BLOGS

Case Brief: Gulfisha Fatima v. State of NCT of Delhi

Shruti chauhan · 03 Nov 2026

This case brief on **Gulfisha Fatima v. State of NCT of Delhi** covers the facts, issues, arguments, holding and ratio of this major ruling on bail under the UAPA, along with the connected appeals decided with it.

Seven accused, one FIR, and years in custody without a trial. On January 5, 2026, the Supreme Court granted bail to five of them and refused it to two. How did it draw that line?

The allegations below are the prosecution's case. No one has been convicted, and the Court did not decide guilt.

Citation and Bench

Case Name: Gulfisha Fatima v. State (Govt. of NCT of Delhi), with connected appeals

Citation: 2026 INSC 2

Court: Supreme Court of India

Decided On: January 5, 2026

Bench: Justice Aravind Kumar (author) and Justice N.V. Anjaria

Docket: SLP (Crl.) No. 13988 of 2025, with SLP (Crl.) Nos. 14030, 14132, 14165, 14859, 15335 and 17055 of 2025

Provisions Involved: Article 21 of the Constitution; Section 43D(5), Section 15 and Section 18 of the Unlawful Activities (Prevention) Act, 1967

Facts of the Case: Gulfisha Fatima v. State of NCT of Delhi

FIR No. 59 of 2020 was registered by the Crime Branch on March 6, 2020, and investigation was handed to the Special Cell. The prosecution says the North East Delhi violence of February 2020

was the outcome of a pre planned conspiracy that began after the Citizenship Amendment Bill was passed in December 2019. The Court records that 54 lives were lost.

The appellants were Umar Khalid, Sharjeel Imam, Gulfisha Fatima, Meeran Haider, Shifa ur Rehman, Mohd. Saleem Khan and Shadab Ahmed. They face charges under Section 13, Section 16, Section 17 and Section 18 of the UAPA, along with Indian Penal Code offences including criminal conspiracy under Section 120B.

The prosecution says Khalid and Imam planned and directed the strategy, including the shift from sit ins to "chakka jams". It describes the others as local facilitators. Gulfisha Fatima, arrested in this FIR on April 11, 2020, is alleged to have coordinated protest sites in Seelampur and Jafrabad and helped mobilise people.

Procedural History

The main charge sheet was filed on September 16, 2020, followed by four supplementary charge sheets. The Trial Court rejected the bail pleas in 2022. On September 2, 2025, the Delhi High Court affirmed those refusals in a common judgment.

The appellants approached the Supreme Court in September 2025. The Bench heard arguments over 11 days and reserved judgment on December 10, 2025. At the time of the ruling, the trial was still at the stage of arguments on charge.

Issues

1. **Whether prolonged pre trial custody can, by itself, justify bail despite the bar in Section 43D(5) of the UAPA.**
2. **How the "prima facie true" test under Section 43D(5) is to be applied at the bail stage.**
3. **Whether disrupting essential supplies through "chakka jams" can amount to a "terrorist act" under Section 15.**
4. **Whether all accused in a conspiracy must be treated alike, or whether roles must be separately assessed.**

Arguments of the Appellants

The appellants argued that years in jail with no realistic end to the trial offended Article 21. They said they were not seeking an examination of the merits at this stage, only relief on delay.

They also said the case was built on protest speeches, pamphlets and WhatsApp groups, which amounted at most to public disorder and not terrorism. Several argued parity with co accused such as Devangana Kalita and Natasha Narwal, who had already been granted bail.

Arguments of the State

The State, represented by the Solicitor General and the Additional Solicitor General, argued that the UAPA is a special law and Parliament deliberately restricted bail. It said the violence was the culmination of phased planning, not a spontaneous event.

It also argued that the delay was due to the complexity of the case and the accused's own conduct, including repeated applications and objections. It said the definition of a terrorist act is not limited to conventional violence.

Precedents in Play

The Court drew on Union of India v K.A. Najeeb (2021), which allows constitutional courts to grant bail on long delay despite statutory bars. It balanced this against NIA v Zahoor Ahmad Shah Watali (2019), which limits bail stage scrutiny under the UAPA.

It also relied on Gurwinder Singh v State of Punjab (2024) and Union of India v Saleem Khan (2025), both of which stress that pleas of delay are decided on an accused specific basis.

Holding

In Gulfisha Fatima v. State of NCT of Delhi, the Court dismissed the appeals of Umar Khalid and Sharjeel Imam, and allowed the appeals of Gulfisha Fatima, Meeran Haider, Shifa ur Rehman, Mohd. Saleem Khan and Shadab Ahmed.

1. Delay is not a trump card. The Court held that delay triggers heightened scrutiny and does not automatically displace Section 43D(5). Relief depends on four factors: the gravity of the offence, the role of the accused, the strength of the prima facie case, and whether continued custody has become demonstrably disproportionate under Article 21.

2. K.A. Najeeb is a safeguard, not a formula. Reading Union of India v K.A. Najeeb as mandating bail on prolonged custody alone would, the Court said, attribute to it a consequence it never intended.

3. Section 43D(5) demands a structured, accused specific inquiry. The Court must ask whether the prosecution material, taken at face value, discloses a prima facie case. It must also ask whether the role shows a real nexus to the unlawful activity, rather than mere association. No mini trial is allowed, in line with NIA v Zahoor Ahmad Shah Watali.

4. A terrorist act is not confined to conventional violence. Section 15 covers acts by "any other means", including disrupting supplies or services essential to the community. Section 18 extends to conspiracy and preparatory acts.

5. Roles must be differentiated. Khalid and Imam were prima facie placed at the centre of the alleged plan. The Court held that continued detention was not constitutionally impermissible for them at this stage. They may renew their bail prayer after the protected witnesses are examined, or after one year, whichever is earlier.

6. The other five were released on stringent conditions. The Court found their alleged roles to be executional or facilitative, and not strategic. For Gulfisha Fatima, it applied parity with Devangana Kalita and Natasha Narwal.

7. Liberty and security must both be accommodated. The Court said Article 21 protects individual liberty, and also reflects the State's duty to protect the life and security of the community.

8. Twelve conditions govern release. These include a bond of Rs 2 lakh with two sureties, staying within Delhi, surrendering passports, no contact with witnesses, no public statements on the case, and no participation in protests connected with the allegations.

Ratio Decidendi

Under the UAPA, prolonged custody does not automatically override the bail bar in Section 43D(5) . Courts must assess each accused individually, on the prosecution material taken at face value, and consider whether continued detention has become disproportionate.

Where the alleged role is central and strategic, the statutory bar operates with full force. Where it is limited to execution or facilitation, and custody has been long, release on strict conditions is

justified.

Gulfisha Fatima v. State of NCT of Delhi is now a leading authority on how Article 21 and Section 43D(5) work together. It rejects both extremes: automatic bail on delay, and automatic refusal because the UAPA is invoked.

Gulfisha Fatima v. State of NCT of Delhi also widens the reading of "terrorist act" at the prima facie stage, which has implications for how protest linked cases under the UAPA are charged. The Court itself stressed that speech, parity and admissibility are matters for trial.

A Simple Way to Remember the Case of Gulfisha Fatima v. State of NCT of Delhi

To remember Gulfisha Fatima v. State of NCT of Delhi, keep four points in mind.

1. Delay is a trigger for scrutiny, not a trump card.
2. Section 43D(5) requires an accused specific inquiry, without a mini trial.
3. Section 15 is wider than bombs and bullets.
4. Architects and facilitators are treated differently, and conditions follow release.

Conclusion

Gulfisha Fatima v. State of NCT of Delhi shows the Supreme Court trying to balance liberty with national security in one of the most closely watched prosecutions in recent years. The ruling decides bail only, and the trial must still decide guilt.

For students, its lasting value is the method. Ask what role is attributed, test it against Section 43D(5), and then ask whether custody has crossed into disproportion under Article 21.