens' freedoms and consequently it introduced the Unlawful Activities (Prevention) Bill, 1967 before the Emergency was to lapse. Thus, amidst high voltage debates marked by the need to uphold the sovereignty and integrity of India, the Unlawful Activities (Prevention) Act, 1967 (UAPA) was born.
4. The UAPA, 1967 essentially and primarily dealt with "unlawful activity". Section 2(f), in simple words, defined unlawful activity, as any action by an individual or association which is intended to bring about **cession/secession** or such action as to disrupt or question the sovereignty and territorial integrity of India.

During 1985 TADA

1. On 23rd May 1985, the Terrorist and Disruptive Activities Act, 1985 was enacted ostensibly to **control terrorism in Punjab** and other parts of the country.
2. The Act introduced unprecedented provisions having overriding effect over the Criminal Procedure Code and the Constitution in many written and unwritten ways. Given the widespread allegations of misuse of the Act and its very low conviction rates, TADA was allowed to lapse under a sunset clause in 1995.

During 1999 POTA

1. However, on 24th December 1999 **IC-814 was hijacked** and on 13th December **2001 the Indian Parliament was attacked** and in the backdrop of these two events it was felt that there was need to strengthen the anti-terrorism law and consequently the Prevention of Terrorism Act was passed by Parliament on **28th March 2002**.
2. But again, due to widely reported misuse of POTA including the arrest of Vaiko, the MDMK leader from Tamil Nadu under POTA, the Act was eventually **repealed on 21st December 2004**.

During 2004 Terrorism

POTA reinvented – The UAPA (Amendment) Act, 2004 By enacting TADA and POTA, Parliament left no doubt in suggesting that the UAPA did not cover acts of terrorism. By 2004, both these Acts stood repealed.

The State felt there was a potential vacuum and hence proceeded to graft terrorism offences of those statutes into the UAPA.

SO, WHO, WHAT and WHY are covered by us, let us now proceed to know what this act contains.

The UAPA as it stands today deals with two qualitatively and fundamentally different kinds of criminal acts - "Unlawful Activity" and "Terrorist Acts". Let me briefly explain the structure of UAPA.

The Act is broadly divided into two.

The first half of the Act deals with offences relating to Unlawful Activity and the second half deals with Terrorist Acts.

"Unlawful Activity"

in relation to an individual or association,

"any action which causes or is intended to cause disaffection against India",

The crucial **difference between Section 124A and Section 2(o)**, since the latter makes no distinction between peaceful, lawful activities on the one hand, and violent activities on the other, that have the intent or the tendency to create public disorder, and

therefore, fails to pass the filter test laid down by the Supreme Court in its Constitution bench judgment of Kedar Nath Singh v State of Bihar [AIR 1962 SC 955].

The Second half deals with the offence of TERRORISM.(Chapters 4 onwards)

Whoever does any act with intent to threaten or likely to threaten the unity, integrity, security 5[, 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

Let us now see, what are the offences under this act

1. **Cession** – from the nation means claiming sovereignty of some other nation.
I claim to belong to Law department instead of Home Department.
2. **Secession** – from the nation means, to claim not subjecting to the sovereignty of the nation;
I claim independence from the Home department.

INVESTIGATION

Unlawful association

Declared by the State Government or Central Government and published.

Central Government U/Sec 3 of UAPA, declares an association as unlawful, by notification in Official Gazette and publication in **one daily newspaper**- and service on principal office of association personally or affixing or proclamation by beat of drum etc-

Within 30 days refer it to Tribunal to adjudicate the reasonableness of such declaration U/Sec 4 of UAPA; which issues show cause notices to the association to respond within 30 days of such notice- after adjudicating within 6 months- confirm or cancel the notification- Published in Gazette. For period of five years. after amendment.

Sec 6- such notification of unlawful assembly will remain in force for 5 years.

Sec 7 Injunction Prohibitory order from usage of funds either existing or due or other incomings and outgoings- notice served on persons- within 15 days may apply for release that it does not belong to UA.

Prohibitory order against the property both movable and immovable, District Magistrate with the assistance of Police (for search not below the rank of SIP).- within 30 days of service of notice- apply for release

Property to be attached under the orders of DGP or Tribunal

Though Sec 20 and 38 of the act, describe the punishment for mere membership of unlawful associations, Increasingly in cases under the UAPA, investigators being unable to prove membership, association or support to banned organisations - in the light of several Supreme Court judgments namely Arup Bhuyan v State of Assam [(2011) 3 SCC 377] and Indra Das v State of Assam [(2011) 3 SCC 380] where it was categorically held that mere membership is no offence - a new trend has now emerged where reliance on electronic evidence like emails, messages, mobile records, and other materials ostensibly recovered from phones, laptops etc. is being placed to prove the culpability of persons charged.

Bail Check

43D (5) Notwithstanding anything contained in the Code, no person accused of an offence punishable under Chapters IV and VI of this Act shall, if in custody, be released on bail or on his own bond **unless the Public Prosecutor has been given an opportunity of being heard** on the application for such release:

Provided that such **accused person shall not be released on bail** or on his own bond if the Court, on a perusal of the case diary or the report made under section 173 of the Code is of the opinion that there are reasonable grounds for believing that the accusation against such person is *prima facie* true.

(6) The restrictions on granting of bail specified in sub-section (5) is in addition to the restrictions under the Code or any other law for the time being in force on granting of bail.

(7) Notwithstanding anything contained in sub-sections (5) and (6), no bail shall be granted to a person accused of an offence punishable under this Act, if **he is not an Indian citizen and has entered the country unauthorisedly or illegally** except in very exceptional circumstances and for reasons to be recorded in writing.

No Anticipatory bail. 43D(4).

Remand Check

(2) Section 167 of the Code shall apply in relation to a case involving an offence punishable under this Act subject to the modification that in sub-section (2),—

(a) the references to “**fifteen days**”, “**ninety days**” and “**sixty days**”, wherever they occur, shall be construed as references to “**thirty days**”, “**ninety days**” and “**ninety days**” respectively; and

(b) after the proviso, the following provisos shall be inserted, namely:—

“Provided further that if it is not possible to complete the investigation within the said period of ninety days, the Court may if **it is satisfied with the report of the Public Prosecutor indicating the progress of the investigation** and the specific reasons for the detention of the accused beyond the said period of ninety days, extend the said period **up to one hundred and eighty days**:

Provided also that if the police officer making the investigation under this Act, requests, for the purposes of investigation, **for police custody** from judicial custody of any person in judicial custody, he shall **file an affidavit** stating the reasons for doing so and shall also explain the delay, if any, for requesting such police custody **A memo for extension of the remand should be filed by I.O. on each date of the case.**

Sanction

Section 45 of UAPA requires that there has to be a valid sanction for prosecution, before the Court can take cognizance of the offences under the Act.

Procedure for Sanction

1. Charge sheet to be approved by concerned PP.
2. Send the Charge sheet and file through proper channel to the DOP for recommendation.
3. DOP shall recommend / reject the proposal within 7 working days (sec 45(2) amended in 2009)
4. File should be sent to Home Department through DGP.

Sanction should be accorded by Government within 7 days.

TRIAL

Shall Presumption if possession of the arms and ammunition is proved, finger print experts opinion .

In camera proceedings

Witness protection- not to make public the names of witness or proceedings public.

51. Impounding of passport and arms licence of person charge sheeted under the Act.

SOME IMPORTANT PRECEDENTS:

As the offences are to be substantiated by Scientific evidence, like intercepted calls, other cyber data, the question of 65B certificate, comes into play.

if certificate filed to comply the requirement contemplated by Section 65-B(4) of the Act, for the law is well settled that the certificate need not be filed with secondary evidence produced in Court, but can be later even, to validate and sanctify the secondary evidence vide Paras Jain v. State of Rajasthan, 2015 SCC Online 8331 of Rajasthan High Court and Kundan Singh v. State, 2015 SCC Online 13647 of Division Bench of Delhi High Court. Otherwise the Court is not powerless from the enabling provision under Section 165 of the Act, to direct the prosecution or the defacto complainant whoever in the custody of the original cell phone with memory card where the conversation is recorded to produce the said primary evidence therein, before the Court as per the law laid down in the three Judge Bench of the Apex Court in Anvar supra particularly in Para 24, either to play the contents if at all in the open Court or to direct any of the party to file the English contents of the translation and relevant photographs of the audio and video coverage for respective use with reference to original by confirming on displaying of the same if at all necessary. **2018(1) ALD (Cri) 297; 2017 2 ALT(Cri) 269; 2017 0 Supreme(AP) 555; TMS Prakash Rao Vs State of A.P.**

the Supreme Court in **Sonu @ Amar v. State of Haryana [(2017) 8 SCC 570]** held that, The mode or method of proof is procedural ... and even if an objection is raised about the admissibility of the electronic evidence the opposite side has the right to rectify it at any stage.

R.A.H. Siguran V/S Shankare Gowda @ Shankara & Anr.. 2017 (16) SCC 126, 2018 (2) SCC(Cri) 110- Assuming in favour of the appellant, that there was an irregularity in the investigation and that Section 5-A of the Act, was not complied with in substance, the trial by the Special Judge cannot be held to be illegal unless it is shown that miscarriage of justice has been caused on account of illegal investigation.

Penal Provisions Under Unlawful Activities Prevention Act, 1967

- All Offences are Cognizable
- Offences to be investigated by a Police officer not below the rank of ACP/DSP.
- Sec 43E rebuttable presumption against the accused, once prosecution proved the presence or recovery of the arms, vehicles or anything connecting the accused to the offence including finger prints etc.
- Impounding of Passport and arms license on chargesheet.
- Sanction mandatory for prosecution.

10. Penalty for being member of an unlawful association, etc.—Where an association is declared unlawful by a notification issued under section 3 which has become effective under sub-section (3) of that section,— (a) a person, who— (i) is and continues to be a member of such	shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine
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<p>association; or (ii) takes part in meetings of such association; or (iii) contributes to, or receives or solicits any contribution for the purpose of, such association; or (iv) in any way assists the operations of such association,</p>	
<p>(b) a person, who is or continues to be a member of such association, or voluntarily does an act aiding or promoting in any manner the objects of such association and in either case is in possession of any unlicensed firearms, ammunition, explosive or other instrument or substance capable of causing mass destruction and commits any act resulting in loss of human life or grievous injury to any person or causes significant damage to any property,— (i) and if such act has resulted in the death of any person,</p>	<p>shall be punishable with death or imprisonment for life, and shall also be liable to fine;</p>
<p>(ii) in any other case,</p>	<p>shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.</p>
<p>11. Penalty for dealing with funds of an unlawful association.—If any person on whom a prohibitory order has been served under sub-section (1) of section 7 in respect of any moneys, securities or credits pays, delivers, transfers or otherwise deals in any manner whatsoever with the same in contravention of the prohibitory order, he</p>	<p>shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, and notwithstanding anything contained in the Code, the court trying such contravention may also impose on the person convicted an additional fine to recover from him the amount of the moneys or credits or the market value of the securities in respect of which the prohibitory order has been contravened or such part thereof as the court may deem fit.</p>
<p>12. Penalty for contravention of an order made in respect of a notified place.—(1) Whoever uses any article in contravention of a prohibitory order in respect thereof made under sub-section (3) of section 8</p>	<p>shall be punishable with imprisonment for a term which may extend to one year, and shall also be liable to fine.</p>
<p>(2) Whoever knowingly and wilfully is in, or effects or attempts to effect entry into, a notified place in contravention of an order made under sub-section (4) of section 8</p>	<p>shall be punishable with imprisonment for a term which may extend to one year, and shall also be liable to fine.</p>
<p>13. Punishment for unlawful activities.—(1) Whoever— (a) takes part in or commits, or (b) advocates, abets, advises or incites the commission of, any unlawful activity,</p>	<p>shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.</p>
<p>(2) Whoever, in any way, assists any unlawful activity of any association, declared unlawful under section 3, after the notification by which it has been so declared has become effective under sub-section (3) of that section,</p>	<p>shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.</p>

Terrorist Acts:

Lumbini Park incident; Gokul Chat, Dilsukhnagar, Pulwama attack etc, Kandahar incident(kidnap); Counterfeit currency FICN

Punishment for Terrorist Acts

16. Punishment for terrorist act.—(1) Whoever commits a terrorist act shall,—

(a) if such act has resulted in the death of any person, be punishable with death or imprisonment for life, and shall also be liable to fine;

(b) in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

16A. [Punishment for making demands of radio active substances, nuclear devices, etc.] Omitted by the Unlawful Activities (Prevention) Amendment (Repealing and Amending) Act 2013 (3 of 2013), s. 5 (w.e.f. 1-2-2013).

[17. Punishment for raising funds for terrorist act.—Whoever, in India or in a foreign country, directly or indirectly, raises or provides funds or collects funds, whether from a legitimate or illegitimate source, from any person or persons or attempts to provide to, or raises or collects funds for any person or persons, knowing that such funds are likely to be used, in full or in part by such person or persons or by a terrorist organisation or by a terrorist gang or by an individual terrorist to commit a terrorist act, notwithstanding whether such funds were actually used or not for commission of such act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

Explanation.—For the purpose of this section,—

(a) participating, organising or directing in any of the acts stated therein shall constitute an offence;

(b) raising funds shall include raising or collecting or providing funds through production or smuggling or circulation of high quality counterfeit Indian currency; and

(c) raising or collecting or providing funds, in any manner for the benefit of, or, to an individual terrorist, terrorist gang or terrorist organisation for the purpose not specifically covered under section 15 shall also be construed as an offence.]

18. Punishment for conspiracy, etc.—Whoever conspires or attempts to commit, or advocates, abets, advises or [incites, directly or knowingly facilitates] the commission of, a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

[18A. Punishment for organising of terrorist camps.—Whoever organises or causes to be organised any camp or camps for imparting training in terrorism shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

18B. Punishment for recruiting of any person or persons for terrorist act.—Whoever recruits or causes to be recruited any person or persons for commission of a terrorist act shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.]

19. Punishment for harbouring, etc.—Whoever voluntarily harbours or conceals, or attempts to harbour or conceal any person knowing that such person is a terrorist shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and shall also be liable to fine:

Provided that this section shall not apply to any case in which the harbour or concealment is by the spouse of the offender.

20. Punishment for being member of terrorist gang or organisation.—Any person who is a member of a terrorist gang or a terrorist organisation, which is involved in terrorist act, shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.

21. Punishment for holding proceeds of terrorism.—Whoever knowingly holds any property derived or obtained from commission of any terrorist act or acquired through the terrorist fund shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.

22. Punishment for threatening witness.—Whoever threatens any person who is a witness or any other person in whom such witness may be interested, with violence, or wrongfully restrains or confines the witness, or any other person in whom the witness may be interested, or does any other unlawful act with intent to cause any of the said acts, shall be punishable with imprisonment which may extend to three years, and shall also be liable to fine.

[22A. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person (including promoters of the company) who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person (including promoters) liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised reasonable care to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any promoter, director, manager, secretary or other officer of the company, such promoter, director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

22B. Offences by societies or trusts.—(1) Where an offence under this Act has been committed by a society or trust, every person (including the promoter of society or settlor of the trust) who at the time the offence was committed was in charge of, and was responsible to, the society or trust for the conduct of the business of the society or the trust, as well as the society or trust, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised reasonable care to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a society or trust and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any promoter, director, manager, secretary, trustee or other officer of the society or trust, such promoter, director, manager, secretary, trustee or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “society” means any body corporate registered under the Societies Registration Act, 1860 (21 of 1860) or any other State Act governing the registration of societies;

(b) “trust” means any body registered under the Indian Trusts Act, 1882 (2 of 1882) or any other State Act governing the registration of trusts;

(c) “director”, in relation to a society or trust, means a member of its governing board other than an ex officio member representing the interests of the Central or State Government or the appropriate statutory authority.]

22C. Punishment for offences by companies, societies or trusts.—Where any offence under the Act has been committed by a company or a society or a trust, as the case may be, every person (including promoter of company or trust or settlor of the trust) who at the time of the offence was either in charge or responsible for the conduct of the business shall be punishable with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and shall also be liable with fine which shall not be less than five crore rupees and which may extend to ten crore rupees.]

23. Enhanced penalties.—(1) If any person with intent to aid any terrorist or terrorist organization or a terrorist gang contravenes] any provision of, or any rule made under the Explosives Act, 1884 (4 of 1884) or the Explosive Substances Act, 1908 (6 of 1908) or the Inflammable Substances Act, 1952 (20 of 1952) or the Arms Act, 1959 (54 of 1959), or is in unauthorised possession of any bomb, dynamite or hazardous explosive substance or other lethal weapon or substance capable of mass destruction or biological or chemical substance of warfare or high quality counterfeit Indian currency, he shall], notwithstanding anything contained in any of the aforesaid Acts or the rules made thereunder, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

(2) Any person who with the intent to aid any terrorist, or a terrorist organisation or a terrorist gang], attempts to contravene or abets, or does any act preparatory to contravention of any provision of any law or rule specified in sub-section (1), shall be deemed to have contravened that provision under sub-section (1) and the provisions of that sub-section in relation to such person, have effect subject to the modification that the reference to “imprisonment for life” therein shall be construed as a reference to “imprisonment for ten years”.

THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967

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THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE THIRD SCHEDULE.

THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967

ACT NO. 37 OF 1967

[30th December, 1967.]

An Act to provide for the more effective prevention of certain unlawful activities of individuals and associations 1[, and for dealing with terrorist activities,] and for matters connected therewith.

2[WHEREAS the Security Council of the United Nations in its 4385th meeting adopted Resolution 1373 (2001) on 28th September, 2001, under Chapter VII of the Charter of the United Nations requiring all the States to take measures to combat international terrorism;

AND WHEREAS Resolutions 1267 (1999), 1333 (2000), 1363 (2001), 1390 (2002), 1455 (2003), 1526 (2004), 1566 (2004), 1617 (2005), 1735 (2006) and 1822 (2008) of the Security Council of the United Nations require the States to take action against certain terrorists and terrorist organisations, to freeze the assets and other economic resources, to prevent the entry into or the transit through their territory, and prevent the direct or indirect supply, sale or transfer of arms and ammunitions to the individuals or entities listed in the Schedule;

AND WHEREAS the Central Government, in exercise of the powers conferred by section 2 of the United Nations (Security Council) Act, 1947 (43 of 1947) has made the Prevention and Suppression of Terrorism (Implementation of Security Council Resolutions) Order, 2007;

AND WHEREAS it is considered necessary to give effect to the said Resolutions and the Order and to make special provisions for the prevention of, and for coping with, terrorist activities and for matters connected therewith or incidental thereto.]

BE it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1[THE FIRST SCHEDULE]
[See sections 2(1)(m) and 35]
TERRORIST ORGANISATIONS

1. BABBAR KHALSA INTERNATIONAL.
2. KHALISTAN COMMANDO FORCE.
3. KHALISTAN ZINDABAD FORCE.
4. INTERNATIONAL SIKH YOUTH FEDERATION.
5. LASHKAR-E-TAIBA/PASBAN-E-AHLE HADIS.
6. JAISH-E-MOHAMMED/TAHRIK-E-FURQAN.
7. HARKAT-UL-MUJAHIDEEN/HARKAT-UL-ANSAR/HARKAT-UL-JEHAD-E-ISLAMI.
8. HIZB-UL-MUJAHIDEEN/HIZB-UL-MUJAHIDEEN PIR PANJAL REGIMENT.
9. AL-UMAR-MUJAHIDEEN.
10. JAMMU AND KASHMIR ISLAMIC FRONT.
11. UNITED LIBERATION FRONT OF ASSAM (ULFA).
12. NATIONAL DEMOCRATIC FRONT OF BODOLAND (NDFB).
13. PEOPLE'S LIBERATION ARMY (PLA).
14. UNITED NATIONAL LIBERATION FRONT (UNLF).
15. PEOPLE'S REVOLUTIONARY PARTY OF KANGLEIPAK (PREPAK).
16. KANGLEIPAK COMMUNIST PARTY (KCP).
17. KANGLEI YAOL KANBA LUP (KYKL).
18. MANIPUR PEOPLE'S LIBERATION FRONT (MPLF).
19. ALL TRIPURA TIGER FORCE.
20. NATIONAL LIBERATION FRONT OF TRIPURA.
21. LIBERATION TIGERS OF TAMIL EELAM (LTTE).
22. STUDENTS ISLAMIC MOVEMENT OF INDIA.
23. DEENDAR ANJUMAN.
24. COMMUNIST PARTY OF INDIA (MARXIST-LENINIST)—PEOPLE'S WAR, ALL ITS FORMATIONS AND FRONT ORGANISATIONS.
25. MAOIST COMMUNIST CENTRE (MCC), ALL ITS FORMATIONS AND FRONT ORGANISATIONS.
26. AL BADR.
27. JAMIAT-UL-MUJAHIDDEN.
28. AL-QAIDA.
29. DUKHTARAN-E-MILLAT (DEM).
30. TAMIL NADU LIBERATION ARMY (TNLA).
31. TAMIL NATIONAL RETRIEVAL TROOPS (TNRT).
32. AKHIL BHARAT NEPALI EKTA SAMAJ (ABNES).

2[33. Organisations listed in the Schedule to the U.N. Prevention and Suppression of Terrorism (Implementation of Security Council Resolutions) Order, 2007 made under section 2 of the United Nations (Security Council) Act, 1947 (43 of 1947) and amended from time to time.]

1. The Schedule renumbered as the First Schedule thereof by Act 3 of 2013, s. 14 (w.e.f. 1-2-2013).
2. Ins. by Act 35 of 2008, s. 17 (w.e.f. 31-12-2008).

1[THE SECOND SCHEDULE

[See section 15(2)]

- (i) Convention for the Suppression of Unlawful Seizure of Aircraft (1970);
 - (ii) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971);
 - (iii) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973);
 - (iv) International Convention against the Taking of Hostages (1979);
 - (v) Convention on the Physical Protection of Nuclear Material (1980);
 - (vi) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
 - (vii) Convention for the Suppression of Unlawful Acts against the safety of Maritime Navigation (1988);
 - (viii) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (1988); and
 - (ix) International Convention for the Suppression of Terrorist Bombings (1997).
1. Ins. by Act 3 of 2013, s. 14 (w.e.f. 1-2-2013).

THE THIRD SCHEDULE

[See clause (b) of *Explanation* to section 15(1)]

Security features to define high quality counterfeit Indian currency notes

- (a) watermark;
- (b) latent image; and
- (c) see through registration in the currency notes.]

THE UNLAWFUL ACTIVITIES (PREVENTION) RULES, 1968

1. Short title and commencement.—

(1) These rules may be called the Unlawful Activities (Prevention) Rules, 1968.

(2) They shall come into force on the date of their publication in the Official Gazette.

¹ [1A. Rules also to extend to the State of Jammu and Kashmir.—These rules shall be deemed to have also extended to, and come into force in the State of Jammu and Kashmir on the first day of September, 1969, the date on which the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), came into force in that State.]

2. Definitions.—In these rules, unless the context otherwise requires,—

(a) "the Act" means the Unlawful Activities (Prevention) Act, 1967 (37 of 1967);

(b) "section" means a section of the Act;

(c) words and expressions used in these rules but not defined, and defined in the Act, shall have the meanings respectively assigned to them in the Act.

3. Tribunal and District Judge to follow rules of evidence.—

(1) In holding an inquiry under sub-section (3) of section 4 or disposing of any application under sub-section (4) of section 7 or sub-section (8) of section 8, the Tribunal or the District Judge, as the case may be, shall, subject to the provisions of sub-rule (2), follow, as far as practicable, the rules of evidence laid down in the Indian Evidence Act, 1872 (1 of 1872).

² [(2) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), where any books of account or other documents have been produced before the Tribunal or the Court of the District Judge by the Central Government and such books of account or other documents are claimed by that Government to be of a confidential nature then, the Tribunal or the Court of the District Judge, as the case may be, shall not,—

(a) make such books of account or other documents a part of the records of the proceedings before it; or

(b) allow inspection of, or grant a copy of, the whole of or any extract from, such books of account or other documents by or to any person other than a party to the proceedings before it.]

4. Additional modes of service of notification made under section 3.—Without prejudice to the generality of the provisions of sub-section (4) of section 3, all or any of the following modes may also be followed in effecting service of a notification made under sub-section

(1) of section 3, namely:—

(a) by making an announcement over the radio from the local or nearest broadcasting station of the All-India Radio, or

(b) by pasting the notification on the notice board of the office of the District Magistrate or the Tehsildar at the headquarters of the district or the tehsil, as the case may be, in which the principal office of the association affected is situated.

5. Documents which should accompany a reference to the Tribunal.—Every reference made to the Tribunal under sub-section

(1) of section 4 shall be accompanied by—

(i) a copy of the notification made under sub-section (1) of section 3, and

(ii) all the facts on which the grounds specified in the said notification are based: Provided that nothing in this rule shall require the Central Government to disclose any fact to the Tribunal which that Government considers against the public interest to disclose.

6. Service of notice issued by the Tribunal.—Every notice referred to in sub-section (2) of section 4 shall be served on the affected association in such manner as the Tribunal may think fit and all or any of the following modes may be followed by the Tribunal in effecting service of such notice, namely:—

(a) by affixing a copy of the notice to some conspicuous part of the office, if any, of the association; or

(b) by serving a copy of the notice, where possible, on the principal office bearers, if any, of the association, by registered post or otherwise; or
(c) by proclaiming by beat of drum or by means of loudspeakers the contents of the notification in the area in which the activities of the association are ordinarily carried on.

7. Tribunal to have a seal.—

(1) The Tribunal shall have a seal of such dimensions and in such form as it may think fit.
(2) Every order made or notice issued by the Tribunal shall be authenticated by affixing its seal thereon.

8. Tribunal to have a Registrar.—

(1) The Tribunal shall have a Registrar who shall be either a whole-time or part-time officer of the Government.
(2) The Registrar shall have the custody of the seal and the records of the Tribunal and shall exercise such other functions as may be assigned to him by the Tribunal.

9. Reference to the Tribunal to be addressed to the Registrar.—Every reference made to the Tribunal under section 4 shall be addressed and sent to the Registrar who shall, immediately after the receipt of such reference or as soon as possible thereafter, place the same before the Chairman for his orders.

³ 10. Issuing of summons.—The Tribunal or the District Judge, as the case may be, may issue summons to persons whose attendance is required either to give evidence or to produce documents.

11. The mode of issuing the summons.—Every summons shall be in duplicate and signed by the Registrar of the Tribunal or the District Judge, as the case may be, and sealed with the seal of the Tribunal or the Court of the District Judge, as the case may be, and it shall specify the time and place at which the person summoned is required to attend and also whether his attendance is required for the purposes of giving evidence or to produce a document, or for both purposes.

12. Summons for the production of documents.—A person may be summoned to produce a document, when being summoned to give evidence; and any person summoned merely to produce document shall be deemed to have complied with the summons if he cause such document to be produced instead of attending personally to produce the same.

13. The mode of service of summons.—A summon may be served by sending it⁴ [by registered post with acknowledgement due] to the person for whom it is intended or any such other manner as may be directed by the Tribunal or the District Judge, as the case may be.

14. Power of Tribunal or District Judge to sit in private.—Where any request is made by the Central Government so to do, it shall be lawful for the Tribunal or the District Judge, as the case may be, to sit in private and to admit at such sitting such persons whose presence is considered by the Tribunal or the District Judge, as the case may be, to be necessary for the proper determination of the matter before it or him.

15. Other provisions of the Civil Procedure Code, 1908, to apply.—The provisions of the Civil Procedure Code, 1908 (5 of 1908), shall, in so far as they relate to any other matter with regard to the service of summons, shall, as far as may be, apply to the service of any summons issued by any Tribunal or District Judge under the Act.]

1. Ins. by S.O. 359, dated 18th January, 1971.

2. Subs. by S.O. 473, dated 3rd February, 1970.

3. Ins. by S.O. 109, dated 4th January, 1971 (w.e.f. 4-1-1971).

4. Subs. by S.O. 346 (E), dated 21st June, 1973.

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Courts – Special Courts – Notifying one or more Courts as Special Courts under Section 22 of the National Investigation Agency Act, 2008 – Notifying the Courts of I Additional Metropolitan Sessions Judges Courts, Cyberabad, Vijayawada and Visakhapatnam in addition to the Courts of I Additional Metropolitan Sessions Judge, Hyderabad, already designated as Special Court, and all I Additional District and Sessions Judges Courts in other Districts - Notification – Orders - Issued.

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LAW (LA&J-HOME COURTS-C) DEPARTMENT

G.O.Rt.No. 2360

Dated:21-12-2013.

Read:

From the Registrar (Vigilance), Andhra Pradesh High Court,
Hyderabad, R.O.C.No.1037/E1/2010, dated 10.09.2013.

&&&

ORDER:

In the letter read above, the Registrar (Vigilance), High Court of Andhra Pradesh, Hyderabad, has forwarded draft notification and requested the Government to approve and publish the same in the Gazette;

2. The Government after careful examination of the proposal of the Registrar (Vigilance), High Court of Andhra Pradesh, Hyderabad, have decided to accept to issue Notification.

3. Accordingly, the following Notification will be published in an extraordinary issue of the Andhra Pradesh Gazette:-

NOTIFICATION

In exercise of the powers conferred under sub-section (1) of section 22 read with sub-section (1) of section 11 of the National Investigation Agency Act, 2008, (Central Act No.34 of 2008), the State Government, hereby notifies the Courts of the I Additional Metropolitan Sessions Judges, Cyberabad, Vijayawada and Visakhapatnam in addition to the Court of I Additional Metropolitan Sessions Judge, Hyderabad, which was already designated as Special Court by the Government of India, vide the Gazette of India No.248, dated.24-01-2013, and all the I Additional District and Sessions Judges Courts in other Districts in the State of Andhra Pradesh, as “**Special Courts**” for trial of scheduled offences investigated by National Investigation Agency and also to act as per the provisions of section 16 (1) of National Investigation Agency Act, 2008.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA
PRADESH)

A.SANTHOSH REDDY,
SECRETARY TO GOVERNMENT,
LEGISLATIVE AFFAIRS & JUSTICE.

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Home Department – Appointment of Director of Prosecutions, Andhra Pradesh, Hyderabad as authority to review the cases registered under the Unlawful Activities (Prevention) Act, 1967 and make recommendations to the competent authority for issue of sanction order for prosecution of the accused - Orders - Issued.

HOME (LEGAL II) DEPARTMENT

G.O.Ms.No: 223

Dated: 28.12.2012

Read the following:

1. From D.G.P., A.P., Hyd, Lr.Rc.No. 567/E8/SIB(Int)/2012, dt: 30.3.12.
2. From D.G.P., A.P., Hyd, Lr.Rc.No. 567/E8/SIB(Int)/2012, dt: 24.09.12.

ORDER:-

Whereas, the Director General of Police, Andhra Pradesh, Hyderabad in the letters 1st and 2nd read above, has stated that the Government of India through gazette notification dated: 21.09.2004, notified the CPI(Maoist) and all its formations and front organizations as terrorist organizations under the Unlawful Activities (Prevention) (Amendment) Act, 2004 and included in the schedule at Sl.No. 34. The Parliament amended the Unlawful Activities (Prevention) Act, 1967 and inserted certain new provisions in it through the Unlawful Activities (Prevention) Amendment Act, 2008 (Act 35 of 2008).

“Accordingly, sanction for prosecution under sub-sec(1) of section 45 of the said Act shall be given within such time as may be only after considering the report of such authority appointed by the Central Government or as the case may be, the State Government shall make an independent review of the evidence gathered in the course of investigation and make recommendation, within such time as may be prescribed, to the Central Government or as the case may be, the State Government”.

2. And whereas, the Director General of Police, Andhra Pradesh, Hyderabad has stated that it is mandatory to appoint an authority in tune with the above provision, to study the proposal sent for according permission to prosecute the accused persons under the provisions of the Unlawful Activities (Prevention) Act, 1967 as amended in 2004 and 2008, by assessing the evidence gathered during the course of investigation and to make recommendations to the competent authority for issue of sanction orders for prosecution of the accused as laid down in sub-section(2) of Section 45 of the said Act.

3. And whereas, the Director General of Police, Andhra Pradesh, Hyderabad has requested the Government to appoint Director of Prosecutions, Andhra Pradesh, Hyderabad as designated authority to review the proposals received from the investigating authorities of the cases registered under the Unlawful Activities (Prevention) Act, 1967 and recommend to the competent authority for issue of sanction orders to prosecute the accused.

4. The Government, after careful examination of the matter, and in exercise of the powers conferred under sub-section(2) of section 45 of the Unlawful Activities (Prevention) Act, 1967 hereby appoint the Director of Prosecutions, Andhra Pradesh, Hyderabad as designated authority to review the cases registered under the Unlawful Activities (Prevention) Act, 1967 and recommend to the competent authority for issue of sanction orders against accused, within seven (7) working days as specified in the Unlawful Activities (Prevention) (Recommendation and Sanction of Prosecution) Rules, 2008.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

T.P.DAS

PRINCIPAL SECRETARY TO GOVERNMENT

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Police Department – According Permission to launch prosecution against the accused A-1 to A-7 in Cr.No.61/2010 under sections 120 (B), 121, 121 (A) IPC and section 25 I.A. Act section 13 (1) Unlawful Activities Prevention Act 1967 and sections 15, 18, 19 and 20 of Unlawful Activities (Prevention Amendment Act 2004 of Aize Police Station) – Orders - Issued.

HOME (LEGAL-II) DEPARTMENT

G.O.Ms.No. 252

Dated: 31.10.2011

Read:

From D.G.P., A.P., Hyd, Lr.Rc.No.1104/Compts-4/2011, dt: 1.3.11.

ORDERS:

In the reference read above the Director General of Police, Andhra Pradesh, Hyderabad has requested the Government to accord permission to prosecute the accused persons in Cr.No.61/2010 under sections 120 (B), 121, 121 (A) Indian Penal Code and section 25 I.A. Act section 13 (1) Unlawful Activities Prevention Act 1967 and sections 15, 18, 19 and 20 of Unlawful Activities (Prevention Amendment Act, 2004 of Aize Police Station).

2. And whereas the Superintendent of Police, Mahabubnagar in his letter dated: 13.06.2010 addressed to the Director General of Police, Andhra Pradesh, Hyderabad, has stated that top Maoist cadres are moving into Andhra Pradesh from Karnataka and Police Gadwal organized vehicle checking. During the vehicle checking at Aize, 3 persons were found jumped from RTC bus and started running away from police. The Sub-Inspector of Police Aize PS along with his team chased them and succeeded in apprehending one of them at about 0100 hours while other two persons managed to escape. The apprehended accused disclosed his identity as Chandrashekar Gorebale S/o Late Sangappa when the accused person who about to confess some offence, SI Aize PS summoned mediators and interrogated him thoroughly. The accused voluntarily confessed his name as Chandrashekar Gorebale @ Tippa Swamy @ Tippanna @ Sudhakar @ Mantappa@ Shivaraj @ Ganesh s/o Late Sangappa, aged 45/2010 years, Caste Lingayath r/o Mudiyanuru Village, Pustigi Taluk, Koppal District, Member of Karnataka State Committee (KNSC) and further stated as follows;

3. He has been working as Karnataka State Committee Member since 2006. He had completed his Post Graduation in M.A. Economics, in 1992 from Gulbarga University. After completion of PG, he joined in Sindhanur Government Degree College as a part time lecturer from 1993 to 2003. While working as lecturer, he was attracted by one person Ujjain Gowda, who was former secretary of KAVIRAM (Kaernataka Vimochana Ranga). In 1995, he become party member. As per the inspiration of Ujjain Gowda, Siramani Nagaraju and Sivalingam, he worked in the open organizations till 2004. He worked in Mass organizations namely Anti Communal front, Anti caste organization, Student Organisation, Women Organisation. He become State Committee Member of KNSC of CPI (Maoist) in November,

2006. Now he is incharge of North Karnataka and working in C.C.Tech as additional responsibilities.

4. He attended, Karnataka State Committee meeting held in Oct./Nov., 2007. It was chaired by Malla Raji Reddy @ Alok @ Sathenna, C.C. member.

5. He attended the LTP (Leadership Training Programme) held in Kerala in May, 2009 for (6) days, which was conducted by Kuppu Devaraj @ Ramesh @ Manju @ Sankar CC of SWRB.

6. In October, 2009, he went to Sholapur of Maharashtra and met one Vikas a courier of CC member. He received five lakhs of rupees meant for Karnataka State Committee. The money must have come from Central Committee. Later, he went to Chennai and handed over the money to Raju, a courier of Kuppu Devraj @ Ramesh @ Manju, i/c of South West Regional bureau.

7. In May, 2009, he attended State Committee meeting in the forest of Western Ghats, nears Srungeri. He discussed about the party and tactics.

8. In January, 2010, he again attended State Committee meeting in the forests of Western Ghats. After getting bail, Malla Raji Reddy, CC member was staying in Dandakaranya of Chattisgarh and guiding the State committees of SWRB, in the capacity of a CC member.

9. In February, 2010 Neelaguli Padmanabhan @ Pandu, State Committee Member of KNSC called him to Bijapur. Said N. Padmanabham gave him one black bag and said that it contained on Carbine weapon, (70) 9 mm Rounds and (32) SLR rounds. He also stated that he will give one more bag next month which contains a weapon and he has to hand over the bag to one action team, which will be coming in June, 2010. Said N. Padmanabham told him that all these were being sent by CPI (Maoist) Central Committee to attack an important political leader in Andhra Pradesh. Said N. Padmanabham informed that since party has lost ground in A.P. this decision was taken to regain the strength. Party has decided to send action team to attack on political leaders.

10. Accordingly in March, 2010 again Neelaguli Padmanabhan @ Pandu called him to Bijapur. This time said N. Padmanabham gave a suitcase, which contained one AK-47 and 20 AK-47 rounds, two police uniforms (used), (2) shoulder bags, (12) torch Lighters, (2) pocket chargers and some cloths. He kept the suitcase along with the bag in his den at Shahpur village of Yadgir District.

11. On 12.05.2010 as per the suggestion of Raju, courier of Ramesh, CC member he went to Hosur of Tamilnadu. Said Raju gave him one packet, which contains (5) ICOM wireless sets (IC-V82) and GPS Tracker (GPS 72- Garmin). He kept those items in his den at Shahapur.

12. On 11.06.2010 evening two persons came to his room and stayed for a night. They said that very soon they were going to assault one political leader in AP and for that they have to recce the area some where in Andhra Pradesh. As per the directions of Central Committee, he was accompanying them to the place of recce. They started from Shahapur in

the evening and reached to Raichur. Night at 11.30 hrs they again started in a bus from Raichur and purchased tickets separately to go to Kurnool. After about an hour bus was stopped and they noticed police were checking vehicles which were stopped in front of them. They apprehended danger from the police and tried to escape. His two associates were managed to escape where as he was taken into custody by police. One of the escaped person is Takkellapalli Vasudeva Rao @ Ashanna, State Committee Member, presently organizing action team activities of Central Military Commission (CMC) of CPI (Maoist) from Chattisgarh and other person is Kanumukkala Ramesh @ Vijay, DCM, action team member from A.P. State Committee. He don't know the place of recce and the details of the target.

13. He further confessed that he is in possession of one 9 MM carbine, One GPS tracker and some other material. At his instance, on search of the bag he was carrying (1) One firearm i.e, 9 mm Carbine, (2) One 9 MM carbine Magazine with (10) 9 mm live rounds, (3) One GPS 72 GARMIN (1 Set in Taiwan) bearing No.GPS 72,. InT'IS.No.IM 2000460-GARMIN olathe, KS USA, (4) One I COM IC-V82 VHF Transceiver, bearing SI.No.2319006 made in Japan, (5) One pocket mobile charger "TE VMAOSA CARGAR DE ENERGIA" bearing marks China patent ZL-200720119124.7 copyright product. All rights reserved,, Made in China, Made by JN group, (6) One Bus Ticket bearing No.TNA 22320 for Rs.97/-, (7) One Data Traveller ® 32 GB of Kingstan makebearing No.DTI/32 GB CN 112808 5V. C4225-303, AOOLF CHINA, (8) Two Magazines one is Peoples March-November 2009 second is Peoples Truch September – 2009, (9) CPI Maoist Polite bureau document dated 5th September, 2006, (10) CPI Maoist Central Committee letter dated 20 February, 2007, (11) CPI Maoist Kannada Booklet on CPI (Maoist), (12) Strategy and Tactics of the Indian Revolution by Central Committee (p) CPI (Maoist), (13) Two CDs i.e., one is cong second is Ramakrishna, (14) Praja Vani News paper Dt.12.06.2010 – Kannada, (15) Mangala Weekly Magazine – Kannada, (16) One Andhra Pradesh Political & Tourist Road Guide (map) were found. The same materials were seized from his possession under cover of panchanama in presence of mediators.

14. He further confessed that he had a den in Hothpet Thanda, Shahpur Village Yadair District of Karnataka State. He stayed in the house for two and half years. He paid rent of Rs.300/- per month. He stayed in the name of Shivaraj, Research Scholar, Dakappa is the house owner. He kept a weapon, ammution, wireless sets, radios, shoulder bags, Maoist documents, CDs related to Maoist organization and it's activities etc., in the den. If come, he will lead to the den. As such SI of police, Aize PS requested to register a case and send CD file to him for further investigation.

15. Based on the above confession-cum-seizure panchanama ASI Aize PS registered a case in Cr.No.61/2010 under sections 120-B, 121, 121-A Indian Penal Code and section 25 IA Act, section 13(1) of unlawful activities (Prevention) Act, 1967, submitted the FIRs to the Honourable Court, other concerned.

16. During the course of investigation, SI of Aize PS conducted scene of offence panchanama in presence of the same mediators, drawn rough sketch of the scene in crime detailed form, examine and recorded the statements of LWI M.A. Rasheed PC-630 of PS Aize and (3) others PCs.

17. The SDPO Gadwal took up further investigation of the case, visited the scene of crime situated at 'T' junction Aize village.

18. In furtherance of his confession the accused led the police party and panchas Telugu Narsimulu s/o Edanna, age 41 yrs. Telugu, occ. VRO Aize r/o H.No.11-170, Aize village and Naiki Narsimhulu s/o Narsappa, to his den at Hothpet Thanda of Shahapur T. Yadagir District of Karnataka State and shown his den. Sri M. Mahesh, SDPO, Gadwal (LW12) examined and recorded the statement of house owner Kesu s/o Daku Singh, age 40 yrs, caste Lambada, occ. Coolie r/o Hothpet Thanda of Shapur Tq. Yadagiri District of Karnataka State and seized one AK-47 riffle, (3) magazines, (20) live rounds, (32) S.L.R.live rounds, (60) 9 mm live rounds, 4 VHF transceiver hand sets, (2) mobile chargers from his den at his instance under cover of separate panchanama in presence of two mediators of the instance of accused. After seizure panchanama the accused and seized material were brought to PS Aize at 1400 hours, issued arrest report explaining the grounds of his arrest and served notice U/s 50 Cr. P.C. to his relative through phone and sent him to judicial remand.

19. On 18.06.2010 the accused A1 was taken into police custody for 4 days from Central Jail Cherlapally, recorded his confessional statement on 21.06.2010 in presence of mediators and produced the accused in the same jail on 22.06.2010 after expiry of police custody period.

20. Efforts were made to arrest the absconding accused A2 to A7 and to know the source of incriminating material seized from the possession of A1, but the where abouts of the absconding accused are not known. Separate charge sheet will be filed against the absconding accused whenever they arrested.

21. From the evidence collected it is established that the accused A1 to A7 who belong to outlawed CPI ML Maoist entered into conspiracy to assault on political leaders or some police officers in Andhra Pradesh and also to wage war against the Government. In pursuance of conspiracy they collected arms and ammunition, other materials from various sources. In order to implement their conspiracy they decided to conduct a recce in AP. As per the directions of Central Committee, A2 and A3 went to the den of the A1 and met A1. On 12.06.2010 the A1 along with A2 and A3 proceeded to A.P. via Raichur in order to conduct recce some where in AP which is specifically known only A2 and A3. In the mid night at about 2330 hours A1 to A3 boarded Cheerla bus to go to Kurnool by purchasing tickets separately. After About an hour when the bus was stopped at Aize the A1 to A3 noticed police checking the vehicles and the bus was stopped behind one jeep. A1 to A3 apprehended danger from the police and tried to escape. A2 and A3 have managed to escape where as A1 was taken into custody by LW11. A1 is not aware of the place of recce and the details of the target. When interrogated the A1 has confessed his guilt and in his pursuance of the confession the incriminating material was seized from the

possession of A1. The A1 further led the police party to his den at Hothpet Thanda, Shapur Tq. of Yadgir District of Karnataka State where at the instance of the A1 other incriminating material i.e., one AK-47 with 3 magazines and 20 live rounds, 60 rounds of 9 mm live rounds, 32 SLR live rounds and other incriminating material noted in seized panchanama conducted at Hothpet Thanda were recovered in presence of panchas under cover of panchanama. As such, the accused A1 to A7 have committed an offence punishable U/s 120-B, 121, 121-A IPC and Section 25 IA Act and Section 13(1) of Unlawful Activities (Prevention) act 1967 and Section 15, 18, 19 and 20 of Unlawful Activities (Prevention) Amendment Act, 2004.

22. The Superintendent of Police, Mahabubnagar has requested to accord permission to prosecute the below mentioned accused persons under sections 120-B, 121, 121-A Indian Penal Code and section 25 IA Act and section 13(1) of Unlawful Activities (Prevention) Act, 1967 and sections 15, 18, 19 and 20 of Unlawful Activities (Prevention) Amendment Act, 2004.

A1 Chandrashekar Gorebale @ Tippa Swamy @ Thippanna @ Sudhakar @ Mantappa @ Shivaraj @ Ganesh s/o Late Sangappa aged 45 years Caste Lingayath R/o Mudiyanur Village, Pustigi Taluk, Koppal District.

A2 Takkellapalli Vasudeva Rao @ Ashanna Central Committee Member

presently organizing action Team activities of Central Military Commission (CMC) of CPI (Maoist) from Chattisgarh.

A3 Kanumukkala Ramesh @ Vijay DCM Action Team member from Central Military Commission action Team member.

A4 Vikas, Courier of C.C. member r/o Sholapur, Maharashtra.

A5 Raju Courier of Kuppu Devaraj r/o Chennai.

A6 Kuppu Devraj @ Ramesh @ Manju incharge of South West region bureau of CPI Maoist.

A7 Neelagulli Padmanabhan @ Pandu State Committee Member of KNSC.

23. Now, therefore, in exercise of the powers conferred, the Government hereby accord permission to the Director General of Police, Andhra Pradesh, Hyderabad to prosecute the above said accused persons under section 120-B, 121, 121-A Indian Penal Code and section 25 IA Act and section 13(1) of Unlawful Activities (Prevention) Act, 1967 and sections 15, 18, 19 and 20 of Unlawful Activities (Prevention) Amendment Act, 2004 and issue prosecution orders against them, in the interest of justice.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

(P. GAUTAM KUMAR)
PRINCIPAL SECRETARY TO GOVERNMENT

THE UNLAWFUL ACTIVITIES (PREVENTION) (RECOMMENDATION AND SANCTION OF PROSECUTION) RULES, 2008¹

In exercise of the powers conferred by sub-section (2), of section 45, read with clause (f) of sub-section (2) of section 52, of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.—(1) These rules may be called the Unlawful Activities (Prevention) (Recommendation and Sanction of Prosecution) Rules, 2008.

(2) They shall come into force on the date² of their publication in the Official Gazette.

2. Definition.—(1) In these rules, unless the context otherwise requires,—

(a) "Act" means the Unlawful Activities (Prevention) Act, 1967 (37 of 1967);

(b) "Authority" means the Authority to be appointed by the Central Government ³[or, as the case may be, the State Government] under sub-section (2) of section 45;

(c) "Code" means the Code of Criminal Procedure, 1973 (2 of 1974).

(2) Words and expression used herein and not defined in these rules, but defined in the Act, shall have the meanings respectively assigned to them in the Act.

3. Time limit for making a recommendation by the Authority.—The Authority shall, under sub-section (2) of section 45 of the Act, make its report containing the recommendations to the Central Government ³[or, as the case may be, the State Government] within seven working days of the receipt of the evidence gathered by the investigating officer under the Code.

4. Time limit for sanction of prosecution.—The Central Government ³[or, as the case may be, the State Government] shall, under sub-section (2) of section 45 of the Act, take a decision regarding sanction for prosecution within seven working days after receipt of the recommendations of the Authority.

1. *Vide* S.O. 3014(E), dated 31st December, 2008, published in the Gazette of India, Extra., Pt. II, Sec. 3(ii), dated 31st December, 2008.

2. Came into force on 31-12-2008.

3. Ins. by G.S.R. 224(E), dated 31st March, 2009 (w.e.f. 31-3-2009).

Bail to an individual should not outweigh the rights and security of the society at large.

under the proviso to Section 43-D(5) of the Unlawful Activities (Prevention) Act, 1967, grant of bail to the appellants is barred. **Muzaffar Hussain Rizwan and Ors. vs. State of Telangana (08.06.2017 - HYHC) : MANU/AP/0686/2017.**

Dealing with the issue of grant of bail to a person accused of committing offences involving **threat to security of the State**, the apex Court in **Afzal Khan @ Babu Murthuzakhan Pathan v. State of Gujarat, MANU/SC/7690/2007 : 2007 (2) ALD (Cri.) 464 (SC) : AIR 2007 SC 2111**; held that ordinarily, a bail application, in a case of such nature involving the security of the State, should be rejected.

In **People's Union for Civil Liberties and another v. Union of India, MANU/SC/1036/2003 : 2004 (1) ALD (Cri.) 130 (SC) : (2004) 9 SCC 580**; the apex court has shown its extreme concern at the acts of terrorism and the debilitating effect it has on the Nation and its citizens. We feel it apt to reproduce the relevant portion of the said decision hereunder:

"4..... Terrorism has become the most worrying feature of contemporary life. Though violent behaviour is not new, the present-day "terrorism" in its full incarnation has obtained a different character and poses extraordinary challenges to the civilised world. The basic edifices of a modern State, like democracy, State security, rule of law, sovereignty and integrity, basic human rights etc., are under the attack of terrorism.....

8. These terrorist strikes have certain common features. They could be very broadly grouped into three:

Attack on the institution of democracy, which is the very basis of our country (by attacking Parliament, Legislative Assembly etc). And the attack on economic system by targeting economic nerve centres.

Attack on symbols of national pride and on security/strategic installations (e.g., Red Fort, military installations and camps, radio stations etc.)

Attack on civilians to generate terror and fear psychosis among the general populace. The attack at worshipping places to injure sentiments and to whip communal passions. These are designated to position the people against the Government by creating a feeling of insecurity."

The following instances or circumstances, in our view, would provide adequate guidance for the Court to form an opinion, as to whether the accusation in such cases is "prima facie true":

- 1) Whether the accused is/are associated with any organization, which is prohibited through an order passed under the provisions of the Act;
- 2) Whether the accused was convicted of the offences involving such crimes, or terrorist activities, or though acquitted on technical grounds; was held to be associated with terrorist activities;
- 3) Whether any explosive material, of the category used in the commission of the crime, which gave rise to the prosecution; was recovered from, or at the instance of the accused;
- 4) Whether any eye witness or a mechanical device, such as CC camera, had indicated the involvement, or presence of the accused, at or around the scene of occurrence; and
- 5) Whether the accused was/were arrested, soon after the occurrence, on the basis of the information, or clues available with the enforcement or investigating agencies. **Devendar Gupta and Ors. vs. National Investigation Agency (12.03.2014 - APHC) : MANU/AP/0097/2014 : 2014(2)ALD(Cri)251, 2014 (2) ALT (Cri.) 208 (A.P.), 2014(2)Crimes177(A.P.), 2014(2)Crimes106(A.P.)**

we are unable to agree with Mr. Ghosh that the provisions of the Unlawful Activities (Prevention) Act, 1967, would not be attracted to the facts of the case. We are also unable to accept Mr. Ghosh's submissions that **merely because DHD(J) had not been declared as an "unlawful association" when the petitioner was arrested, the said organization could not have indulged in terrorist acts** or that the petitioner could not have had knowledge of such activities. Accordingly, Mr. Ghosh's submissions regarding the grant of statutory bail have to be rejected since, in our view, the learned Sessions Judge (Special Court) had the jurisdiction to extend the time for completion of the investigation. **Redaul Hussain Khan vs. National Investigation Agency (19.11.2009 - SC) : MANU/SC/1877/2009, 2010(1)ALT(Cri)279, 2010((1))ALT(Cri)279, 2010CriLJ1413, JT2009(15)SC224, 2009(14)SCALE105, (2010)1SCC521, [2009]15SCR103**

As the offences are to be substantiated by Scientific evidence, like intercepted calls, other cyber data, the question of 65B certificate, comes into play.

65B certificate can be file subsequently and not always with the secondary evidence. **2018(1) ALD (Cri) 297; 2017 2 ALT(Cri) 269; 2017 0 Supreme(AP) 555; TMS Prakash Rao Vs State of A.P.**

When the person from whom the secondary evidence was recovered/seized, is not the person who converted it into secondary evidence, 65B certificate is not necessary. Shafhi Mohammad Vs State of H.P. 2018 0 AIR(SC) 714; 2018 2 SCC 801; 2018 1 SCC(Cri) 860;

the Supreme Court in **Sonu @ Amar v. State of Haryana [(2017) 8 SCC 570]** held that, The mode or method of proof is procedural ... and even if an objection is raised about the admissibility of the electronic evidence the opposite side has the right to rectify it at any stage.

R.A.H. Siguran V/S Shankare Gowda @ Shankara & Anr.. 2017 (16) SCC 126, 2018 (2) SCC(Cri) 110- Assuming in favour of the appellant, that there was an irregularity in the investigation and that Section 5-A of the Act, was not complied with in substance, the trial by the Special Judge cannot be held to be illegal unless it is shown that miscarriage of justice has been caused on account of illegal investigation.

Madhu Limaye Vs State of Maharashtra, AIR 1978 SC 47

State Vs N.M.T. Joy Immaculate, AIR 2004 SC 2282

An illegal order of remand cannot result in the acquittal of the accused.

Maulavi Hussain Haji Abraham Umanji Vs State of Guajrat and another, AIR 2004 SC 3964(Para 11) = (2004) 6 SCC 672. In POTA case, the Police remand can be only in first 30 days.

The Hon'ble Apex Court in CrI. Appeal No. 264/2019 dated 13.02.2019 between the **State of Maharashtra Vs Surendra Kundlik Gadling & ors.** observed that endorsement on the application of I.O. to extend the remand is sufficient compliance as equivalent to the report filed by the Asst. Public Prosecutor, for expanding remand.

L.H.Rajeshwer Rao