

Moot Proposition

Preface:-

The Republic of Shambhala is a South Asian country bordering the Republic of India. Due to its close relations with India, the Parliament of Shambhala passed the Laws Adoption Act [LAA] in 1960. Under the LAA, all laws enacted by the Parliament of India are binding in Shambhala too. Also, Indian legal jurisprudence and precedent applies to all the law courts of Shambhala and its states, in the same way it does to the Indian Union and its states. The Supreme Court of India is also the apex court of Shambhala.

Shambhala has 29 states, of which Sodoland is one. Sodoland is a densely forested state with a large tribal population, located in North-Eastern Shambhala. From 1986, various interest groups and organisations in Sodoland have been advocating for regional autonomy, with some groups even agitating for secession from Shambhala.

In recent years, some groups have begun taking up separatism in order to achieve their dream of an Independent Sodoland. Due to this, the Central Government of Shambhala in 2004 declared all of Sodoland to be a “Disturbed Area” under Section 3 of the Armed Forces (Special Powers) Act, 1958 [AFSPA].

One of these groups is the National Liberation Front of Sodoland [NLFS], which was designated as a terrorist organisation by the Government of Shambhala on 30th July 2024 under Section 35 of the Unlawful Activities (Prevention) Act, 1967 [UAPA]. The NLFS is a deeply entrenched separatist movement in Sodoland, responsible for multiple terrorist plots, civilian bombing, cyber terrorism, and suicide bombing.

The Central Government has brought in the Qassam Rifles, a paramilitary force under the Ministry of Home Affairs, to curb the activity of the NLFS

Background:-

Ankur Lotha is a 23 year old male citizen of Shambhala. He is a postgraduate Political Science student at Brahmaputra University, located in Sodoland. He has no prior criminal record.

He is one of the founding members of the Sodoland Democratic Forum [SDF], created on 19th September 2021. It is a students' union that is vehemently non-violent and stands for the tribal rights of the indigenous peoples of Sodoland. It has constantly agitated over large-scale construction activities, land acquisition projects by the Government of Shambhala, construction

of dams in the eco-sensitive forests of Sodaland, injustice to the victims of attacks, and other such activities that are detrimental to the native Sodo tribals

Though both the SDF and the NLFS are sympathetic to the Sodo peoples and wish to elevate their socio-economic status, the SDF has many times vocally denounced the NLFS for their aggressive nature, want of secession, and terrorist methods. The SDF publicly advocates for regional autonomy.

Arrest:-

During the evening of 27th October 2024, the Qassam Rifles conducted a cordon and search operation at the Brahmaputra University hostel. Ankur was detained and taken to a base of operations of the army. Here, he was held for 60 hours to be interrogated by the NIA, and denied legal aid on grounds of public interest and security. He signed a statement where he admitted to his presence at a public meeting 3 months prior, attended by 200 protesters, an MLA, and 6 NLFS members.

He was turned over to the state police and formally placed under arrest on 29th October 2024, The grounds of arrest were Sections 18, 20, 38 and 39 of the UAPA & Section 152 of the Bharatiya Nyaya Sanhita [BNS].

On the 90th day of Ankur's detention, the central government designated him as a terrorist under section 35 of the UAPA. He made an application before the central government for denotification as a terrorist (under section 36 of the UAPA) , however this application was denied . Additionally, he sought remedy before the review committee (under section 37 of the UAPA), which upheld this designation without providing any reasons for the same.

Under sections 51 and 51A of UAPA, his passport was impounded and his bank account was frozen. The Brahmaputra university suspended him indefinitely due to internal rules that enforced a strict policy suspending any student who violated the law. Further, his father was a retired army veteran, who during his days of service was shot in the spine which paralyzed him and rendered him physically incapacitated. Thus, Ankur had been designated to operate his father's account. This bank account was also frozen.

An NIA special court in Sodoland granted an extension up to 180 days for detention upon the report of the public prosecutor. No further extension was sought or granted. On the 180th day, 27th April 2025, at 11:47 PM the prosecution filed the chargesheet electronically. However, due to a processing delay the NIA special court's server recorded the chargesheet as being filed at 12:04 AM on 28th April 2025. Formal recognition of the document to the court was taken at 9:30AM on the same day.

The chargesheet relied on 7 pieces of evidence:

1. The statement signed by Ankur at the base of operations
2. An investigation conducted by the state police established that Ankur's SDF and the NLFS had organisational links, since the investigation revealed 6 members of the SDF to also be members of the NLFS.
3. During the cordon and search operation, Ankur's phone was seized and searched. A WhatsApp message from a suspected NLFS member was found, from the morning of 27 October 2024 . It stated "The movement of our Sodo people needs more voices like yours. Can we meet sometime?" Ankur had read the message and did not respond to it.
4. Ankur's bank details show that a transaction of Rs. 12,000 was made to Jamuna Foundation on 12 March 2024. The Jamuna Foundation claims to be a charitable fund for Sodoland families displaced due to the unrest. The prosecution claims that this fund has links to NLFS since the head of the foundation had relatives in the NLFS, and that the Jamuna Foundation is a front to gain financial assistance to fund violent uprisings.
5. His mother Meghali Lotha was employed as a domestic worker in the residence of the former NLFS supremo Gutten Das. She was encountered by the Qassam Rifles in an operation against the NLFS a month before the creation of the SDF.
6. Literature and pictures of prominent revolutionary leaders were found in his room, including Bhagat Singh, Mao Zedong and Che Guevara.
7. A viral video of a speech made by Ankur in his college was found on social media, where He says "For too long the voices of our people have gone unheard. Every community has the right to protect its identity, its land and its future. If those in power refuse to listen, the people will find their own way to make themselves heard. Change begins when ordinary people stand together . The future of Sodoland belongs to those who truly care for it."

The NIA special court denied bail to Ankur on the grounds that the time of filing the chargesheet by the prosecution would be considered and not the time of recording of the chargesheet by the court's servers. It also held that the evidence under the chargesheet was sufficient to form a prima facie true case.

The case was now taken to the High Court of Sodomland.

Two petitions were filed before the High Court

1. Under section 21 of the NIA act, an appeal was filed before the High Court under two grounds;
 - (a) the chargesheet was filed on Day 181 entitling him to default bail,
 - (b) the chargesheet material does not establish prima facie truth under Section 43D(5) of the UAPA.
2. Additionally,
A writ petition under Article 226 on the issue of designation as a terrorist was filed

A Division Bench of the High Court dismissed the petitions, stating:-

1. On petition 1(a)- "Electronic submission at 11:47 PM is considered timely filing. Server processing delays could not be reasonably foreseen by the prosecution and thus doesn't constitute a violation of the deadline on their part. Further, even if Day 181, default bail is subject to this Court's satisfaction that bail would not be against public interest. Given the security situation in Sodomland, this Court is not so satisfied."

On petition 1(b)- "in considering the evidence in totality, the court holds that there is grounds to believe the accusations to be prima facie true."

2. On petition 2(a)- The designation is a preemptive executive action which doesn't require the standard degree of proof. The damage on his father's bank account is an unfortunate consequence and not deliberate targeting.

Supreme Court:

Ankur filed a SLP (Special Leave Petition) challenging the High Court's common order. A two-judge bench of the Supreme Court, upon hearing the matter, found that the case raises

substantial questions of law regarding UAPA's default bail provisions, the standard of prima facie truth under Section 43D(5), the validity of individual terrorist designation under Section 35 UAPA, and the scope of Section 152 BNS. Leave was accordingly granted and the matter was converted to Criminal Appeal. The matter has been placed before a three-judge bench for final hearing on merits.

A Writ Petition under Article 32 was tagged with the Criminal Appeal at the time of admission and is being heard together. The Writ Petition asks questions regarding the constitutional validity of section 35 & 37 UAPA and section 152 BNS which transcend Ankur's individual case.

Issues Framed:

In the Criminal Appeal:-

Issue 1- Whether the accused has a right to default bail?

Issue 2- Whether the evidence under the chargesheet creates a prima facie true case?

Issue 3- Whether the freezing of a bank account belonging to a non-designated third party is valid, because a designated person holds an operational mandate or signing authority over it?

In the Writ Petition:-

Issue 1- Whether the powers exercised by the Central government in designating a person as a terrorist and in deciding the review committee (under sections 35 & 37 UAPA respectively) is constitutional and if so, was it applied appropriately in Ankur's case?

Issue 2- Whether Section 152 BNS violates Article 19(1)(a) due to ambiguity?