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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010753072024

+ **CRL.A. 1011/2024**

AQUIL AHMEDAppellant

Through: Mr.Adit S. Pujari, Ms.Perna Mukherjee, Mr.Bhavesh Seth, Mr.Vibhav Rawat, Mr.Shaikh Saipan, Mr.Md. Arif Hussain, Mr.Abdul Shukoor, Mr.Shereef K. A. and Mr.Mansoor Ali, Adv.

versus

NATIONAL INVESTIGATION AGENCY THROUGH THE CHIEF INVESTIGATING OFFICERRespondent

Through: Mr.Rahul Tyagi, SPP, Mr.Vikas Walia, ASPP, Mr.Jatin, ASPP with Mr.Avinash Kumar Singh, Mr.Amit Rohilla, Mr.Priyansh Raj Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **15.09.2026**

1. The present appeal has been filed challenging the order dated 19.09.2024 passed by the learned Special Judge (Additional Sessions Judge-03, N.D.D. Patiala House Courts, New Delhi) in Criminal Appeal No. 157/2023, dismissing the said appeal filed by the appellant herein.

2. The above appeal had been filed by the appellant challenging

the order dated 10.06.2023 passed by the Designated Authority, Ministry of Home Affairs, New Delhi under Section 25(3) of the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as, the, 'UAPA'), whereby attachment of the property at 4th and 5th floors at Survey No. 5, Ashraf Nagar, Lane No. 8, Opposite Alif Tower, Kondhwa, Pune – 411048, had been confirmed. The learned Special Judge, while dismissing the said appeal filed under Section 25(6) of the UAPA, upheld the order of the learned Designated Authority.

3. Aggrieved thereby, the appellant has filed the present appeal under Section 28 of the UAPA read with Section 21 of the National Investigation Agency Act, 2008 (hereinafter referred to as the, 'NIA Act').

4. On 21.01.2026, an objection was raised by the respondent on the maintainability of the present appeal. Accordingly, submissions have been made before us on the said issue.

5. The learned counsel for the appellant has placed reliance on the order dated 09.07.2024 passed by a Coordinate Bench of this Court in CRL.A. 391/2022, titled ***Nasreen Mohsin Choudhary v. National Investigation Agency***, wherein the Coordinate Bench has formed a *prima facie* opinion that an appeal against an order of rejection of appeal against attachment passed by the learned Special Judge under Section 25(6) of the UAPA is maintainable under Section 21 of the NIA Act.

6. He also places reliance on the Judgment passed by the Division Bench of the High Court of Jharkhand in ***Amit Agarwal v. Union of India***, 2025 SCC OnLine Jhar 2458, wherein the respondent had, in

fact, opposed the maintainability of a Writ Petition filed by the appellants therein, by contending that instead of filing a Writ Petition, they had an alternate remedy of filing an appeal under Section 21 of the NIA Act. He submits that the said plea of the respondent was accepted by the Division Bench and it was held that the proper remedy against an order passed under Section 25(6) of the UAPA is in the form of an appeal under Section 21 of the NIA Act.

7. On the other hand, the learned counsel for the respondent submits that Chapter V of the UAPA, providing for the forfeiture of proceeds of terrorism or any property intended to be used for terrorism, is a complete Code in itself.

8. He submits that against an order of attachment, Section 25(6) of the UAPA provides for only one appeal, that is, to the Special Court. Similarly, against an order of forfeiture of the property passed under Section 26 of the UAPA, a remedy of appeal to the High Court is provided under Section 28 of the UAPA. He submits that, therefore, Section 21 of the NIA Act would have no application to an order passed under Section 25(6) of the UAPA, as this would be like providing a second appeal against the order of attachment of property.

9. He submits that even otherwise, an order passed under Section 25(6) of the UAPA is an interlocutory order against which no appeal is maintainable under Section 21 of the NIA Act.

10. He also places reliance on the order dated 30.09.2024 passed by a Coordinate Bench of this Court in CRL.A. 358/2022, titled ***Asiyan Andrabhi v. National Investigation Agency***, wherein this Court had refused to entertain the appeal filed against an order passed under

Section 25(6) of the UAPA.

11. The learned counsel for the respondent further submits that, in case, this appeal is held maintainable against an order passed under Section 25(6) of the UAPA, it may lead to a conflict of opinion when a separate appeal is filed under Section 28 of the UAPA, and this consequence would never have been intended by the legislature.

12. We have considered the submissions made by the learned counsels of the parties.

13. Section 21 of the NIA Act, providing for an appeal against any judgment, sentence or order, not being an interlocutory order, passed by a Special Court, reads as under:

“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.”

14. Section 21 of the NIA Act, therefore, provides for a right to appeal against any judgment, sentence or order, not being an interlocutory order, passed by the Special Court to the High Court, both on facts and on law. This is an unrestricted Statutory right vested in the parties, with the only exception being that the order passed by the learned Special Judge should not be an interlocutory order.

15. We will now consider the relevant Sections of the UAPA, which are as under:

“25. Powers of investigating officer and Designated Authority and appeal against order of Designated Authority.—(1) If an officer investigating an offence committed under Chapter IV or Chapter VI, has reason to believe that any property in relation to which an investigation is being conducted, represents proceeds of terrorism, he shall, with the prior approval in writing of the Director General of the Police of the State in which such property is situated, make an order seizing such property and where it is not practicable to seize such property, make an order of attachment directing that such property shall not be transferred or otherwise dealt with except with the prior permission of the officer making such order, or of the Designated Authority before whom the property seized or attached is produced and a copy of such order shall be served on the person concerned.
(2) The investigating officer shall duly inform the Designated Authority within forty-eight hours of the seizure or attachment of such property.

(3) The Designated Authority before whom the seized or attached property is produced shall either confirm or revoke the order of seizure or attachment so issued within a period of sixty days from the date of such production:

Provided that an opportunity of making a representation by the person whose property is being seized or attached shall be given.

(4) In the case of immovable property attached by the investigating officer, it shall be deemed to have been produced before the Designated Authority, when the investigating officer notifies his report and places it at the disposal of the Designated Authority.

(5) The investigating officer may seize and detain any cash to which this Chapter applies if he has reasonable grounds for suspecting that—

(a) it is intended to be used for the purposes of terrorism; or

(b) it forms the whole or part of the resources of a terrorist organisation:

Provided that the cash seized under this subsection by the investigating officer shall be released

within a period of forty-eight hours beginning with the time when it is seized unless the matter involving the cash is before the Designated Authority and such Authority passes an order allowing its retention beyond forty-eight hours.

Explanation.—For the purposes of this subsection, “cash” means—

(a) coins or notes in any currency;

(b) postal orders;

(c) traveller’s cheques;

[(ca) credit or debit cards or cards that serve a similar purpose;]

(d) banker’s drafts; and

(e) such other monetary instruments as the Central Government or, as the case may be, the State Government may specify by an order made in writing.

(6) Any person aggrieved by an order made by the Designated Authority may prefer an appeal

to the court within a period of thirty days from the date of receipt of the order, and the court may either confirm the order of attachment of property or seizure so made or revoke such order and release the property.

26. Court to order forfeiture of proceeds of terrorism.—Where any property is seized or attached on the ground that it constitutes proceeds of terrorism and the court confirms the order in this regard under sub-section (6) of section 25, it may order forfeiture of such property, whether or not the person from whose possession it is seized or attached, is prosecuted in a court for an offence under Chapter IV or Chapter VI.

27. Issue of show cause notice before forfeiture of proceeds of terrorism.—(1) No order forfeiting any proceeds of terrorism shall be made under section 26 unless the person holding or in possession of such proceeds is given a notice in writing informing him of the grounds on which it is proposed to forfeit the proceeds of terrorism and such person is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of forfeiture and is also given a reasonable opportunity of being heard in the matter.

(2) No order of forfeiture shall be made under sub-section (1), if such person establishes that he is a bona fide transferee of such proceeds for value without knowing that they represent proceeds of terrorism.

(3) It shall be competent for the court to make an order in respect of property seized or attached,—

(a) directing it to be sold if it is a perishable property and the provisions of section 459 of the Code shall, as nearly as may be practicable, apply to the net proceeds of such sale;

(b) nominating any officer of the

Central Government or the State Government, in the case of any other property, to perform the function of the Administrator of such property subject to such conditions as may be specified by the court.

28. Appeal.—(1) *Any person aggrieved by an order of forfeiture under section 26 may, within one month from the date of the receipt of such order, appeal to the High Court within whose jurisdiction, the court, which passed the order appealed against, is situated.*

(2) *Where an order under section 26 is modified or annulled by the High Court or where in a prosecution instituted for any offence under Chapter IV or Chapter VI, the person against whom an order of forfeiture has been made under section 26 is acquitted, such property shall be returned to him and in either case if it is not possible for any reason to return the forfeited property, such person shall be paid the price therefor as if the property had been sold to the Central Government with reasonable interest calculated from the day of seizure of the property and such price shall be determined in the manner prescribed.”*

16. Section 25 of the UAPA empowers the officer investigating an offence committed under Chapter IV or Chapter VI of the said Act to make an order seizing property which he has reason to believe to represent proceeds of terrorism, as defined under Section 2(g) of the UAPA. On making such order, the investigating officer is to inform the Designated Authority under Section 25(2) of the UAPA of such order within 48 hours of the seizure or attachment of the property. Under Section 25(3) of the UAPA, the Designated Authority before whom the seized or attached property is produced, shall either confirm

or revoke the order of seizure or attachment so issued, within a period of 60 days from the date of such production. An appeal may be preferred by a person aggrieved against the order passed by the Designated Authority under Section 25(3) of the UAPA, within a period of 30 days from the date of receipt of the order, and the Court may by an order passed under Section 25(6) of the UAPA, either confirm the order of attachment of property or seizure so made, or revoke such order and release the property.

17. The effect of the attachment under Section 25(6) of the UAPA is in Section 26 of the said Act, which provides that any property which is seized or attached on the ground that it constitutes proceeds of terrorism and such order of attachment has been confirmed under Section 25(6) of the UAPA, may be forfeited by first issuing a show cause notice under Section 27 of the said Act.

18. Section 28 of the UAPA provides a right to appeal against the order of forfeiture passed under Section 26 of the said Act.

19. From a reading of the above provisions, therefore, it is apparent that as far as the seizure or attachment of property as “proceeds of terrorism” is concerned, the order passed by the Court under Section 25(6) of the UAPA is final and not ‘interlocutory’ in nature. Any such order may, under Section 26 of the UAPA, result in forfeiture of such property, however, that is a stage subsequent to the confirmation of seizure/attachment of the property.

20. A similar view was taken by the Jharkhand High Court in **Amit Agarwal** (supra), in fact, on an objection raised by the respondent itself, regarding the maintainability of a Writ Petition on the ground of

availability of an alternative remedy in the form of an appeal under Section 21 of the NIA, observing as under:

“5. Before the learned Single Judge, at the outset, learned counsel for the respondent-NIA raised objection making submission that in light of Section 21 of the National Investigation Agency Act, 2008 the appeal is required to be filed and same should be heard by a Division Bench.

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96. Thus, Section 25 of the UA (P) Act, 1967 is a complete scheme for dealing with seizure or attachment of proceeds of terrorism. No doubt if seized articles are held to be "proceeds of terrorism", the mandate of Section 25 of the UA (P) Act, 1967 would come into play. Reading of the whole of Section 25 of the UA (P) Act, 1967 conveys that the term "proceeds of terrorism" is used in the sense of some valuable movable or immovable, obviously acquired by the act of terrorism. Exhaustive provisions are made for the seizure and attachment of property, opportunity to make a representation, confirmation or rejection of the order of seizure or attachment and the right of appeal to the aggrieved person. The whole scheme conveys that it relates a valuable movable or immovable property which was acquired through the act of terrorism.

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101. It needs to refer herein that seizure or attachment is one part of the exercise while forfeiture is another part. The forfeiture under Section 26 can be initiated but before forfeiting the principle of natural justice is to be observed provided therein a provision that in a case of acquittal the amount is to be returned back.

102. The said mechanism is not available under Section 25 of the UA(P) Act, 1967 rather the situation gets clarified from the provision of Section 33 wherein the

circumstances of such case where property has not been attached but the concerned accused person has been convicted then the court trying the offence can attach the property if not attached under the said chapter i.e. Chapter V; meaning thereby the seizure or attachment is independent to that of the forfeiture and once the order of attachment has been passed having been confirmed by the court that is the Special Judge constituted under Section 11 then the issue of seizure or the attachment will be said to have adjudicated the right of the party so far as the seizure or attachment is concerned.

103. *Accordingly, If the provision of Sections 25, 26 and 33 of the UA (P) Act, 1967 will be taken together then it would be evident that Section 33 speaks with respect to the issue of attachment if not attached in a case where person concerned has been arraigned as an accused. The issue of forfeiture has been referred under Section 26 and the obvious reason as per our view is that the proceeds of terrorism if the amount is being used for proceeds of terrorism and the third party claim its right and the third party establishes its bona fide the such amount is to be refunded to the third party. Otherwise, the Section 33 of the UA (P) Act, 1967 would have also been stipulated with filing the reference of seizure or attachment along with forfeiture, therefore, the Section 25 of the UA(P) Act, 1967 is to be read along with Section 33 of the Act making two different proceedings; one under Section 25 confers power upon the Designated Authority/investigating officer appeal before the court constituted under Section 11 of the NIA Act, 2008 and if there is no attachment of the property or property has not been seized said to be the proceeds of crime then the court has conferred with the power to seize or attach in a case of conviction of that person but consciously the reference of the word "forfeiture" is not there keeping the fact into consideration as per the legislative command*

that there might be possibility to claim such proceeds by the third party and in case of proving the bona fide the chance would be there to return the amount in favour of third party. If the forfeiture amount would have been inserted under Section 33 then the provision of Section 26 would have become redundant.

104. *Herein, we are not concerned with the consequence of seizure or attachment as has been dealt with under Section 26 of the UA (P) Act, 1967.*

105. *Accordingly, the issue has been answered.*

106. *Therefore, on the basis of the discussion made hereinabove this Court is of the view that the order passed under Section 25(6) of the UA (P) Act, 1967 cannot be construed to be interlocutory in nature rather it will be finally adjudicating the right of the party so far as the issue of seizure or attachment is concerned based upon the availability of document having been appreciated by the learned Special Judge under Section 25(6) of the UA (P) Act, 1967.*

107. *This Court, therefore, is of the view that when the provision of appeal is provided under the special statutes, which we are dealing with then allowing the party concerned to invoke the jurisdiction under Article 226 of the Constitution of India will be contrary to the principle laid down therein, wherein it has been provided that the forum of writ jurisdiction can only be exercised if there is no availability of efficacious alternative remedy.*

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109. *Since, this Court has come to the finding that order passed under Section 25(6) of the UA (P) Act, 1967 cannot be construed to be interlocutory in nature and therefore appeal will lie as stipulated under Section 21 of the Act, 2008.”*

21. As far as the order of the Coordinate Bench in **Asiya Andrabi**

(supra) is concerned, on the peculiar facts of the said case, the Court had declined to entertain the appeal. There was no finding on the maintainability of the appeal in the said order. In fact, the same Bench, in **Nasreen Mohsin Choudhary** (supra), had *prima facie* found the appeal to be maintainable. The said issue is still pending for determination in the said appeal.

22. As far as the submission of the learned counsel for the respondent that there is a likelihood of a conflicting opinion being rendered by the High Court if an appeal under Section 21 of the NIA Act is held to be maintainable against an order passed under Section 25(6) of the UAPA, as a separate appeal is already provided to this Court under Section 28 of the said Act, the same does not impress us. The scheme of the UAPA itself shows that there are two different distinct stages; one of attachment of the property under Section 25 of the said Act and the other of forfeiture of the property under Section 26 of the said Act. Simple attachment of the property does not automatically lead to its forfeiture under Section 26 of the UAPA. In fact, a separate show cause notice is required to be given under Section 27 of the said Act, and upon hearing the concerned party, an order of forfeiture is to be passed under Section 26 of the Act. The two appeals would, therefore, be dealing with distinct stages of the proceedings which are final in their own stages. In any case, there is no reason to presume that the High Court while dealing with the second appeal, will not take due cognizance of the order passed by the High Court in the previous appeal, if any.

23. We, accordingly, hold the present appeal to be maintainable and

reject the preliminary objection raised by the respondent on the maintainability of the appeal.

24. List the appeal for final hearing on 2nd December, 2026 at the '*End of the Board*'.

NAVIN CHAWLA, J

RAVINDER DUDEJA, J

SEPTEMBER 15, 2026/sg/Yg