

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

CrlA (D) No. 8/2025

Reserved On: 8th of September, 2025
Pronounced On: 19th of September, 2025

1. Yasir Ahmad Bhat, Age: 40 Years

S/O Ahmad Ullah Bhat
R/O Jablipora, Bijbehara.

2. Mehraj-ud-Din Dar, Age: 40 Years,

S/O Abdul Rashid Dar
R/O Sirhama, Bijbehara
Through his brother Ishfaq Ahmad Dar

... Appellant(s)

Through: -

Mr S. T. Hussain, Senior Advocate with
Ms Nida Nazir, Advocate.

V/s

**Union Territory of Jammu & Kashmir
Through SHO P/S Srigufwara.**

... Respondent(s)

Through: -

Mr Mohsin-ul-Showkat Qadri, Sr. AAG with
Ms Nowbahar Khan, Assisting Counsel.

CORAM:

**Hon'ble Ms Justice Sindhu Sharma, Judge
Hon'ble Mr Justice Shahzad Azeem, Judge**

(JUDGMENT)

Shahzad Azeem-J:

01. This appeal is filed under Section 21 of the National Investigation Agency Act, 2008 ["NIA Act"] against the Order dated January 25, 2025 passed by the Court of learned Special Judge (UAPA), Anantnag ["the Special Court"], whereby the application for release of vehicle bearing registration No. JK03L/4982, seized in connection with crime No. 83/2023

under Section 7/25 of the Indian Arms Act and Sections 13, 16 and 18-B of the Unlawful Activities (Prevention) Act, 1967 [“UA(P) Act”], came to be dismissed.

I. FACTS:

02. The facts in brief are culled out as follows:

03. On November 27, 2023, the police of Police Station, Srigufwara, in collaboration with 3rd RR *nafri* camp Sirhama (COB), said to have established a joint surprise (MVCP) at Mehand, Satkipora Crossing in the wake of inputs received from reliable sources regarding the movement of terrorists.

04. During *naka* duty, movement of two youths in suspicious circumstances alleged to have been observed, who were spotted coming from Mehand towards Satkipora Crossing in a suspicious condition. However, the duo, on sensing the presence of the *naka* party, attempted to flee from the spot, but the *naka* party said to have nabbed both the persons, who, on questioning, disclosed their identity as: (i) Mehraj-ud-Din Dar S/O Ab. Rashid R/O Sirhama; and (ii) Yasir Ahmad Bhat S/O Ahmadullah Bhat R/O Jablipora, Bijbehara, respectively.

05. The specific allegation is that during spot personal search of both the accused, 90 live rounds of AK 47 were recovered from the possession of Mehran-ud-Din Dar and one live hand grenade was also recovered from the possession of Yasir Ahmad Bhat, respectively. During further questioning, it came to fore that both the accused had allegiance with the banned terrorist outfit *Lashker-e-Toiba* (TRF) and have been actively involved in terrorist related activities, including instigation of youth to join terrorist cadres, etc.

06. Accordingly, a formal case FIR No. 83/2023 under Section 7/25 IA Act read with Sections 13, 16 and 18-B of the UA(P) Act and 3 Explosive Substances Act came to be registered and investigation commenced.

07. For the purpose of instant application, it is suffice to note that it came to fore from the material collected during the course of investigation that one load carrier bearing registration No. JK03L/4982 has been used in the terrorist related activities by the accused and, therefore, same was also seized and matter said to have taken up with the Police Headquarters, J&K regarding retention of the same under Section 25 of the UA(P) Act.

08. The impugned Order came to be passed in the above backdrop which was triggered on the basis of an application moved before the Special Court for its release, however, the Special Court, while dismissing the application, came to the conclusion that the matter is still pending with the Designated Authority and, after final decision of the Designated Authority, if there remains any grievance to the Applicant, he can avail the remedy under Section 25 (6) of the UA(P) Act.

II. CHALLENGE:

09. The main ground of challenge urged in the appeal is that the seized vehicle came to be purchased by raising financial loan and is also the only source of sustenance of the family of the Applicant, whereas, the vehicle is kept at Police Station since November 27, 2023 and that, in case the same is not released, it would be damaged beyond repairs. It is further submitted that the vehicle in question was never used for any terrorist related activities and, in case the vehicle will be required by the Investigating Agency, they will handover the same.

10. In addition to the submissions contained in the appeal, Mr S. T. Hussain, the learned Senior Counsel, appearing for the Appellants, raised legal points regarding the very legality of the seizure of the vehicle, in that,

it has been vehemently canvassed at Bar that Section 25 of the UA(P) Act has not been followed in letter and spirit, therefore, the entire proceedings are vitiated under law.

11. The argument of the learned Senior Counsel revolves round the point that the timeline provided under Section 25 of the UA(P) Act and the requirement of prior approval for seizure of the vehicle has not been followed, which goes to the root of the matter and, thus, the entire proceedings are vitiated.

12. On the other hand, the Respondent-UT has filed its Objections and opposed the appeal, *inter alia*, on the ground that the vehicle in question was being used for transportation of arms/ ammunition to carry out terrorist related activities and, thus, after observing all the codal formalities, same was seized. The Respondent-UT, in its Objections, has also delineated the factual details which has given rise to lodging of formal case against the accused and resultant seizure of the vehicle and, thereafter, went onto state that due procedure as envisaged under Section 25 of the UA(P) Act has been observed.

13. Mr Mohsin-ul-Showkat Qadri, the learned Senior Additional Advocate General, appearing for the Respondent-UT, would submit that Section 25 of the UA(P) Act is a complete code in itself, which has been scrupulously followed, however, the impugned Order as well as the seizure of the vehicle are interim measures, as till date, the said action has been neither confirmed nor revoked by the Designated Authority, therefore, the appeal is not maintainable.

14. It is also urged that the Director General of Police had already accorded the necessary approval in terms of Section 25 of the UA(P) Act vide a speaking Order dated 5th of June, 2024 and same has also been placed on record.

III. ANALYSIS:

15. Heard, considered and perused the records.

16. Before touching the nub of the controversy, we deem it proper to place on record that, although the learned Senior Counsel appearing for the Appellant, *inter alia*, raised the legal point regarding non-adherence to the timeline provided under Section 25 of the UA(P) Act and vitiation of the proceedings as a result thereof, but, the controversy dies down in view of the pendency of the proceedings before the Designated Authority, note whereof will be taken hereinafter.

17. At this stage, be it noted that Section 25 (1) of the UA(P) Act, *inter alia*, provides for seizure of any property which represents the proceeds of terrorism with the prior approval in writing of the Director General of Police. Similarly, Section 25 (2) further provides that the Investigating Officer shall duly inform the Designated Authority within forty-eight hours of the seizure or attachment of such property and, most importantly, Section 25 (3) provides that 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.

18. The proviso to Section 25 (3) of the UA(P) Act also enjoins upon the Designated Authority to afford an opportunity of making representation by the person whose property is being seized or attached.

19. Section 25 (6) of the UA(P) Act is also required to be taken into consideration in view of the fact that a statutory forum is available to the aggrieved person by an order passed by the Designated Authority by way of appeal. The Section provides that any person aggrieved by an order made by the Designated Authority may prefer an appeal to the Court within a period of thirty days.

20. From the Scheme of the UA(P) Act, it is obvious that the aggrieved person has been provided with remedy in the form of statutory forum at every level and, in this regard, Section 28 provides that 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.

21. As we have noticed hereinabove, there is a complete mechanism provided under the UA(P) Act itself, right from the seizure of the property to production before the Designated Authority and, thereafter, the statutory appeal to the Special Court and then to the High Court.

22. Now, turning to the case on hand, as per the record made available by the learned Senior Additional Advocate General, it appears that the Designated Authority, i.e., Divisional Commissioner, Kashmir, is in seisin of the matter in terms of Section 25 (3) of the UA(P) Act and, in this regard, notice has been issued to Yasir Ahmad Bhat (Appellant No.1 herein), who is the registered owner of the vehicle in question. Therefore, once the statutory forum in the shape of Designated Authority is made available to the Appellant, in that event, the Appellant cannot be allowed to invoke the jurisdiction of the High Court under Section 21 of the NIA Act, so as to circumvent the statutory remedy.

23. The notice dated 26th of August, 2025 issued to the Appellant, aligns with the mandate of proviso to Section 25 (3) which envisages that an opportunity of making a representation by the person whose property is being seized or attached shall be given. Therefore, the Appellant has an efficacious and effective remedy available to take all these pleas before the Designated Authority, where proceedings are pending.

24. However, to the contrary, the Appellant seems to have jump the gun and, instead of responding to the notice issued by the Designated Authority, filed an application for release of vehicle, which action of the Appellant is neither tenable from reading of Section 25 of the UA(P) Act nor is permissible in view of the complete mechanism provided under Section 25 of the UA(P) Act.

25. The present appeal is also not maintainable for the reason that Section 21 of the NIA Act provides for an appeal from any judgment or order not being an interlocutory order of the Special Court to the High Court, both on facts and law. It is trite law that an Order rejecting the application for release of seized property is interlocutory in nature as it does not finally determine the rights of the parties.

26. Therefore, having regard to the bar created under Section 21 of the NIA Act, the present appeal, yet for this reason, is also not maintainable.

27. We afraid, if the plea of the Appellant is accepted and indulgence shown, the same may amount to usurping the jurisdiction and the power vested in the Designated Authority, who had all the powers under Section 31 of the UA(P) Act of a civil Court for making full and fair enquiry into the matter before it and, this Court cannot relegate itself to the position of Designated Authority.

28. Yet for another reason, we are not inclined to interfere in the matter as under Section 30 of the UA(P) Act, the Designated Authority has the jurisdiction to investigate the claim or the objection made on the ground that such property is not liable to seizure or attachment, therefore, a statutory right to lay a claim or raise objection regarding seizure of property before the Designated Authority may be defeated, if the appeal is entertained, in that, as in the present case, the application before the Special Court as well as present appeal is not filed by the registered owner of the seized vehicle.

29. It is for the above discussed reasons, we do not deem it proper to go into the question of non-adherence of timeline provided under Section 25 of the UA(P) Act, as has been asserted by the learned Senior Counsel for the Appellant, in that, there is a complete mechanism provided under Section 25 of the UA(P) Act for raising all these points before the statutory forum and, as such, if still the Appellant will be dissatisfied, he can have his remedy before the Special Court under Section 25 (6) of the UA(P) Act and thereafter under Section 28 before this Court, therefore, the Appellant cannot maintain the appeal under Section 21 of the NIA Act.

IV. RESULT:

30. In view of above discussion, we are of the opinion that the appeal is not maintainable in view of the inbuilt mechanism and hierarchy provided under Section 25 of the UA(P) Act, upto appeal before this Court under Section 28 of the UA(P) Act. Accordingly, the present appeal is **dismissed**, along with connected CrlM(s). Interim direction(s), if any subsisting as on date, shall stand vacated.

(Shahzad Azeem)
Judge

(Sindhu Sharma)
Judge

SRINAGAR
September 19th, 2025
"TAHIR"

i. Whether the Judgment is approved for reporting?

YES.