



\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI***Reserved on: 30th July, 2026.******Pronounced on: 4th August, 2026.******Uploaded on: 4th August, 2026.***

+

CRL.A. 630/2026**HURBA PETRO AND OTHERS****.....Appellants**

Through: Ms. Nithya Ramakrishnan, Sr. Adv,
Mr. Nitin Saluja, Ms. Shivani Luthra
Lohiya, Mr. Anubhav Singh, Ms.
Garima Singh, Ms. Ishita Soni, Ms.
Pranya Madan, Mr Ishit Patel, Advs.
(M. 9958584817)

versus**UNION OF INDIA AND OTHERS****.....Respondents**

Through: Mr. Amit Tiwari, CGSC, Ms. Ayushi
Srivastava, Mr. Arpan Narwal, Mr.
Kushagra Malik, Mr. Ujjwal Tyagi,
Advs. for UOI. (M. 9990980316)
Ms. Urvashi Basak, Government
Pleader for R-1 (M. 9811636923)
Mr. Rahul Tyagi, SPP/NIA with Mr.
Jatin Khatri, Mr. Amit Rohilla, Mr.
Shubham and Mr. Aniket Kr. Singh,
Advocates with DSP Ritesh Sharma,
CIO, NIA for R2. (M) 8571973515

CORAM:**JUSTICE PRATHIBA M. SINGH****JUSTICE VIKAS MAHAJAN****JUDGEMENT****Prathiba M. Singh, J.**

1. This hearing has been done through hybrid mode.

Factual Background

2. The present appeal under Section 21 of the National Investigation Agency Act, 2008 (hereinafter “NIA Act”) has been filed challenging the



impugned order dated 4th June, 2026 passed by the Id. Additional Sessions Judge-03/Special Judge (NIA Court), Patiala House Courts, New Delhi in **RC No. 7/2026/NIA/DLI** titled '**NIA v. Mathew Aaron Van Dyke and Ors.**'.

3. The said case arises out of FIR No. **RC No. 7/2026/NIA/DLI** dated 13th March, 2026 registered at P.S. NIA, New Delhi for offences punishable under Section 18 of the Unlawful Activities (Prevention) Act, 1967 (hereinafter "**UAPA**").

4. *Vide* the impugned order, the request for extension of judicial custody of the Appellant has been allowed by the Id. Special Judge beyond the period of 90 days to 180 days in terms of Section 43D(2)(b) of the UAPA.

5. On 10th July, 2026, when this matter was first considered. Mr. Rahul Tyagi, Id. Counsel for the NIA had raised a preliminary objection to the maintainability of the present appeal on the ground that the impugned order is an interlocutory order against which an appeal under Section 21 of the NIA Act would not lie.

6. In response to the same, Ms. Nithya Ramakrishnan, Id. Senior Counsel appearing for the Appellant, had drawn our attention to the decision of a Coordinate Bench of this Court in **State (NCT of Delhi) v. Anamul Ansari, 2024:DHC:9588-DB**, wherein the State's appeal against an order refusing to grant extension of time for investigation under Section 43D(2)(b) was held to be maintainable.

7. Considering this position, notice was issued and the pleadings were directed to be completed.

8. This matter was next heard on 30th July, 2026, on which date, arguments were advanced by both parties in respect of maintainability of the present



appeal. Thereafter, on the same date, judgement was reserved in this matter on the issue of maintainability.

Submissions on Behalf of the Parties

9. On behalf of the NIA, it is submitted by Mr. Rahul Tyagi, Id. SPP that the issue of whether an order granting extension of time for investigation under Section 43D(2)(b) would be an appealable order or not is no longer *res integra*. It is his submission that such an order would be an interlocutory order and not a final order. Hence, the appeal under Section 21 of NIA Act would not be maintainable. In support of this, the Id. SPP has placed reliance on the following decisions:

- (i) **National Investigation Agency v. Akhil Gogoi, 2022 SCC OnLine Gau 1446;**
- (ii) **Jai Kishan Sharma v. Union of India, 2019 SCC OnLine Gau 5814;**
- (iii) **State of NCT of Delhi v. Anamul Ansari & Ors., 2024:DHC:9588-DB;**

10. It is further submitted that though an appeal against the impugned order is not maintainable, the Appellant is free to approach the Id. Single Judge of this Court for exercising inherent jurisdiction under Section 482 of Code of Criminal Procedure, 1973 (hereinafter "*CrPC*").

11. *Per contra*, Ms. Nithya Ramakrishnan, Id. Senior Counsel has argued that an order granting extension of time for investigation cannot be an interlocutory order, especially, considering the serious consequences as to the liberty of an accused. The direct result of the impugned order is that the



Appellant's right to default bail has been defeated. Accordingly, the impugned order has finality attached to it.

12. It is her submission that while considering the nature of an order, the Court has to test the same on three planks:

- (i) Whether the order concludes the proceedings absolutely?
- (ii) Whether the order terminates the proceedings for any of the parties?
- (iii) Whether it is an intermediary order as explained by the Supreme Court in ***Madhu Limaye v. The State of Maharashtra, (1977) 4 SCC 551***?

13. While considering these three factors, the Court would have to appreciate that the entitlement of the Appellant for default bail itself is rendered infructuous for the Appellant, in view of the extension. It is submitted that for the extended 90 days period the Appellant continues to remain in detention depriving him from being released on default bail which also affects his rights under Article 21 of the Constitution of India.

14. Ld. Senior Counsel has vehemently urged that this Court in ***State NCT of Delhi v. Anamul Ansari & Ors. 2024:DHC:9588-DB*** has already taken a view that an order refusing extension is appealable at the behest of the State, then *a fortiori*, the impugned order granting extension would also be appealable.

15. The further submission is that usually, as held in ***M. Ravindran v. Directorate of Revenue Intelligence, (2021) 2 SCC 485***, an application for extension of time for investigation and an application seeking default bail ought to be considered by the Trial Court together, so that the Trial Court is



able to appreciate the issue from the point of view of both NIA as also the accused. However, reference is made to paragraph 15 of the impugned order, to argue that, in the present case, the Id. Special Judge has erred in considering the objections to the extension of time for investigation as arguments for seeking default bail, in as much as, the right to default bail would accrue only on completion of 90 days and not on the 83rd day when the impugned order was passed.

16. On these grounds, it is submitted that the present appeal would be maintainable before this Court. However, it is also submitted by Id. Senior Counsel that in case this Court finds the present appeal not maintainable, then in terms of the Coordinate Bench decision in ***Syed Shahid Yousuf v. National Investigation Agency, 2018 SCC OnLine Del 9329***, this Court may consider the present appeal as a petition under Section 482 of CrPC and decide the same on merits.

Analysis and Findings

17. Heard.

18. The issue for this Court's consideration is whether an order granting extension of time for investigation under Section 43D(2)(b) of the UAPA has to be treated in the same manner as an order refusing to grant extension of time i.e., *whether an order granting extension of time under Section 43D(2)(b) of the UAPA is an appealable order under Section 21 of the NIA Act.*

19. Under Section 21 of the NIA Act, any judgment, sentence or order not being an interlocutory order of a Special Court is appealable before the High Court. Further, as per Section 21(4) of the NIA Act, an appeal shall lie to the



High Court against an order granting or refusing bail as well. For ease of reference, the said provision is extracted hereunder:

“21. Appeals.—(1) Notwithstanding anything contained in the Code, *an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of a Special Court to the High Court both on facts and on law.*

(2) Every appeal under sub-section (1) shall be heard by a bench of two Judges of the High Court and shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.

(3) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order including an interlocutory order of a Special Court.

(4) *Notwithstanding anything contained in sub-section (3) of section 378 of the Code, an appeal shall lie to the High Court against an order of the Special Court granting or refusing bail.*

(5) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment, sentence or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days:

Provided further that no appeal shall be entertained after the expiry of period of ninety days”



20. It is relevant to also consider Section 43D(2) of UAPA which modifies the time granted for investigation under Section 167 of CrPC to the effect that the period for investigation available under the UAPA is longer than other offences governed by the CrPC. In terms of sub-clause (b) of Section 43D(2) the maximum period of investigation under CrPC of 90 days can be extended till 180 days provided a report is given by the Public Prosecutor to satisfy the Trial Court as to the progress of the investigation and the reasons for the extended detention of the accused. The relevant portion of Section 43D reads as under:

“43D. Modified application of certain provisions of the Code.

(1) Notwithstanding anything contained in the Code or any other law, every offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of clause (c) of section 2 of the Code, and “cognizable case” as defined in that clause shall be construed accordingly.

(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.”

21. In the present case, the FIR bearing number **RC No.07/2026/NIA/DLI** was registered on 13th March 2026. The allegation against the Appellants, who are Ukrainian Nationals, is that they were conspiring with local Ethnic Armed Groups in India to hamper national security and carry out attacks in Myanmar. The six Appellants, were arrested on the same day at the respective airports in Lucknow and Delhi. The Appellants were produced before the Id. Magistrate on 14th March, 2026 and were initially remanded to police custody and, thereafter, to judicial custody.

22. An application under Section 43D(2)(b) read with Section 187 of Bharatiya Nagarik Suraksha Sanhita, 2023 was moved on 3rd June 2026 by the NIA seeking extension of the investigation period till 180 days. In the said application various grounds had been raised including on the ground that the investigation is still ongoing and there are various facets to the conspiracy to be investigated. Further, the digital devices which were seized from the



Appellants also have to be analyzed and further time would be required for the same.

23. This application was considered by the Id. Trial Court on 3rd June, 2026 on which date notice was issued to the Id. Counsels for the Appellants. Thereafter, the matter was listed on 4th June, 2026 for hearing the parties. The Id. Trial court heard the parties and perused the Public Prosecutor's report and upon satisfying itself gave the following observations:

“15. It is not law of the land, that application like the one, as filed by Public Prosecutor herein, should be deferred till 90th day for any reason whatsoever. Purpose of filing such like applications is legal justification of custody of accused persons and the fact that accused persons know as to for what reason their further incarceration is sought by prosecuting agency and why it is granted. Purpose is not to wait till 90th day, for the purpose of affording right to accused to file default bail and if said purpose is to be seen, then on one hand, it will frustrate the mandate of provision itself and on the other hand, will lead to a situation where for brief period, this court will have to extend the judicial custody of accused persons, without any reason, simply for the purpose of hearing arguments on default bail application. That interpretation will not be proper. In this case, by virtue of objections raised by accused persons, it is clear that they have notice of present application. It is also clear that as per them, they are entitled for default bail, after 10.06.2026 in view of the fact that investigation is not complete. In other words, by virtue of said objections, they have brought to the notice of this court, that they will be pressing for their default bail, as on 10.06.2026. To that extent, said objections tantamount to their application based on default bail. In other words, their said application is heard together with present application of Public



Prosecutor, as per the mandate of Judge made law, cited above.

16. Now, coming to the application of Public Prosecutor, I find that Public Prosecutor has filed his report/reasons, which are specific for the purpose of extension of period of custody of accused persons, in sealed cover. This court is not obliged to share copy of the same with Ld. Counsels for accused persons. I have gone through the said report. After referring to brief facts of this case, details of progress of this case is mentioned. It also mentions about the reasons for seeking further judicial custody of accused persons. It also mentions the reasons based on which, investigation is not completed till date. Said details are not mechanical reproduction of previous application filed by IO for seeking judicial custody of accused persons. The facts are new. Evidence collected by IO are also new. I have seen and signed the case diaries, filed by IO, which only corroborate the version of Public Prosecutor.

17. Above-mentioned report, contents of application and case diary clearly indicate that IO/Public Prosecutor has justifiable reason, to submit that investigation is not completed till date. Said record also indicated that further time is required for completing investigation.”

24. Accordingly, vide the impugned order, further time for investigation and consequently the detention of the accused persons was allowed beyond 90 days and up to 180 days in the following terms:

“20. In the wake of above-mentioned appreciation and conclusions, application filed by the IO is allowed. The investigation period and detention period of aforesaid accused persons namely Matthew Aaron Van Dyke,



Hurba Petro, Slyviak Taras, Ivan Sukmanovskyi, Stefankiv Marian, Honcharuk Maksim and Kaminskyi Viktor, is extended beyond 90 days and up to 180 days in accordance with provision of Section 43D(2)(b) of UA(P)A, read with Section 187 of BNSS.”

25. The impugned order was passed on 4th June 2026 and by that time the 90 day period from the date of arrest had not lapsed. The said 90 day period lapsed on 10th June 2026 and since the extension was already granted, the stand of the Appellants is that they could not apply for default bail.

26. The Appellants are aggrieved from the impugned order, *inter alia*, on the ground that by deciding the application for extension of time for investigation, in effect, the entitlement of the Appellants for default bail is defeated.

27. The Appellants have relied with full force on the decision in **Anamul Ansari (supra)** to argue that the impugned order is an appealable order. This Court has already taken a view in **Anamul Ansari (supra)** that an order refusing to grant extension of time for investigation would have finality attached to the same. The Court had analyzed various judgments of the Supreme Court as also other High Courts and held as under:

“..53. The crux of the above decisions would show that there are three categories of orders:

- i. Final orders.
- ii. Interlocutory orders.
- iii. Intermediate orders.

54. The third category of orders, as laid down in **Madhu Limaye (supra)**, are neither interlocutory orders nor final orders but somewhere in between. In the course of a civil or a criminal proceeding, there could be several orders which would not fall in the category of



interlocutory or final. Such orders could have trappings of finality and irretrievable consequences that may be attached to them. Such orders though not deciding the case finally, are clearly not interlocutory orders as they may have a final bearing on the manner in which the case would proceed.

55. For example, an order framing charge could have finality attached to it as held in **V.C. Shukla (supra)**. Other examples of the same would be:

- (i) Order summoning an accused, as held in **Jagan Nath v. Bhagwan Dass, 1978 Cri LT 133 (Punj & Har HC)**;
- (ii) Order taking cognizance of offence, as held in **Tilk Raj v. State of U.P., 1979 Cri LJ 308 (All HC)**;
- (iii) Order attaching subject of dispute, as held in **Umrao v. Sheonarain, 1975 Raj LW 353**;
- (iv) Order of discharge, as held in **Gurucharan Singh v. State of Punjab, 1978 Cri LJ 1330 (P&H HC)**;

56. In the present case, the dismissal of the application seeking extension of time under Section 43D(2) of UAPA, has two clear consequences:

- a) The accused is entitled to default bail;
- b) The release of the accused would have a direct bearing on the investigation and the manner in which it would proceed.

57. **Would such an order merely be an interlocutory order against which no appeal would lie? The answer, in view of the position of law as discussed hereinabove, is clearly in the negative. The finality attached to such an order would be that the State may be unable to again obtain custody of these accused, especially, in a case involving serious offences**



including under the UAPA. The accused would be allowed to freely move around in society while the investigation is not concluded and some of the other accused persons are still at large. Such accused could also affect or tamper with evidence or witnesses or even indulge in prejudicial activities which may have a larger impact on society.

58. In this regard, the recent decision of the Supreme Court in **Shaik Nazneen v. State of Telangana, (2023) 9 SCC 633**, is relevant. The Court while considering the default bail available to an accused under Section 167 of CrPC has observed as under qua imposition of stringent conditions in cases of default bail:

“15. The other reason assigned is that the trial court while granting bail did not lay down any conditions. This is again a wrong presentation of the case. Conditions were not imposed simply as it was a default bail, and in bail of this nature conditions are not liable to be imposed.”

Thus, if the accused are granted the benefit of default bail in the present matter, the Trial Court may not be able to impose any stringent conditions as may be necessary in such sensitive matters involving national security.

59. As can be seen from the facts of the present case, some of the accused have still not been arrested or apprehended. They are absconding. There are possibilities of the accused teaming up with such non-apprehended persons and adversely impacting the investigation. **Further, prior to the filing of the charge-sheet, the accused would be released on default bail wherein the usual conditions for grant of bail are not**



to be gone into by the Trial Court. These consequences are irreversible upon the passing of the impugned order. Any order which can have such irreversible consequences in a case of such magnitude and sensitivity cannot be held to be an interlocutory order.

60. In view of the abovesaid discussion, it is clear that an order rejecting the application for extension of period of investigation from initial 90 to 180 days under Section 43D(2) of UAPA would be an appealable order and not an interlocutory order.

61. Thus, the appeal in the present case is held to be maintainable and the preliminary objection raised by the Respondents is rejected.”

28. As can be seen from the above, the Coordinate Bench had considered the decision of the Supreme Court in **Madhu Limaye (supra)** and analyzed the nature of an order refusing to grant extension of time for investigation. It was held that such an order would have irreversible consequences for the Prosecution, and therefore such an order cannot be considered as interlocutory order but an order which has a finality attached to it.

29. It is noted that the decision in **Anamul Ansari (supra)** is challenged before the Supreme Court in **SLP (Crl.) No. 4633/2025** and is stated to be pending for consideration.

30. In the opinion of this Court, a similar exercise as conducted in **Anamul Ansari (supra)** of considering the nature of the impugned order, would be expedient to adjudicate the maintainability of this appeal.

31. In fact, this issue has now been opined upon in various decisions wherein a clear view has been taken that an order granting an extension would be an interlocutory order and hence not appealable. A Coordinate Bench of



this court in *Syed Shahid Yousuf (supra)* has held that such an order is an interlocutory order and is only reviewable under Section 482 CrPC. The relevant observations read:

“19. The order dated 5th February 2018 allows the application of the NIA to the extent that the period of investigation is extended beyond 106 days to 180 days under Section 43D UAPA. While the Respondent may be justified in contending that the order dated 5th February 2018 did not determine the rights of any of the parties and would have no bearing on the proceedings of the trial Court or the ultimate decision of the case and is, therefore, an interlocutory order, it appears to the Court that notwithstanding the bar contained under Section 21 NIA Act, this Court can nevertheless judicially review such an order in exercise of its inherent jurisdiction under Section 482 Cr PC.

20. The position has been further clarified by the Supreme Court in its recent judgment in Asian Resurfacing of Road Agency Pvt. Ltd. v. Central Bureau of Investigation, (2018) 5 Scale 269. That judgment was made in the context of Section 19 (3) (c) Prevention of Corruption Act 1988, which provides that “notwithstanding anything contained in the Code of Criminal Procedure, 1973..... (c) no court shall stay the proceedings under this Act on any other ground and no court shall exercise the powers of revision in relation to any interlocutory order passed in any inquiry, trial, appeal or other proceedings.” The Supreme Court has clarified that in the rarest of rare cases, a writ petition could be entertained against such an order notwithstanding the above bar instead of requiring a separate petition to be filed only for that purpose which will only result in multiplicity of proceedings.

21. Therefore, in the present case, the proper course is



for the Court to entertain the challenge to the order dated 5th February 2018 of the Special Court by invoking the jurisdiction of this Court under Section 482 Cr PC. **Therefore, although technically the present appeal against the order dated 5th February 2018 of the Special court would not be maintainable, to require the Appellant at this stage to file a separate application under Section 482 Cr PC for that purpose,** would only multiply proceedings. Having heard the matter on merits at length, the Court considers it appropriate to exercise its jurisdiction under Section 482 Cr PC as far as the impugned order dated 5th February 2018 of the Special Court is concerned, in these proceedings itself. The preliminary objection is disposed of accordingly.”

32. A similar view was also taken by the Division Bench of the Guwahati High Court in ***Jai Kishan Sharma (supra)***, where the Court observed as under:

“25. A Division Bench of our own hon'ble High Court, in *Londhoni Devi and Ors. v. State*, 2013 (3) GLT 249, while discussing as to what is an interlocutory order, with reference to the provisions of section 21(3) of NIA Act held, after referring several authorities, held that an order framing charge under the scheme of NIA Act, 2008, is an interlocutory order and no appeal lies therefrom. **Drawing analogy with the said decision of our own High Court, we can hold that the order impugned in this appeal does not terminate the proceeding or finally decide the rights of the parties and as such is an interlocutory order only. That being so, in view of the provisions of section 21(3) of NIA Act, the appeal is not maintainable.**

26. The learned counsel for the accused-appellants have once again referred *Syed Shahid (supra)* to counter the argument that the appeal is not maintainable and has submitted that this court can convert the appeal to an



application under section 482 of the Cr.PC and decide the matter. On perusal of the said decision, it appears that the said decision also held that the order extending custody beyond 90 days being an interlocutory order is not appealable. However, to avoid multiplicity of litigation, the hon'ble Delhi High Court has converted the proceeding to one under section 482 of Cr.PC and decided the matter on merit in respect of extension of custody of the accused therein.

33. This view of the Division Bench of the Guwahati High Court was also upheld by the Full Bench of the Guwahati High Court in **Akhil Gogoi (supra)**, where the Court observed as under:

“76. From the aforesaid conclusions, as regards the proceedings on the subject-matter of extension of detention in custody of the accused-persons for the purpose of the investigation, it can be concluded that by the orders of refusal of extension of detention in custody dated 16-3-2020 and 4-4-2020 the proceedings itself came to an end. Further by the orders of refusal of extension of detention in custody dated 16-3-2020 and 4-4-2020 the fundamental and legal rights of accused A1 and accused A2, A3 and A4 to remain not in custody any further in connection with the investigation in NIA Case No. RC-13/2019/NIA/GUW had also been finally determined. As such, there is a final determination of the rights of one of the parties to the proceedings i.e. the accused-persons. Also the requirement of the investigation being the appellant-NIA to have the detention of the accused-persons extended beyond 90 days up to 180 days had also been finally determined by the two orders dated 16-3-2020 and 4-4-2020.

77. In view of such conclusion, the orders dated 16-3-2020 in Misc. Case (NIA) No. 1/2020 and dated 4-4-2020 in Misc. Case (NIA) No. 4/2020 cannot be said to



be ‘interlocutory order’, but a ‘final order’, inasmuch as, the proceedings in which such orders were passed came to an end and the rights of one of the parties had been finally determined and also the requirement of the other party had also been finally determined.

78. The reference on the question as to whether the orders dated 16-3-2020 in Misc. Case (NIA) No. 1/2020 and dated 4-4-2020 in Misc. Case (NIA) No. 4/2020 are ‘interlocutory order’ or ‘final order’ is answered accordingly.

79. We further provide that the judgment and order dated 20-12-2019 of the Division Bench rendered in Jai Krishna Sarma v. Union of India, (2020) 1 GLT 122 providing that the order allowing for extension of detention in custody of the accused-persons is an ‘interlocutory order’ is accepted to be the correct proposition of law. In a situation, where extension of detention in custody of the accused-persons is allowed, firstly, the proceeding on the subject-matter whether such detention is to be allowed or not does not come to an end and secondly, the right of one of the parties i.e. the accused-persons, to remain not in custody in connection with the investigation, otherwise, than by following the due procedure of law, had also not been finally determined inasmuch as, after the end of the extended period of detention there would be a further consideration as to whether the detention required to be further extended or not.”

34. In this backdrop, the question that arises is - What is the nature of an order passed granting extension of time for investigation under Section 43D(2)(b) of UAPA? The grant of extension has a clear consequence for the accused i.e., that at the expiry of 90 days the Appellant would not be entitled to default bail. However, this right to default bail is a right which is governed



by the statute itself *i.e.*, Section 43D(2) of UAPA. It is not an absolute right but a consequence which may be deferred or postponed by the Trial Court if it is satisfied as to the progress of investigation and specific reasons for continued detention of the accused. If the extension is granted, the right to default bail is not rejected but merely the availment of default bail is postponed to the 181st day, instead of the 91st day. The nature of such an order is, therefore, merely interlocutory and does not have finality attached to it.

35. Considering the seriousness of allegations in respect of offences under UAPA and the complexity of cases therein, the need for extension of time for investigation in *bona fide* cases is understandable. Such a need of the investigating agency and the corresponding curtailment of default bail of the accused, is conditioned by the stipulations in the statute – *i.e.*, satisfaction of the Trial Court as to the progress of investigation and the requirement of specific reasons for detention of accused. Thus, the intention of the legislature is not to make such an order an appealable order under Section 21 of the NIA Act, as at the stage when the extension is granted, the same is based on the report of the Public Prosecutor which is only seen by the Trial Court and the merits of the application is to be merely assessed for the purpose of granting extension.

36. As held in ***Madhu Limaye (supra)***, there are three categories of orders namely final orders, interlocutory orders, and intermediate orders. An order granting further extension would not even be an intermediate order as the order granting extension does not even have trappings of irretrievable consequences. They are not orders which are in between but are orders wherein the Trial Court has merely exercised discretion to grant extension



subject to satisfaction of certain conditions. The right to default bail is not rejected but merely postponed, when the extension is granted.

37. This Court agrees with the above decisions that an order granting extension of time for investigation under Section 43D(2) of the UAPA being an interlocutory order would not be an appealable order under Section 21 of the NIA Act.

38. Further, this Court reiterates the position of law as held in ***Syed Shahid Yousuf (supra)*** that the order granting extension of time for investigation would only be amenable to judicial review under Section 482 CrPC/Section 528 of BNSS.

39. In this background, as per the request made by the ld. Sr. Counsel for the Appellants, the present appeal is disposed of with the direction that the same be renumbered as Writ Petition under Section 482 of the CrPC/ Section 528 of BNSS and be listed before the concerned Roster Bench.

40. The above direction is being issued by this Court in view of the concern expressed by Appellants' counsel that there would be considerable delay in procuring further affidavits, *vakalatnamas*, etc. from the Appellants as they are still in custody.

PRATHIBA M. SINGH
JUDGE

VIKAS MAHAJAN
JUDGE

AUGUST 4, 2026
dj/msh