BLOGS

Right to Bail Under Indian Law: What the Supreme Court’s Decision in the UAPA Case Tells Us

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When someone is accused of a crime in India, one of the most important questions they or their lawyer will ask is this: **Can I get bail?** The right to bail is one of the most talked-about parts of criminal procedure, because it touches on a person’s liberty long before a trial actually decides guilt or innocence.

Recently, the Supreme Court of India refused to grant bail to activists **Umar Khalid and Sharjeel Imam**, who have been in jail for years while facing charges under the Unlawful Activities (Prevention) Act (UAPA) in connection with the 2020 Delhi riots conspiracy case. This decision has once again sparked debate about how bail works in serious criminal matters and where personal liberty intersects with national security concerns.

What Is Bail?

In simple words, bail means temporary release from jail while a person awaits trial. The idea is that an accused is presumed innocent until proven guilty, and therefore should not be kept behind bars unnecessarily. But this principle is not absolute. Bail is a right in some cases and a privilege that courts may grant or deny in others, depending on the nature of the offence, evidence, risk of flight, risk of tampering with evidence, and public interest.

What the Law Says

Under the Indian criminal justice system, bail is generally governed by:

- The Code of Criminal Procedure (CrPC), which says bail is the rule and jail is the exception for most offences;
- Special laws like UAPA, which are stricter and make it harder to obtain bail.

For regular offences, courts look at factors such as whether the accused might run away or interfere with the investigation before granting bail. But for serious crimes listed under laws like the UAPA, the legal standard becomes tougher.

A special provision, **Section 43D(5) of UAPA**, says that bail cannot be granted if the court, after looking at the case diary or chargesheet, believes that there are *reasonable grounds to hold the accusation against the accused to be prima facie true*. This flips the usual bail principle upside down in many ways and makes bail very difficult to secure.

The Supreme Court's Decision in the UAPA Case

In early January 2026, a bench of the Supreme Court refused to grant bail to Umar Khalid and Sharjeel Imam in the Delhi riots conspiracy case. The Court observed that the prosecution material showed a prima facie case that these two had a central and formative role in planning and mobilising activities allegedly linked to the 2020 riots. On this basis, the statutory bar under Section 43D(5) of UAPA was held to be attracted, and bail was denied.

However, the same judgment granted bail to five other accused in the same case. The Court said that not all accused stood on the same footing and that bail decisions must be made accused-specific based on the evidence presented at that stage.

The Court also made it clear that delay in trial or prolonged incarceration by itself is not enough to compel bail under UAPA, although it remains an important factor for discussion.

Why This Matters

This decision highlights several key principles about bail in India:

1. Bail Is Connected to Liberty But Not Absolute: The Constitution guarantees personal liberty, but this does not automatically mean bail will be granted in every case. The seriousness of the charge and the law under which it is framed strongly influence the bail decision.
2. Special Statutes Make Bail Harder: In offences involving national security and terrorism-related charges (like UAPA), the law intentionally raises the threshold for bail to protect public order and safety.
3. Courts Must Strike a Balance: Judges have to balance the rights of the accused with the need to protect society and allow due process. This balancing act explains why some accused in the

same case were granted bail while others were not.

4. Prolonged Detention Doesn't Guarantee Bail: Even long incarceration without trial does not automatically lead to bail under special laws, though delay and fairness are still legitimate considerations for courts.

Conclusion

The right to bail in India is not a simple yes-or-no question. It is a nuanced legal principle that tries to protect individual freedom while ensuring justice and public safety. The Supreme Court's recent refusal to grant bail to Umar Khalid and Sharjeel Imam underlines how complex and sensitive bail decisions can be, especially in cases involving serious allegations and special laws like the UAPA.

For students, citizens, or anyone interested in justice and rights, this case is a powerful moment to understand how the law balances liberty with responsibility in the framework of the Constitution.