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### **1. SC says jail, not bail, is the rule under the UAPA: How courts have been granting bail in UAPA cases**

#### **Why in news?**

Underlining that the oft quoted phrase, 'bail is rule, jail is the exception', does not find any place in the stringent anti-terror Unlawful Activities Prevention Act (UAPA), the Supreme Court on February 7 denied bail to Gurwinder Singh, an accused in an alleged "Khalistan module." Singh was arrested when he was found hanging cloth banners on which "Khalistan Jindabad" and "Khalistan Referendum 2020" was written. He is now accused of a being part of a larger conspiracy with Sikhs for Justice, a pro-Khalistan group banned by the Indian government.

While the higher bar for granting bail under the UAPA is indeed antithetical to ordinary criminal law, there are some cases in which courts have granted bail. How have courts interpreted Section 43D (5) of the UAPA? Why do courts deny bail in most cases despite some rulings that have raised the bar for the state to argue against bail?

#### **The law**

Section 43D (5) reads: "Notwithstanding anything contained in the Code, no person accused of an offence punishable under Chapters IV and VI of this Act shall, if in custody, be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release.

"Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under section 173 of the Code is of the opinion that there are reasonable grounds for believing that the accusation against such person is prima facie true."

The law essentially says that while relying only on the police version — the case diary and the police report — the accused must show to the court that it is unreasonable to believe the accusations are prima facie (Latin for "at first sight") true. In shifting the onus on the accused, the cardinal principle of criminal law that a person is innocent till proven guilty is upended in the alternate framework of the UAPA.

#### **Narrowing the room for bail**

In 2019, the Supreme Court in a two-judge bench ruled in Zahoor Ahmed Shah Watali v NIA, that for granting bail under UAPA, courts must not examine the evidence but only accept it at face value.

Once charges are framed in the case, the court in Watali said, effectively an accused "may have to undertake an arduous task to satisfy the court that despite the framing of charge, the materials presented along with the charge-sheet (report under Section 173 of Cr.P.C.), do not

make out reasonable grounds for believing that the accusation against him is prima facie true” in order for the court to grant bail.

In the Gurwinder Singh case, the two-judge bench headed by Justice M M Sundaresh relied on the Watali ruling entirely.

Relevance: GS Prelims & Mains Paper II; Governance

Source: Indian Express

## 2. What is Nazool land, behind recent dispute and violence in Haldwani?



### Why in News?

Violence erupted in Uttarakhand's Haldwani district after the administration conducted a demolition drive at the site of a mosque and madrasa, allegedly on Nazool land, killing five and injuring many more.

### What is Nazool land?

Nazool land is owned by the government but most often not directly administered as state property. The state generally allots such land to any entity on lease for a fixed period, generally between 15 and 99 years.

In case the lease term is expiring, one can approach the authority to renew the lease by submitting a written application to the Revenue Department of the local development authority. The government is free to either renew the lease or cancel it — taking back Nazool land.

In almost all major cities of India, Nazool land has been allotted to different entities for a variety of different purposes.

### How did Nazool land emerge?

During British rule, kings and kingdoms which opposed the British frequently revolted against them, leading to several battles between them and the British Army. Upon defeating these kings in battle, the British would often take their land away from them.

After India got Independence, the British vacated these lands. But with kings and royals often lacking proper documentation to prove prior ownership, these lands were marked as Nazool land — to be owned by the respective state governments.

### **How does the government use Nazool land?**

The government generally uses Nazool land for public purposes like building schools, hospitals, Gram Panchayat buildings, etc. Several cities in India have also seen large tracts of land denoted as Nazool land used for housing societies, generally on lease.

Very often, the state does not directly administer Nazool land, but rather leases it to different entities.

### **How is Nazool land governed?**

While several states have brought in government orders for the purpose of framing rules for Nazool land, The Nazool Lands (Transfer) Rules, 1956 is the law mostly used for Nazool land adjudication.

Is the Halwani land where the demolition drive took place registered as Nazool land? As per the Haldwani district administration, the property where the two structures are situated is registered as the Nagar Nigam's (Municipal Council's) Nazool land. The administration says that for the last 15-20 days, a demolition drive has been underway in connection with Nagar Nigam properties to free roads from traffic congestion.

However, Shakeel Ahmad, Councillor of Ward Number 31, where the incident took place, said that the locals had requested the administration to wait till the next date of hearing in the High Court on February 14.

Relevance: GS Prelims & Mains Paper II; Governance

Source: Indian Express

### **3. What are the changes in the new Water Act? Will the amendments weaken the laws that protect rivers and water bodies from industrial pollution?**

The Lok Sabha this week passed the Water (Prevention and Control of Pollution) Amendment Act, 2024. The legislation, which was introduced and passed earlier by Rajya Sabha, makes important changes to the Water (Prevention and Control of Pollution) Act, 1974.

### **What is the Water (Prevention and Control of Pollution) Act, 1974?**

This Act was the first piece of legislation in independent India that identified the need to have an institutional structure to address contamination of water bodies. This led to the creation, in September 1974, of the Central Pollution Control Boards (CPCB) and State Pollution Control Boards (SPCB) that were charged with monitoring and preventing public water resources from getting contaminated by sewage and industrial effluents. This Act made it mandatory for

industrial units to get permission from their respective State boards before setting up factories and submitting themselves to checks on whether their manufacturing and other processes were complying with prescribed norms.

"The Parliament of India in its wisdom enacted the Water (Prevention and Control of Pollution) Act in 1974 with a view to maintaining and restoring wholesomeness of our water bodies. One of the mandates of the Central Pollution Control Board (CPCB) is to collect, collate and disseminate technical and statistical data relating to water pollution," the website of the CPCB notes. While the CPCB is empowered to conduct checks and provide guidance on technical standards to be adhered to, the SPCB files cases and is expected to enforce compliance. Violating the provisions of the Water Act can mean industries being shut down; monetary fines as well as imprisonment of up to six years. That said, there have been no instances of companies or people in India having been imprisoned due to environmental violations.

### **What are the amendments?**

Water is a State subject, and the Centre cannot directly pass legislative laws influencing water management. However, the Centre can create legislation, if two or more States demand it, and this can be made applicable by States over their territories if they adopt the legislation in their Assemblies. The amended version of the Act, passed by both Houses of Parliament, will currently apply to Himachal Pradesh and Rajasthan and the Union territories.

The original Act, passed in 1974, is applicable in 25 States. The most important change is that it removes the provisions of imprisonment for several violations, deemed "minor", and replaces them with fines, to the tune of ₹10,000 extending up to ₹15 lakh.

As per the original Act, the SPCB's permission is needed for establishing any industry or treatment plant, which could discharge sewage into a water body, sewer, or land. In the amendment, the Bill specifies that the Centre, "... in consultation with the CPCB, may exempt certain categories of industrial plants from obtaining such consent...."

However, operating or establishing an industrial unit without SPCB consent can still land you in jail for six years along with a fine.

The Bill also adds that the Centre may issue guidelines for the grant, refusal, or cancellation of consent granted by the SPCB. It also penalises tampering with monitoring devices used in determining whether any industry or treatment plant can be set up. The penalty will be between ₹10,000 and ₹15 lakh. The amended Act also empowers the Centre to frame rules to select the chairpersons of SPCBs and frame guidelines that States can follow on matters for establishing industries and new operating processes.

### **What has been the response?**

Explaining the rationale behind the amendments, Environment Minister, Bhupendra Yadav, who steered the Bill, said outdated rules and regulations caused a "trust deficit." The imprisonment provisions for minor violations, which are simple infringements and did not lead to any injury to humans or damage to the environment, often caused "harassment" to businesses and citizens and was not in consonance with the spirit of "ease of living and ease of doing business," he added. In discussions on the Act in the Lok Sabha, Members of Opposition parties raised concerns that the amendments weakened the laws that protected

rivers and water bodies from industrial pollution. They argued that the fear of imprisonment acted as an effective deterrent to industrial units that were lax with complying with strict regulations.

Relevance: GS Prelims & Mains Paper II; Governance

Source: The Hindu

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