

**IN THE COURT OF SH. DHARMENDER RANA,
ADDITIONAL SESSIONS JUDGE-02:
NEW DELHI DISTRICT, PATIALA HOUSE COURTS, NEW DELHI**

Case ID No. DLND01-000477-2014

Sessions Case No. 22/2014

Case No. 8857/2016

State

Versus

1. Mohd. Shahid, S/o Sh. Deen Mohd,

R/o Village Bazidpur,

PS Nagina, District Nuh,

Mewat, Haryana.

2. Mohd. Rashid, S/o Sh. Jaan Mohammad,

R/o Village Tai, District Nuh Mewat,

Haryana.

3. Ashabuddin @ Shaukat, S/o Sh. Abdul Hai,

R/o Village Rahuka,

Tehshil and District Nuh,

Mewat, Haryana.

4. Abdul Subhan @ Abdul Sultan, S/o Sh. Suleman,

R/o Village Gumat Bihari,

Tehsil Nagina, District Mewat Nuh,

Haryana.

5. Arshad Khan @ Masab, S/o Sh. Ahmed Hussan Khan,

R/o Chah Kateo Wala Mouza Obawrrah Shumali

Tehsil Shujabad, District Multan,

Punjab, Pakistan.

FIR No. : 55/2013

U/s 120B IPC, 18/18B/20 UAPA

P.S Special Cell

Date of institution of the case	:	21.05.2014
Date when the case reserved for judgment	:	04.05.2022
Date of pronouncement	:	09.05.2022

J U D G M E N T

1. Accused Mohd. Shahid, Mohd. Rashid, Ashabuddin, Abdul Subhan and Arshad Khan @ Masab have been sent up to face trial in this Court for the offences punishable under sections 120B IPC & 18/18B/20 Unlawful Activities (Prevention) Act.
2. **Briefly stated:-** The case set up by the prosecution is that accused Abdul Subhan and accused Ashabuddin @ Soukat (who is the son of sister of Abdul Subhan) had been arrested in the year 2001 by the CBI while carrying a consignment of RDX, AK-56 rifles and other arms in Santhalpur, Gujarat. Both were convicted in the said case. After completing his sentence, Abdul Subhan came out of jail in the year 2010. In 2011, communal riots had taken place at Gopal Garh, District Bharatpur, Rajasthan where several persons belonging to a particular community were killed. Abdul Subhan was a member of banned terrorist organization, Lashkar-e-Taiba (LeT) and the said riots kindled his passion for Jihad.

Abdul Subhan planned to kidnap a businessman for ransom to raise money for the cause of Jihad. At that time his

nephew Ashabuddin was lodged in Kolkatta Jail and was serving sentence of imprisonment for life in the “Partha Roy Burman” kidnapping case in Kolkata, FIR No. 223/01, PS Tiljala, Kolkatta, West Bengal. Abdul Subhan had knowledge that in the “Partha Roy Burman” kidnapping case, money had been sent through hawala and for this purpose, he thought of contacting Ashabuddin. Abdul Subhan visited Ashabuddin in Kolkatta Jail in April 2013 to facilitate his contacts with any Pakistani Terrorist to guide him in his efforts for Jihad and also to facilitate receipt of ransom money in Dubai through hawala transactions. Accused Arshad Khan was also lodged in Kolkata Jail at that time. Ashabuddin discussed the plan of Abdul Subhan with Arshad Khan. Arshad Khan was in touch with one Javed Baluchi of Pakistan whose number was +923214460675 and Arshad Khan passed on the said number to Ashabuddin. Ashabuddin himself thereafter passed on this number to accused Abdul Subhan.

As per the case of the prosecution, Abdul Subhan in order to give effect to his intentions to wage jihad, came across Mohd. Rashid stated to be a highly motivated person. Abdul Subhan convinced Mohd. Rashid to wage Jihad. Abdul Subhan had also tried to associate and motivate Javed and Sabbir who were residents of Mewat but they did not join him. Abdul Subhan disclosed his plan to Mohd. Rashid about his intentions to kidnap a businessman for ransom to raise money for Jihad and that the money would be received at Dubai through hawala channels with the help of Javed Baluchi. He asked Mohd. Rashid to arrange for a mobile phone connection / SIM card on fictitious identity to talk to Javed Baluchi.

As per the case of the prosecution, Mohd. Shahid met accused Mohd. Rashid in March / April 2013. Both of them

shared their views on Jihad and started meeting regularly. Mohd. Shahid came to know that Mohd. Rashid was inclined for waging Jihad and was linked to the LeT and that he was plotting terrorist activities. In October 2013 Mohd. Rashid asked Mohd. Shahid to arrange for a SIM card and mobile phone handsets on fictitious identities, as he had to talk to persons in Pakistan. Mohd. Shahid obtained SIM card of mobile number 9992664785 from one Aris, a resident of village Mewli and handed it over to Mohd. Rashid. Mohd. Shahid also handed over four Chinese made mobile handsets to Mohd. Rashid. This number i.e. 9992664785 was used by Mohd. Rashid to talk to Javed Baluchi in Pakistan on 14.10.2013 on the instructions of Abdul Subhan. Mohd. Rashid from time to time spoke to Javed Baluchi in Pakistan apprising him about their preparations and plans to carry out Jihad. As per the case of the prosecution, Mohd. Rashid and Abdul Subhan had tried to associate Zamirul Islam and Liyakat in their endeavours but both of them refused.

Conversations on the Pakistan mobile phone number have been intercepted and recorded. Upon arrest of Mohd. Rashid, the IO was granted permission by the Court for obtaining his voice samples to identify the voice in the intercepted conversations. Mohd. Rashid refused to give his voice sample in respect of which a refusal memo has been recorded. Arshad Khan had however provided his voice sample. As per the FSL report, his voice has matched with the voice of Arshad Khan in the intercepted conversations with the number in Pakistan. Further the voice at the other end in the conversation with Arshad Khan was found to be of the same person who had allegedly talked with Mohd. Rashid on the Pakistan mobile number.

As per the police report, a conspiracy was unearthed during the course of interception of Pakistani mobile number +923214460675 when it came to light that the said number had been contacted via one Rajasthan mobile number 8094518399. The said Rajasthan number was put on surveillance to detect the IMEI numbers of the mobile handsets on which this number was operated. It was found that mobile numbers 8094515837, 8502902618 and 8502902589 had also been used on the handsets on which the Rajasthan mobile number 8094518399 had been used. Upon further investigation it was found that all these four numbers were obtained on fictitious identities. Upon arrest of Mohd. Rashid, he disclosed that the numbers 8094515837, 8502902618, 8502902589 and 8094518399 had been procured by accused Abdul Subhan on fictitious identities and that they used to be kept with Abdul Subhan with the mobile handsets. On the disclosure of Mohd. Rashid two mobile handsets and three SIM cards including that of number 8094518399 were recovered.

3. After completion of investigation, the charge-sheet was filed against accused Mohd. Shahid, Ashabuddin, Mohd. Rashid, Abdul Subhan and Arshad Khan alleging the commission of offence punishable u/s 120B IPC & 18/20 of Unlawful Activities (Prevention) Act. The case was committed to the court of Sessions.
4. Vide orders dated 19.01.2013, charge was directed to be framed against accused Mohd. Shahid, Arshad Khan, Mohd. Rashid, Abdul Subhan and Ashabuddin for the offence punishable under Section 120B & 18/20 of the Unlawful Activities (Prevention) Act, 1967. Further additional charge for the offence u/s 18B of UAPA

was also directed to be framed against accused Mohd. Rashid and Abdul Subhan. Accused persons pleaded not guilty and claimed trial.

5. In order to prove its case, prosecution has examined as many as 39 witnesses which are as under :-

PW-1 Sh. Akram Jahid is the owner of a mobile shop however he has not supported the prosecution case in the witness box. He refused to identify accused Mohd. Shahid as the person to whom mobile phone was sold off. Despite elaborate cross-examination by the Ld. APP nothing material could be elicited out from his testimony. He has admitted the receipt of notice u/s 91 CrPC served upon him by police Ex.PW1/A and PW1/B. He has also identified his signature upon the seizure memo at point A.

PW-2 Sh. Shajid Khan @ Ballu is the owner of mobile shop by the name of M/s Ballu Mobiles situated at Bus Stand Nuh, Niab Wali Market, District Nuh, Mewat, Haryana. He testified that police brought one Mullana Sahab to his shop and enquired if he has sold off any mobile phone to Mullana Sahab. He testified that he informed to the police that he might have sold a mobile phone to the person brought by them but he has refused to identify the person to whom mobile phone was sold off. This witness has also not supported prosecution case in the witness box. In the cross-examination by Ld. Addl. PP, he categorically testified that the person who was brought to his shop by the police was not present in the court. He has admitted the receipt of notice u/s 91 CrPC Ex.PW2/A. He has identified his signatures upon the pointing out memo Ex. PW 2/B and seizure memo of the title documents of his shop Ex. PW 2/C and the documents Ex. PW 2/D.

PW-3 Sh. Liyakat Ali is a teacher in Junior High School, Kadarapur, District Shyamli, UP. He testified that he met Abdul Suhan for the first time in the year 1985 when he was a young person and thereafter he met him in the year 2012-13 in Deoband, 2-3 days before Bakra Eid. He further testified that in the year 2013, Abdul Subhan had telephoned him and told him that he wanted to visit him in his village and he told him that the situation was not good in Shyamli and Muzaffar Nagar due to the riots and told him that since he did not know the way to his place he should wait for him at Deoband. He further testified that he told him that he would ask the khadim / workers at Deoband to make arrangements for his stay, however, Abdul Subhan came to his village at about 8 pm along-with Rashid. He further testified that he had never had any previous association with Rashid and he was very upset with the fact that both Abdul Subhan and Mohd. Rashid had come to his house thereafter all three of them went to the Masjid in his village for Namaz. He further testified that they came back and then went to sleep in his house and on next morning, he had to go to school for duty, Abdul Subhan told him to drop Mohd. Rashid and Abdul Subhan to the Railway Station, Thana Bhawan in Distt. Shyamli. He further testified that all three of them sat in the Maruti car of his colleague and left for Thana Bhawan Railway Station. He further testified that Abdul Subhan told him to introduce him to some person who could do work for him and when he asked him what kind of work, Abdul Subhan told him that it was related to purchase and sale of property/ land. He further testified that he then took Abdul Subhan at that time to the house of Maulana Zameer, who is the son-in-law of his master ji Bashir Ahmed. He further testified that he took mobile number of Maulana Zameer from his residence and called him up and Mualana Zameer told him that he was

standing at the bus stand of Thana Bhawan, Charthawal, as he had to go to purchase medicine. He further testified that he took Abdul Subhan to Thana Bhawan where they met Maulana Zameer and he introduced Abdul Subhan to Maulana Zameer and then he dropped Abdul Subhan and Mohd. Rashid to the railway station Thana Bhawan and he went to his school for his duty. He further testified that after 4-5 days Maulana Zameer met him near Thana Bhawan and told him that the person who had introduced to him was not a good person and he told him that if that person was not a good person then he should not keep any contact with him. He further testified that on 03.01.2014, police officials had come from the special cell of Delhi police along-with Chotta Daroga of PS Charthawal and they told him that they wanted to make inquiries from him and on their asking he went to PS Charthawal with them. He further testified that he told them that I had come across Abdul Subhan through Haji Mehtab at Nagina, Distt. Nuh Haryana.

PW-4 Sh. Yogesh Tripathi is the Nodal Officer of M/s Reliance Communications Ltd. He proved on record the Customer Application Form along-with the ID proof Ex.PW4/A and the CDRs with cell ID chart Ex.PW4/B of mobile number 9359546477 registered in the name of PW10 Zamirul Islam. He also issued the certificate u/s. 65-B of Indian Evidence Act establishing the authenticity of computer generated record. The said certificate exhibited as Ex.PW4/C.

PW-5 Sh. G.P. Singh, Secretary, Government of NCT of Delhi has testified that he issued under his signatures the sanction order Ex.PW5/A to prosecute accused Mohd. Shahid and accused Mohd. Rashid in the present case and also issued under his signatures the sanction order Ex.PW5/B to prosecute accused Abdul Subhan, Ashabuddin and Arshad Khan u/s 45 of UAPA,

accorded by Hon'ble LG of Delhi.

PW-6 Sh. Satish Kumar testified that he used to run a mobile shop in which he used to buy the mobile phones from importers and used to sale the mobile phones in wholesale to the buyers. He further testified that he used to supply the said mobile phones in wholesale to one Ballu who was having his shop in the name of style of "Haryana Mobiles Shop" in the gali near Haryana Bus stand.

PW-7 Sh. Venu T. Ibrahim, Sr. Scientific Assistant; testified that he along-with PW8 Sh. Sunil Kumar, Lab Assistant, CFSL, CBI accompanied with the IO to the Tihar Jail where accused Mohd. Rashid was brought by jail staff. He further testified that accused Mohd. Rashid was asked to give his consent for taking his voice sample but he refused the same in writing in Urdu as well as Hindi Languages vide Refusal memo Ex.PW7/A. PW7 Sh. Venu T. Ibrahim, Sr. Scientific Assistant with the assistance of Ms. Anuradha Dey La (Physics) had recorded the specimen voice sample of accused Arshad Khan in micro SD Card in the office of CFSL, CBI, CGO complex and handed over same to PW24 SI Satish Rana, who kept the same in an envelope and sealed the same with the seal of 'SR' and took into possession the same vide seizure memo Ex.PW7/B. The micro SD card on record is Ex.PW7/P1.

PW-8 Sh. Sunil Kumar, Lab, Assistant, CFSL, CBI, CGO Complex testified that on 13.02.2014, a letter was received from the office of Special Cell requesting therein to fix the date for taking voice sample of accused Mohd. Rashid and date was fixed as 17.02.2014. He further testified that on 17.02.2014 he along-with Sh. Venu T. Abraham (PW7) went to the Tihar Jail along-with IO, accused Mohd. Rashid brought by the jail staff and he was asked to give consent for taking his voice sample but he refused for the

same. He further testified that IO prepared a refusal memo to this effect in which the accused Mohd. Rashid himself in his own handwriting wrote down the refusal in Urdu as well as Hindi language, which on record is Ex. PW7/A.

PW-9 Sh. Sourabh Aggarwal, Nodal Officer, Vodafone testified that he produced the Customer Application Forms, CDRs and Certificate u/s 65-B of Indian Evidence Act pertaining to mobile phones numbers 8094518399, 8094515837, 8398027101, 8930899979, 9813611014, 8053102060, 9671461733, 9050510026 and 8396054052 registered in the name of Azim S/o Suvan Khan, Mrs. Faiman W/o Yakub, Naved S/o Akbar, Mohd. Rashid S/o Jaan Mohd., Mohd. Imran S/o Haroon, Aaris S/o Yunus, Intzar Alam S/o Abdul Subhan, Asfaq S/o Farin Mohd. and Abdul Suman S/o Suleman respectively. The said documents on record are Ex.PW9/A to Ex.PW9/Z1. PW9 Sh. Sourabh Aggarwal also proved on record the CDRs of the International mobile number 923214460675 Ex.PW9/Z2 coupled with the certificate u/s 65B of Indian Evidence Act Ex.PW9/Z3 which were given to the Investigating Agency by the then Nodal Officer Sh. Anuj Bhatia. The PW9 Sh. Sourabh Aggarwal also proved the cell ID chart consisting of 11 pages Ex.PW9/Z24. He further testified that he further produced the Customer Application Forms, CDRs and Certificate u/s 65-B of Indian Evidence Act pertaining to mobile phones numbers 9813486838, 9050750777, 9991021399, 9813101463, 9812221655, 9813459665, 8017260036, 8334943617 and 8094515837 registered in the name of Irfan S/o Abdul, Saukat Ali S/o Jasmal, Imran S/o Abdul Hay, Mohd. Irshad S/o Jasmal, Abdul Hay S/o Yusuf Huan, Zamil Khan S/o Maujuddin, Asma Bibi W/o Oddea Mollah, Jana Biswas S/o Kshudi Ram and Faimam W/o Yakub respectively. The said documents on record are Ex.PW9/A-1,

PW9/B-1, PW9/C-1, PW9/D-1, PW9/E-1, PW9/F-1, PW9/G-1, PW9/H-1, PW9/I-1, PW9/J-1, PW9/K-1, PW9/L-1, PW9/M-1, PW9/N-1, PW9/O-1, PW9/P-1, PW9/Q-1, PW9/R-1, Ex.PW22/A, Ex.PW9/S1, PW9T-1, PW9U-1, PW9V-1, PW9W-1, PW9X-1, PW9Y-1 and PW9Z-1. Sh. Sourabh Aggarwal also proved on record the CDRs of the International mobile numbers 00923447122706 and 00923214460675 Ex.PW9/AA and Ex.PW9/CC respectively coupled with the certificate u/s 65-B of Indian Evidence Act Ex.PW9/BB and PW9/DD which were given to the Investigating Agency by the then Nodal Officer Sh. Anuj Bhatia. The PW9 Sh. Sourabh Aggarwal also proved the detailed letter containing site address of cell IDs which is Ex.PW9/EE.

PW-10 Sh. Zamirul Islam, a farmer by vocation has testified that one day he was going to Muzaffar Nagar and was waiting for the bus at Charthawal bus stand, Thana Bhawan and at that time, he received a phone call from Sh. Liyakat and he wanted to meet him. He further testified that after about 5-10 minutes he along-with two more persons came to him in a maruti car and Sh. Liyakat got him introduced with said two persons and they were involved in constructions of mosques. He further testified that during the conversation, Sh. Liyakat went to the washroom and thereafter, he was having conversation with said two persons. He further testified that he told them that in Jalalabad also there are two mosques which are required to be constructed. However, his examination-in-chief could not be concluded as he expired before the conclusion of his testimony.

PW-11 Sh. Mohd. Aris has testified that he met accused Shahid at Noorani Masjid and told him that his sim card was not working and took the sim card no.9992664785 of Mohd. Aris till the time his sim card becomes operational. He further testified that after about 1 or 2 days, he demanded his sim card back but Mohd.

Shahid kept avoiding the return on one pretext or the other and finally on his insistence, Accused Mohd. Shahid returned his sim card in the last week of October, 2013. Mohd. Aris asked him if he had made any wrong/ objectionable call from his sim card to which he said that he is teacher in his village and that he has not made any objectionable call. PW11 Sh. Mohd. Aris further testified that he produced his sim card of mobile number 9992664785 and the mobile phone to the IO/PW39 ACP Sh. Manishi Chandra who took into possession the same vide seizure memo Ex.PW11/A.

PW-12 Sh. Pawan Singh, Nodal Officer, Idea Cellular Ltd. produced the customer application form coupled with the identity proof and CDRs of the mobile numbers 8502902589, 8502902618, 9812023343 and 9992664785 respectively registered in the names of Aslup S/o Shitab, Arshad S/o Hakam, Abdul Suman S/o Suleman and Shahida Noor respectively which on record are Ex.PW12/A to PW12/H respectively. PW12 Sh. Pawan Singh also proved on record the CDRs of ILD number 923214460675 which is Ex.PW12/I and also proved the certificate u/s 65-B of the Indian Evidence Act qua all the five phone numbers mentioned above. The certificate is Ex.PW12/J. He further testified that he further provide the CDRs of ILD numbers 00923214460675 pertaining to the period from 01.07.2013 to 23.08.2014 Ex.PW12/K however, the CDRs of another phone number 00923447122706 requisitioned by the Investigating Agency were nil in the record Ex.PW12/L. PW12 Sh. Pawan Singh has also issued certificate u/s 65-B of Indian Evidence Act which is Ex.PW12/M in support of computer generated record.

PW-13 Sh. Mohd. Javed was running a tea stall at Barkali Chowk. He testified that on 19.12.2013, police officials from

special cell, Delhi had come to his house and told that they have come to apprehend Javed and he has to accompany the police to PS Nagina, Mewat where ACP will brief him about some plan. He further testified that he refused to accompany them to PS so they asked him to come to his tea stall where they would call the ACP. He further testified that he took his bike to the shop but on the midway he left the bike and absconded under the apprehension that they will take him to PS Nagina, Mewat. He further testified that he and Shabbir disappeared because of the atmosphere of fear. He further testified that about 4-5 days thereafter he read in the newspaper that Rashid has named Javed and Shabbir due to which their fear enhanced. He further testified that about 9-10 months, he and Shabbir did not come back home and they lost all means of livelihood and their family members were also tensed and under fear so they decided to come to the police of PS special cell at any cost including their killings. He further testified that police officers interrogated him and Shabbir for about 8 hours. He identified his signature on the statement recorded u/s 164 CrPC at point A of Ex.PW13/A.

PW-14 Sh. Shabbir is a friend of Mohd Javed (PW13). He testified that in the year 2013, there was atmosphere of fear in his village as well as in entire area and Javed told him that police will apprehend him as well as Javed and due to this, he and Javed ran away from there and he remained with Javed for 15-16 days in a truck. He further testified that they came back and Javed went to the house of his relative and he went to the house of his relative for staying there. He further testified that after about 9-10 months, they became tired and went to Delhi police where one Rana Sahab made inquiries from them and thereafter Rana Sahab obtained their signatures on some blank papers.

PW-15 Insp. Jagdish Prasad testified that he received an

information that accused Mohd. Rashid son of Sh. Jaan Mohd. Who is wanted in a case of UAPA PS Special Cell of Delhi is present outside Nuh court. On the strength of the said information, he organized a raiding party consisting of SI Vijay Anand, ASI Atar Singh and himself along-with other staff members and they went to Nuh court. He further testified that on interrogation, accused confirmed his name, accordingly, he arrested accused Mohd. Rashid u/s 41.1 CrPC vide arrest memo Ex.PW15/A and conducted his personal search vide personal search memo Ex.PW15/B.

PW-16 Insp. Vijay Anand testified that on 16.12.2013, he joined the investigation of this case with SHO Insp. Jagdish Prasad and he along-with SHO and other staff members went to Nuh court. He further testified that on interrogation, accused confirmed his name, accordingly, IO arrested accused Mohd. Rashid u/s 41.1 CrPC vide arrest memo Ex.PW15/A and conducted his personal search vide personal search memo Ex.PW15/B. He further testified that IO of Delhi Police arrested accused Mohd. Rashid vide arrest memo Ex.PW16/A and conducted his personal search vide memo Ex.PW16/B.

PW-17 Sh. S.K. Nasir Ahmed was running a mobile repair shop at Gariahat KMC Market, Shop No. G-32, Kolkata-19. He testified that he denied having got issued any phone number on the strength of Mark X1 and Mark X2 containing his photographs and his election ID card, he could not say as to how his photograph was pasted as Mark X1 and how his election ID card enclosed with the said document.

PW-18 Sh. Sajal Biswas was a auto driver. he testified that he never got issued the phone number 8334943617 and that qua the election card Mark X shown by the police to him, he confirmed that his photograph is pasted upon it and addresses also belongs

to him however, the some other name and father name are mentioned on Mark X. He further testified that he also provided copy of his Aadhar Card and election card to the police which on record are Ex.PW18/A and Ex.PW18/B respectively.

PW-19 SI Devappa was the Duty Officer. He testified that he recorded FIR Ex.PW19/A and made his endorsement over rukka which is Ex.PW19/B.

PW-20 Insp. Vijay Kumar is a Sub-Inspector in Special Cell. He testified that he issued a notice u/s. 91 Cr.P.C. Ex.PW2/A to PW2 Sh. Sahazid Khan to produce the ownership documents of his shop. He further testified that he handed over the documents pertaining to the title of his shop to the police which were seized vide memo Ex.PW2/C and the documents on record are Ex.2/D (colly). He further testified that he issued a notice u/s 91 Cr.P.C. Ex.PW1/B to PW1 Sh. Akram Zahid pursuant to which he produced the photocopy of the ownership documents which were seized vide memo Ex.PW1/A. The documents on record are Ex.PW1/C (colly). He further testified that he also prepared pointing out memo of the shop namely Akram Telecom at the instance of PW2 Sh. Sahazid Khan as PW2 and Sh. Sahazid Khan had purchased two Chinese mobile phones for Rs.1200/- from the said shop. The pointing out memo is Ex.PW20/A.

PW-21 HC Mohan Singh has testified that as per instruction of the IO, he collected three pullandas in sealed condition sealed with seal of SR along-with the CFSL Form, copy of FIR and seizure memo from MHCM PS Special Cell vide RC No.122/21/14 and deposited the same in CFSL, CBI, CGO Complex and receipt of the same was given back to PS special cell.

PW-22 Smt. Asma Bibi has testified that she came in contact with one person namely Bobby Boss in Alipur Central Jail Calcutta through her son Monirul Mullaha who was also lodged

in the said jail. She further testified that she purchased three sim cards on the strength of her ID and handed over the same to Bobby Boss. The CAF coupled with the ID proof i.e. election card bearing the photograph of her on record are collectively Ex.PW22/A.

PW-23 Inspector Jagminder Singh testified that on 19.12.2013, he was posted as SHO, PS Nagina, Distt. Nuh, Mewat and on the said date, police from special cell, Delhi along-with one Rashid had come to out PS at about 12.15 pm. He further testified that he accompanied them to the hills Ghagas Kansali where the accused Mohd. Rashid led them to a tree and from under the tree he removed a stone took out a black colour polythene containing two mobile phones and three sim cards. He further testified that the IO prepared the seizure memo to this effect Ex.PW23/A.

PW-24 Insp. Satish Rana was posted at Special Cell, Lodhi Colony, Delhi. He testified that he produced one CD containing four intercepted calls and voice of different dates of co-accused Arshad Khan having conversation with Javed Balluchi of Pakistan. He further testified that the IO/ PW39 ACP Manishi Chandra kept the CD in khaki envelope and sealed the same with the seal of SR and took into possession the same vide seizure memo Ex.PW24/V. The transcript of said conversation consisting of four pages is collectively exhibited as Ex.PW39/C.

PW-25 Bhushan Kumar Azad was posted as Sub-Inspector at Special Cell, Lodhi Colony, Delhi. He testified that as per directions of IO/ ACP Mansihi Chandra, he along-with other staff members had gone to Kolkata to hand over the production warrants issued in the present case against the accused Ashabuddin and Arshand who were lodged in Kolkata Jail. He further testified that in pursuance of the production warrants the jail authority of Kolkata Jail handed over the custody of accused

Asabuddin to them. He further testified that they brought the accused Asabuddin to Delhi and produced him before court of Ld. District Judge, Patiala House court on 27.07.2014, about 11.30 pm. He proved the copy of register Ex.PW25/A and copy of register showing the relevant entry Ex.PW25/B.

PW-26 Sh. Banay Singh was posted as ASI in Special Cell office. NDR. He testified that he had gone to West Bengal to verify the address given in the CAFs of seven mobile phone numbers. He further testified that on 12.12.2014, he reached at Kolkata and on one CAF the photograph and ID proof were found to be fake and one of the persons contacted by him at the address given in one CAF informed that he never got issued the said number nor he used the same and that someone else might have procured the phone in his name. He further testified that addresses of remaining two phone numbers given in the CAFs could not be verified. He further testified that on 18.12.2014, he had visited Devendra Chandra Marg along-with local police into the cluster area where there were thousands of jhuggies and the address given in the CAF was located with the help of local police. He further testified that they reached at the given address where one lady in the name of Asma met him and she told him that about 1-1 ½ years back her son was lodged in Alipur Jail and that one person namley Bobby Boss who was also lodged in Alipur Jail came in contact of his son and they became friends. He further testified that she procured three sim cards on her ID proof which she gave to Bobby Boss and thereafter Bobby Boss was released from jail and she does not know his whereabouts. He further testified that thereafter he returned back to Delhi and handed over Asma and relevant document to the IO.

PW-27 Sh. Amarjeet Singh is the Nodal Officer, BSNL, UP (West) who supplied and proved on record the CAF along-with ID

proof Ex.PW27/A, CDRs Ex.PW27/D1 to PW27/D177 of mobile number 9412638794. He also proved on record the certificate u/s 65-B of Indian Evidence Act Ex.PW27/E and the forwarding letters Ex.PW27/B and Ex.PW27/C respectively vide each he had forwarded the CAF and the CDRs to the Investigating Agency.

PW-28 Sh. P.N. Singh is the Nodal Officer, Tata Communication who provided and proved on record the CDRs of International calls to mobile number 00923214460675 pertaining to the period from 01.08.2013 to 23.08.2014 running into one page Ex.PW28/A and also proved the certificate u/s 65-B of Indian Evidence Act Ex.PW28/C. He also replied to the notice of the IO vide reply Ex.PW28/B.

PW-29 Sh. Rajeev Vashishth is the Nodal Officer, Bharti Airtel who produced and proved on record the CAF along-with ID proof Ex.PW29/A and the CDRs Ex.PW29/B of mobile phone number 9634031889 issued in the name of Abdul Suman S/o Sh. Suleman. He also proved on record the certificate u/s 65-B of Indian Evidence Act which is Ex.PW29/C. He also brought and proved the CDRs of ILD numbers i.e. 923214460675 and 923447122706 for the relevant period which are Ex.PW29/D and PW29/E respectively. He also proved on record the certificate u/s. 65-B of Indian Evidence Act which is Ex.PW29/F.

PW-30 Sh. Vikas Mehra is the Nodal Officer, Reliance Communication Limited who produced and proved on record the CAFs along-with the ID proofs, CDRs and the certificate u/s 65-B of Indian Evidence Act pertaining to the mobile numbers 8444806905, 8389006646 and 9330058356 registered in the name of S.K. Shansha, S.K. Nasir Ahmed and Ms. Rehila Khatoon respectively. The CAFs along-with the ID proofs. CDRs of the relevant period and the certificate u/s. 65-B of Indian Evidence Act on record are Ex.PW30/A to Ex.PW30/H respectively. He

also proved on record the CDRs and certificate u/s 65-B of Indian Evidence Act of ILD number 923214460675 which is Ex.PW30/I and PW30/J respectively. He also proved on record the CDRs given by the then Nodal Officer Sh. Rajeev Sharda to the Investigating Agency. The CDRs pertaining to mobile numbers 8444806905, 8389006646 and ILD number 923214460675 are collectively exhibited as Ex.PW30/L. Forwarding letter of the then Nodal Officer Sh. Rajeev Sharda is Ex.PW30/K. He also identified the signatures of the then Nodal Officer Rajeev Sharda at point A on Ex.PW30/K.

PW-31 Sh. Amitosh Kumar, Sr. Scientific Officer, Grade-II (Physics), CFSL, CBI, New Delhi examined the recorded conversations/ questioned voice with the specimen voice of accused Arshad Khan and Javed Ballluchi which on comparison matched. The CFSL Expert prepared detailed report Ex.PW31/A.

PW-32 SI Sumer Singh testified that on 09.12.2013, he alongwith SI Vinod Yadav, ASI Bijender, HC Mohit, Ct. Rajesh, Ct. Rahul, Ct. Anil, Ct. Sandeep, SI Vijay and accused Shahid left from the office of Special Cell/ NDR for Nuh, Mewat, Haryana in the morning and straightaway went to the PS Nuh and upon request of SI Vijay Kumar, SHO PS Nuh provided one SI Vijay Anand, Ct. Ashok, Ct. Raj Kumar and one HC who joined them. They alongwith the accused reached at bus stand Nuh from where accused Shahid led them to one shop by the name of Bhai Balllu Haryana Mobile Showroom, Nayab Wali Gali, Ward No.7 from where the accused had purchased two Chinese mobile phones in the month of December, 2013 and one Mr. Sajid also duly identified the accused by saying that he had purchased two Chinese mobile phones from his shop. IO/ SI Vijay Kumar prepared the pointing out memo already proved as Ex.PW2/B and SI Vijay Kumar also served a notice u/s. 91 Cr.P.C. upon Sajid

Khan, who produced the ownership documents of his shop to the IO and the same were taken into possession vide memo already proved as Ex.PW2/C and the documents on record have already been proved as Ex.PW2/D. Thereafter, the accused Mohd. Shahid led them to another shop by the name of Akram Telecom situated in the same gali and pointed out the shop from where he had purchased two Chinese mobile phones from one Akram against a consideration of Rs.1200/-, who confirmed the said fact. The IO/ SI Vijay Kumar prepared the pointing out memo already proved as Ex.PW20/A. SI Vijay Kumar served a notice u/s. 91 Cr.P.C. upon Akram Zahid, who produced the ownership documents of his shop to the IO and the same were taken into possession vide memo already proved as Ex.PW1/A. IO recorded the statement of Akram Zahid u/s. 161 Cr.P.C. Thereafter, they alongwith accused Mohd. Shahid reached at his house where the IO carried out search of his house but nothing incriminating was found there and accordingly, they alongwith the accused returned back to their office where his statement was recorded by the IO to this effect.

PW-33 ASI Sanjeev is the MHC(M) who testified that on 07.12.2013, the IO/ ACP Manishi Chandra had deposited two mobile phones (one make Nokia and another make Kechaoda) with sim cards in unsealed condition and had also deposited the personal search items of accused Mohd. Shahid in the malkhana regarding which he made an entry at Sr. No.2257 in Register No.19 in his own handwriting and he proved the photocopy of the same as Ex.PW33/A. Again on 17.12.2013, the IO/ ACP Manishi Chandra deposited the personal search item of accused Mohd. Rashid in the malkhana regarding which he made an entry at Srl. 2271 in Register No.19 in his own handwriting and he proved the photocopy of the same as Ex.PW33/B. Again on 19.12.2013, IO/

ACP Manishi Chandra deposited two mobile phones (one make MaXX and another make MVL X588) with three sim cards in unsealed condition in the malkhana regarding which he made an entry at Srl. 2277 in Register No.19 in his own handwriting and he proved the photocopy of the same on record as Ex.PW33/C. Again on 20.07.2014, IO/ ACP Manishi Chandra deposited the personal search items of accused Abdul Subhan in the malkhana regarding which he made an entry at Srl.2385 in Register No.19 in his own handwriting and he proved the photocopy of the same on record as Ex.PW33/D. Again on 06.08.2014, IO/ ACP Manishi Chandra had deposited three mobile phones (one make Nokia, second make Spice and third make Cuba) with three sim cards in unsealed condition and one notice u/s. 160 Cr.P.C. in the malkhana regarding which he made an entry at Srl.2406 in Register No.19 in his own handwriting and he proved the photocopy of the same on record as Ex.PW33/E. Again on 19.08.2014, SI Satish Rana had deposited one sealed envelope duly sealed with the seal of SR Marked-S1 in the malkhana regarding which he made an entry at Srl.2411 in register No.19 in his own handwriting and he proved the photocopy of the same on record as Ex.PW33/F. Again on 28.08.2014, ACP Manishi Chandra had deposited one sealed envelope duly sealed with the seal of SR marked as S in the malkhana regarding which he made an entry at Srl.2421 in register No.19 in his own handwriting and he proved the photocopy of the same on record as Ex.PW33/G. On 11.09.2014, he had provided two envelopes duly sealed with the seal of SR to Ct. Mohan Singh and at the same time, the IO had provided one more envelope duly sealed with the seal of SR which was also handed over to Ct. Mohan Singh vide RC No.122/21/14 for the purpose of depositing all the envelopes in CFSL, CBI, CGO Complex, Lodhi Road and he proved the

photocopy of the same on record as Ex.PW33/H. As per record, two sealed parcels were received back from CFSL, CBI, CGO Complex on 26.11.2014 regarding which he made endorsement in register No.19 and he proved the photocopy of the same on record as Ex.PW33/I.

PW-34 SI Jagdish Chander testified that on 14.02.2014, he was entrusted with the investigation of case FIR No.51/2014 u/s. 419/420/467/468/471 IPC pursuant to registration of the FIR and he proved the attested copy of the same as Ex.PW34/A. During the course of investigation, he had procured the CAF of four mobile phones, the copies of which on record already proved as Ex.PW12/A alongwith the identify proofs, Ex.PW12/C alongwith the ID proofs, Ex.PW9/A alongwith the identity proofs and Ex.PW9/D alongwith the ID proofs from the service providers. During the course of investigation, he was transferred from PS Sikri and the investigation of the said case was handed over to some other officer.

PW-35 Sh. Dheeraj Mittal, Ld. Sr. Civil Judge-cum-RC, PHC, New Delhi proved the application for recording the statement of witnesses Javed Khan and Sabbir, as Ex.PW35/A. He recorded the statement of witness Javed Khan in vernacular i.e. in Hindi language proved as Ex.PW13/A and proved the certificate issued to Javed Khan as Ex.PW35/B. He further recorded the statement of witness Sabbir in vernacular i.e. in Hindi language and proved as Ex.PW14/B and also proved the complete proceedings as Ex.PW35/C. He also proved the application to procure the copy of the proceedings moved by IO/ ACP Manishi Chandra as Ex.PW35/D.

PW-36 Sh. Ashok Kumar, Ld. ASJ-02 (POCSO) (FTSC), West District, Tis Hazari Courts, Delhi proved the application for recording of statement of witnesses namely Zamirul Islam S/o

Late Mr. Masood Ahmed and Liyakat Ali S/o Late Mr. Mehfooz Ali as Ex.PW36/A. He further proved the statement made by witness Zamirul Islam as Ex.PW36/B and proved certificate as Ex.PW36/C. He further proved the complete proceedings conducted out by him as Ex.PW36/D. He recorded the statement made by witness Liyakat Ali as Ex.PW3/A and proved certificate to him as Ex.PW36/E. He further proved the complete proceedings conducted by him as Ex.PW36/F. He proved the application to procure the copy of the proceedings moved by IO/ACP Manishi Chandra as Ex.PW36/G.

PW-37 Inspector Chandrika Prasad testified that on 29.11.2013, at about 5:00 PM, officials from Central Intelligence Agency (IB) came to the office of the ACP and informed that one Pakistan terrorist by name of Javed Balluchi, a known terrorist of Lashkar-e-Tayaba, whose Pakistan telephone number was 923214460675 and the IB officials were monitoring this number. They intercepted a communication between the said number and a number of Rajasthan network bearing No.8094518399. They also conducted PAN India search of IMEI No. 8094518399 whereupon they came to know that three other numbers of Rajasthan network were used upon the said IMEI number. Since, the conversation was found to be suspicious, he was directed by ACP Manishi Chandra to technically analyse the CDR of the above said numbers and Inspector Hridaya Bhushan directed to trace and verify the information at the ground level. He accordingly lodged DD No.21 at about 6:00 PM and started working upon the case and the copy of the same proved as Ex.PW37/A. He got the case registered and proved the rukka as Ex.PW37/B and after getting the case registered, the investigation of the instant case was entrusted to ACP Manishi Chandra, who examined him and recorded his statement in this regard.

PW-38 Sh. Anil Goswami testified that on 05.12.2013, as per the mandate of Section 5 sub Section (2) of the Indian Telegraph Act, 1985 and upon satisfaction that it was necessary and expedient in the interest of the security of the State, directed for the interception of 12 mobile phone/ phone numbers as mentioned in the order passed under his signature and the said phone numbers were already under interception as per the rules 419-A of IT Rules from 29.11.2013 and the order passed by him on record is Ex.PW38/A.

PW-39 ACP Sh. Manishi Chandra is Investigating Officer of the instant case. He testified that he shared the input qua a Pakistani ILD number +923214460675 belonging to a terrorist of Lashkr-e-Taiyyaba (LeT) namely Javed Balluchi and also that the said ILD number was found to be in conversation with four Indian mobile numbers of Rajasthani Telecom Circle i.e. 8094518399, 8094515837, 8502902589 and 8502902618. He further testified that the IB officials also shared the contents of lawfully intercepted communication with him which was suspicious in nature and accordingly, he entrusted the technical aspect of inquiry to PW37 Insp. Chandrika Prasad, who lodged DD No.21 Ex.PW37/A to this effect and during inquiry PW37/Insp. Chandrika Prasad noticed that one more mobile bearing No.9992664785 was used to communicate with Javed Balluchi on the above-mentioned ILD Pakistani number on 14.10.2013. He further testified that during scrutiny of CDR of the mobile number 9992664785, the actual user was found to be one Aris R/o Village Mewli, Mewat, Haryana, who informed that he had given the sim card of mobile number 9992664785 to accused Mohd. Shahid. He further testified that since the conversations were suspicious in nature and the subscribers/ users of above-mentioned four numbers of Rajasthani Telecom Circle were not traceable, the

PW37/ Insp. Chandrika Prasad prepared a rukka Ex.PW37/B on the strength of which, the Duty Officer/ PW19 SI Devappa recorded FIR Ex.PW19/A and made his endorsement over rukka which is Ex.PW19/B.

He further testified that he arrested accused Mohd. Shahid vide arrest memo Ex.PW24/A and conducted his personal search vide personal search memo Ex.PW24/B and prepared body inspection memo Ex.PW39/A. He further testified that during the course of interrogation, he recorded disclosure statement Ex.PW24/D.

IO/PW39 ACP Sh. Manishi Chandra further testified that he formally arrested co-accused Mohd. Rashid in the present case vide arrest memo Ex.PW16/A and conducted his personal search vide personal search memo Ex.PW16/B. During the course of interrogation, he recorded disclosure statement Ex.PW24/E, Ex.PW24F and Ex.PW24/G respectively. In the office of Spl. Cell, accused Mohd. Shahid identified accused Mohd. Rashid to be the person to whom he had handed over sim card and four mobile phones. He prepared identification memo Ex.PW24/D1 to this effect.

He further testified that during the course of investigation, co-accused Mohd. Rashid led the police team to the Hills of Ghagas Kansali and got recovered two mobile phones and three sim cards from inside the stones. The IO/PW39 ACP Sh. Manishi Chandra took into possession the same vide seizure memo Ex.PW23/A.

IO/PW39 ACP Sh. Manishi Chandra further testified that he moved an application Ex.PW36/A to get the statements of PW3 Sh. Liyaqat Ali and PW10 Sh. Zamirul Islam recorded u/s. 164 CrPC pursuant to which PW36 Sh. Ashok Kumar, Ld. MM-05, NDD, Patiala House Courts, New Delhi recorded the statements of

PW3 Sh. Liyaqat Ali and PW10 Sh. Zamirul Islam which are Ex.PW36/B and PW3/A respectively. He further testified that he duly identified witnesses Liyaqat Ali and Zamirul Islam on the first page of the statements which are Ex.PW36/F and Ex.PW36/D respectively and he had also move an application Ex.PW36/G for getting the copies of TIP proceedings which was allowed.

IO/ PW39 ACP Sh. Manishi Chandra testified that he moved an application Ex.PW39/B for collection of voice sample of co-accused Mohd. Rashid which was allowed, however, co-accused Mohd. Rashid declined to give his voice sample in writing vide his endorsement Ex.PW7/A.

IO/ PW39 ACP Sh. Manishi Chandra further testified that he arrested the accused Abdul Subhan vide arrest memo Ex.PW24/H and conducted his personal search vide memo Ex.PW24/I and also prepared his body inspection memo Ex.PW24/J. During the course of interrogation, he recorded disclosure statements Ex.PW24/K and Ex.PW24/O respectively.

IO/ PW39 ACP Sh. Manishi Chandra further testified that he formally arrested the accused Ashabuddin from Calcutta Central Jail vide arrest memo Ex.PW24/L. During the course of interrogation, accused Ashabuddin made the disclosure statements Ex.PW24/N and Ex.PW24/P respectively.

He further testified that on 18.08.2014, a CD containing the intercepted conversation between Javed Balluchi and co-accused Mohd. Rashid was played on the computer in the office of Spl. Cell in the presence of co-accused Arshad Khan who identified the voice of Javed Balluchi and Mohd. Rashid. He prepared a memo to this effect which is Ex.PW24/U.

He further testified that PW24 Insp. Satish Rana produced one CD containing four intercepted calls and voice of different

dates of co-accused Arshad Khan having conversation with Javed Balluchi of Pakistan. The IO/ PW39 ACP Manishi Chandra kept the CD in khaki envelope and sealed the same with the seal of SR and took into possession the same vide seizure memo Ex.PW24/V. The transcript of said conversation consisting of four pages is collectively exhibited as Ex.PW39/C.

IO/ PW39 ACP Manishi Chandra further testified that he collected computerized printout of DD Nos.7, 8 and 9, dated 20.07.2014 Ex.PW39/D. IO/ PW39 ACP Manishi Chandra further testified that he sent a notice u/s. 91 Cr.P.C. to Skype Communication SARL which is Ex.PW39/E.

IO/ PW39 ACP Sh. Manishi Chandra further testified that he moved an application Ex.PW35/A for getting the statement of witnesses Javed Khan and Shabbir recorded u/s 164 Cr.P.C. Cr.P.C pursuant to which PW35 Sh. Dheeraj, Ld. MM recorded the statement of PW13 Javed Khan which is Ex.PW13/A and that of PW14 Sh. Shabbir which is Ex.PW14/B. He moved an application Ex.PW35/D for getting the copies of the TIP proceedings.

IO/ PW39 ACP Sh. Manishi Chandra further testified that he deposited the case properties of the present case in the Malkhana of PS Special Cell on different dates i.e. 07.12.2013, 17.12.2013, 19.12.2013, 20.07.2014, 06.08.2014 and 28.08.2014 regarding which PW33 ASI Sanjeev, MHC (M) made relevant entries in register No.19 which on record are PW33/A to PW33/E and Ex.PW33/G. He further testified that he recorded the statement of witnesses and after completion of investigation filed the charge-sheets.

6. After conclusion of Prosecution Evidence, statement of all the five accused persons was recorded u/s 313 CrPC wherein they have

denied the prosecution case submitting that they have been falsely implicated in the present case. All accused persons except accused Abdul Subhan opted not to lead any evidence in their defence.

7. In defence, accused Abdul Subhan has examined **DW-1 Sh. Avinash Kumar**, Office Assistant, National Green Tribunal who has proved the copy of application no. 341/2013 titled Abdul Subhan v. Shakun Khan & ors as Ex. DW 1/A collectively running into 153 pages.
8. I have heard and considered the submissions made by Ld. Counsels for accused persons and Sh. Irfan Ahmed, Ld. Addl. PP for State and also carefully gone through the material available on record.
9. Accused Mohd. Shahid, Mohd. Rashid, Ashabuddin, Abdul Subhan and Arshad Khan have been charged for commission of offences punishable u/s 120B IPC and u/s 18/20 of UAPA. Accused Abdul Subhan and Mohd. Rashid have also been charged for commission of offence punishable u/s 18B of UAPA.
10. Let us deal with the case of the prosecution for the alleged offences in seriatim.

Section 18 of Unlawful Activities (Prevention) of Atrocities Act.

Punishment for conspiracy, etc-- Whoever conspires or attempts to commit, or advocates, abets, advises or incites, directs or knowingly facilitates the commission of, a terrorist act or any act preparatory to the commission of a terrorist act, shall be held liable.

11. The gist of the prosecution's allegations against the accused persons is that the accused persons planned to kidnap a rich person for ransom in order to finance the terrorist activities and thereby the accused persons have committed the offence u/s 18 of UAPA and under Section 120B IPC.

12. Ld. Addl. PP for State has forcefully argued that prosecution has successfully proved its case beyond a shadow of any doubt against the accused persons. It is pointed out that as per the secret information provided by Central Intelligence Agency (CIA), Javed Balluchi, a known Pakistani terrorist, was contacted on his mobile no. +923214460675 from one Haryana number 9992664785. It is pointed out that from the testimony of Mohd. Aris (PW11) it stands conclusively proved that he has given the sim card of mobile no. 9992664785 to accused Mohd. Shahid and the said phone was used by accused Mohd. Rashid to make phone calls to contact dreaded terrorist Javed Balluchi. It is contended that from the testimony of Sh. Amitosh Kumar (PW31), CFSL expert, it stands conclusively proved that the person who spoke to accused Arshad Khan in the intercepted conversation is the same person who conversed with accused Mohd. Rashid. It is contended that it is established on record that both accused Arshad Khan and Mohd. Rashid were in touch with the same person in Pakistan namely Javed Balluchi.

13. It is submitted by Ld. Addl. PP that the name of dreaded terrorist Javed Balluchi also surfaced in RC No. 05/2001 SIU-XI wherein accused Ashabuddin and Abdul Subhan were convicted under the provisions of Explosive Substance Act and Arms Act. It is contended that even in that case, they had conversation with

dreaded criminal Javed Balluchi. It is further pointed out that from the testimony of Liyakat Ali (PW3), it stands conclusively proved on record that accused Abdul Subhan alongwith accused Mohd. Rashid visited the native place of Liyakat Ali (PW3) who despite his reluctance, introduced accused Abdul Subhan and Mohd. Rashid to Zamirul Islam (PW10). It is pointed out that Zamirul Islam (PW10) has informed Liyakat Ali (PW3) that accused Abdul Subhan and Mohd. Rashid are not good persons. It is further pointed out that recovery of mobile phones bearing no. 8094515837, 8502902618 and 8502902589 from accused Mohd. Rashid, which were procured by accused Abdul Subhan using fictitious identity, conclusively establishes on record that accused Mohd. Rashid and accused Abdul Subhan were working in active complicity. It is contended that accused Abdul Subhan is a previous convict in Case No. SIB-2001 E 0005 dated 28.10.2021, SIV-XI Santhanpur, Gujarat in which 14 KG RDX, two AK-56 rifles, two pistols, detonators, timers and ammunitions were recovered. It is pointed out that the Call Details Record of mobile phone no. 9992664785 establishes the fact that accused Abdul Subhan and Mohd. Rashid came to Delhi on 14.10.2013 and made a phone call to Javed Balluchi in Pakistan. It is further pointed out that the Call Details Record and location chart of mobile phone of accused Mohd. Rashid, accused Abdul Subhan and Zamirul Islam (PW10) reveals that all three of them met in Jama Masjid, Delhi.

14. It is further pointed out that from the testimony of Mohd. Aris (PW11), it is evident that he and accused Mohd. Shahid had studied in the same madarsa at TED Mohammad Pur during the period from 2001 to 2004 and since then, they were in touch with each other. It is further pointed out that from the testimony of

Mohd. Aris (PW11), it is conclusively proved that accused Mohd. Shahid borrowed the sim card of mobile no. 9992664785 from Mohd. Aris (PW11) in the first week of October, 2013. It is pointed out that the location of the said mobile number and the mobile phone of accused Mohd. Rashid, Abdul Subhan and Zamirul Islam (PW10) clearly proves that all three of them were at the same place in Delhi and the phones were used to contact the dreaded terrorist Javed Balluchi in Pakistan. It is further pointed out that the Call Detail Record and the mobile phones recovered from accused Mohd. Shahid and Mohd. Rashid corroborates that accused Mohd. Rashid and accused Mohd. Shahid were in constant touch with each other.

15. It is further pointed out that from the testimony of Insp. Bhushan Azad (PW25), duly corroborated by the relevant entry in the visitor's register Ex. PW 25/B, it is evident that accused Abdul Subhan visited Kolkata Jail to meet accused Ashabuddin. It is contended by Ld. Addl. PP that since accused Abdul Subhan is uncle of accused Ashabuddin; accused Abdul Subhan, Ashabuddin and Arshad Khan are previous convicts in CBI case at Gujarat and kidnapping case of Kolkata, so they were known to each other and Javed Balluchi in Pakistan. It is submitted by Ld. Addl. PP that on account of the very nature of offence, direct evidence in a case of conspiracy is seldom forthcoming. It is submitted that the circumstantial evidence available on record unambiguously points towards the guilt of the accused persons.

16. It is contended by Ld. Addl. PP that considering the material available on record, it stands established on record that accused persons conspired to kidnap a rich business man in order to finance their terrorist activities.

17. There cannot be any quarrel with the proposition that direct evidence for the crime of conspiracy is very rarely available and the existence of a criminal conspiracy is invariably required to be inferred from the circumstantial evidence available on record.
18. The law relating to the conspiracy has been summarised by the Hon'ble Apex Court in the matter of **State v. Nalini, (1999) 5 SCC 253 (Rajiv Gandhi Assassination case) in Para no. 583** which is as under:

Some of the broad principles governing the law of conspiracy may be summarized though, as the name implies, a summary cannot be exhaustive of the principles.

1. Under Section 120-A IPC offence of criminal conspiracy is committed when two or more persons agree to do or cause to be done an illegal act or legal act by illegal means. When it is a legal act by illegal means overt act is necessary. Offence of criminal conspiracy is an exception to the general law where intent alone does not constitute crime. It is intention to commit crime and joining hands with persons having the same intention. Not only the intention but there has to be agreement to carry out the object of the intention, which is an offence. The question for consideration in a case is did all the accused have the intention and did they agree that the crime be committed. It would not be enough for the offence of conspiracy when some of the accused merely entertained a wish, howsoever horrendous it may be, that offence be committed.
2. Acts subsequent to the achieving of the object of conspiracy may tend to prove that a particular accused was party to the conspiracy. Once the object of conspiracy has been achieved, any subsequent act, which may be unlawful, would not make the accused a part of the conspiracy like giving shelter to an absconder.
3. Conspiracy is hatched in private or in secrecy. It is rarely possible to establish a conspiracy by direct evidence. Usually, both the existence of the conspiracy and its objects have to be inferred from the circumstances and the conduct of the accused.
4. Conspirators may for example, be enrolled in a chain – A enrolling B, B enrolling C, and so on; and all will be members of a single conspiracy if they so intend and agree, even though each member knows only the person who enrolled him and the person whom he enrolls. There may be a kind of umbrella spoke enrolment, where a single person at the centre does the enrolling and all the other members are unknown to each other, though they know that

there are to be other members. These are theories and in practice it may be difficult to tell which conspiracy in a particular case falls into which category. It may however, even overlap. But then there has to be present mutual interest. Persons may be members of single conspiracy even though each is ignorant of the identity of many others who may have diverse roles to play. It is not a part of the crime of conspiracy that all the conspirators need to agree to play the same or an active role.

5. When two or more persons agree to commit a crime of conspiracy, then regardless of making or considering any plans for its commission, and despite the fact that no step is taken by any such person to carry out their common purpose, a crime is committed by each and every one who joins in the agreement. There has thus to be two conspirators and there may be more than that. To prove the charge of conspiracy it is not necessary that intended crime was committed or not. If committed it may further help prosecution to prove the charge of conspiracy.

6. It is not necessary that all conspirators should agree to the common purpose at the same time. They may join with other conspirators at any time before the consummation of the intended objective, and all are equally responsible. What part each conspirator is to play may not be known to everyone or the fact as to when a conspirator joined the conspiracy and when he left.

7. A charge of conspiracy may prejudice the accused because it forces them into a joint trial and the court may consider the entire mass of evidence against every accused. Prosecution has to produce evidence not only to show that each of the accused has knowledge of the object of conspiracy but also of the agreement. In the charge of conspiracy the court has to guard itself against the danger of unfairness to the accused. Introduction of evidence against some may result in the conviction of all, which is to be avoided. By means of evidence in conspiracy, which is otherwise inadmissible in the trial of any other substantive offence prosecution tries to implicate the accused not only in the conspiracy itself but also in the substantive crime of the alleged conspirators. **There is always difficulty in tracing the precise contribution of each member of the conspiracy but then there has to be cogent and convincing evidence against each one of the accused charged with the offence of conspiracy. As observed by Judge Learned Hand "this distinction is important today when many prosecutors seek to sweep within the dragnet of conspiracy all those who have been associated in any degree whatever with the main offenders".**

8. As stated above it is the unlawful agreement and not its accomplishment, which is the gist or essence of the crime of conspiracy. Offence of criminal conspiracy is complete even though there is no agreement as to the means by which the purpose is to be accomplished. It is the unlawful agreement which is the gravamen of the crime of conspiracy. The unlawful agreement which amounts to a conspiracy need not be formal or express, but may be inherent in and inferred from the circumstances, especially declarations, acts

and conduct of the conspirators. The agreement need not be entered into by all the parties to it at the same time, but may be reached by successive actions evidencing their joining of the conspiracy.

9. It has been said that a criminal conspiracy is a partnership in crime, and that there is in each conspiracy a joint or mutual agency for the prosecution of a common plan. Thus, if two or more persons enter into a conspiracy, any act done by any of them pursuant to the agreement is, in contemplation of law, the act of each of them and they are jointly responsible therefor. This means that everything said, written or done by any of the conspirators in execution or furtherance of the common purpose is deemed to have been said, done or written by each of them. And this joint responsibility extends not only to what is done by any of the conspirators pursuant to the original agreement but also to collateral acts incidental to and growing out of the original purpose. A conspirator is not responsible, however, for acts done by a co-conspirator after termination of the conspiracy. The joinder of a conspiracy by a new member does not create a new conspiracy nor does it change the status of the other conspirators, and the mere fact that conspirators individually or in groups perform different tasks to a common end does not split up a conspiracy into several different conspiracies.

10. A man may join a conspiracy by word or by deed. However, criminal responsibility for a conspiracy requires more than a merely passive attitude towards an existing conspiracy. One who commits an overt act with knowledge of the conspiracy is guilty. And one who tacitly consents to the object of a conspiracy and goes along with other conspirators, actually standing by while the others put the conspiracy into effect, is guilty though he intends to take no active part in the crime.

19. Having reproduced the law related to the offence of conspiracy, let us now deal with the evidence available on record against the accused persons with respect to the alleged offence u/s 18 of UAPA.

20. In my considered opinion, there are gaping holes in the prosecution version. Besides the recovery of few mobile phones and sim cards, intercepted conversations and entry in the visitor's register in Kolkata Jail, there is no other incriminating piece of evidence sufficient in itself to establish the prosecution case, which seems to be based upon surmises and conjectures rather

than any credible evidence.

21. Mere recovery of the mobile phones and sim cards used to converse amongst each other or converse with a Pakistani number is not sufficient to prove the existence of any conspiracy. It is rightly pointed out by Id. Defence counsel that there is nothing on record to establish that the abovesaid Pakistani number +923214460675 belongs to the dreaded terrorist Javed Balluchi. IO Manishi Chandra (PW39) in his testimony has admitted that it is possible to collect the relevant information with respect to any Pakistani number, yet no explanation is forthcoming on record as to why no efforts were made by investigating agency to collect the particulars regarding the ownership of the mobile no. +923214460675.

22. Furthermore, there is nothing on record to establish the identity of Javed Balluchi leave aside the allegation that he is a dreaded terrorist. Except for the bare contentions, there is nothing on record to establish the taint attempted to be attached with the credentials of Javed Balluchi. Leave aside the enquiry regarding the credentials of Javed Balluchi, investigating agency seems to be not sure even about his real name and it emerges from the record that the prosecution refers Javed Balluchi as Javed Wadaich and Javed Chaudhary also. I have no hesitation in observing that the investigating agency has made no efforts to establish the identity of obscured entity known by the name of Javed Balluchi and it is not even clear as to if some person by the name of Javed Balluchi actually exists in Pakistan or some mischievous person was acting under the fake identity.

23. The Call Detail Record available on record can at best prove the

fact that there was some conversation between Indian citizens on the one end and a person using a Pakistani mobile number on the other end, however, that by itself is not sufficient to presume that accused Javed Balluchi actually existed or that the accused persons conversing with him were involved in any conspiracy to commit any terrorist act or kidnap any rich business man.

24. Furthermore, the CFSL result Ex. PW 31/A can at best prove that the voice on the other end was of the same person but it cannot be used to conclusively infer that the person on the other end was infact Javed Balluchi and he is a dreaded terrorist.

25. Heavy reliance has been placed upon by Ld. Addl. PP upon the intercepted conversations between so called Javed Balluchi and Arshad Khan, the transcript of which is available on record as Ex. PW 39/C. This conversation is also not clinching to establish on record the existence of any conspiracy. Further, the prosecution has failed to clear the haze surrounding the source of said intercepted conversation. It has been barely established on record that Insp. Satish Rana (PW24) has handed over a CD containing the intercepted conversations to IO Manishi Chandra (PW39) without disclosing that as to how, when and where the said intercepted conversations was recorded and thereafter captured upon the said CD, which was seized vide seizure memo Ex. PW 24/V. Under these circumstances, the sanctity of data itself comes under a scanner of doubt. Furthermore the said CD is also not admissible in evidence for want of requisite certificate u/s 65 of Indian Evidence Act. Reliance is placed upon **Anvar P. V. vs. P. K. Basheer & ors (2014) 10 SCC 473.**

26. Further, in the absence of any particulars regarding the identity of

the device where the intercepted conversation was stored and subsequently downloaded, the very authenticity of the conversation becomes shrouded in doubt and the very sanctity of the evidence becomes tainted. Hon'ble Bombay High Court in the matter of **Arshad Hussain v. State of Maharashtra, 2018 SCC OnLine Bom 1390** while upholding the acquittal of the accused on account of discrepancies in downloading the intercepted conversations in the CD has observed as under :-

“...After the conversations were intercepted, they were recorded on 3 CDs. The CD no. 1 was pertaining to the phone number attributed to Salauddin. The CD no. 2 was in respect of the phone number attributed to the accused no. 2 and the third CD was in respect of the intercepted conversations in respect of the phone number of the accused no. 4. This witness heard the conversations and dictated the transcripts on 17/01/2006. After the transcripts were prepared, the CDs were kept in a separate cover. Significantly, this witness, in the cross-examination, has admitted that he did not remember the date on which these CDs were prepared. He further admitted that the expert technician recorded the conversations in the computer and the communication was directly recorded on the hard disc. The prosecution has not brought any evidence to show as to how the conversations from the hard disc were transferred on CDs and what precautions were taken at that time. This link is an important factor and therefore, the prosecution has failed to prove that the CDs were the exact copies of the conversations, intercepted by these officers. In this view of the matter, the further evidence in respect of the voice samples, voice analysis, voice matching, etc. becomes doubtful and therefore, it cannot be said that the prosecution has proved that these conversations could be attributed to any of the accused. Moreover, the evidence of PW 8, and PW 10 who was the pancha when the transcripts were made, does not show that the CDs were kept in sealed condition. Therefore, the possibility of tampering with these voice recordings cannot be ruled out, as is rightly held by the learned trial Judge in paragraph 103.

.....
.....
33. The learned trial Judge has discussed the matching of the voice and the intercepted conversations from paragraph 77 to paragraph 105 and ultimately has discarded this piece of evidence. Since he has rightly observed that there was no evidence on record to show how the conversations were

transferred on the CDs and in the absence of any evidence to show that they were kept in safe custody and that there was no possibility of any tampering; this evidence could not be held as having been proved by the prosecution against any of the accused. Thus, once this link of inter se communication between the accused is snapped, there is no material to show that the accused no. 4 was in conspiracy with the other accused. In this view of the matter, we are of the opinion that the learned trial Judge has rightly acquitted the accused no. 4...”

27. Furthermore, even if for the sake of arguments, the above said defects in the electronic evidence pertaining to the said intercepted conversation is ignored, even then the intercepted conversation is not sufficient to bring home the guilt against accused persons.

28. The transcript Ex. PW 39/C is reproduced herein for ready reference :-

923214460675 (Pakistan number of Javed Baluchi) and 844806905 (Reliance Kolkata number used by Arshad Khan).

Dated 14.12.2013 Time 14:30:29 Duration 00:38:00 Seconds

923214460675 ----- 844806905

अरशद : सलाम वालेकुम
जावेद : वालेकुम सलाम जी क्या हाल है जनाब खैरियत है
अरशद : अल्लाह का फजल है और चौधरी साहब कहां हैं आजकल
जावेद : जनाब नगरी व्हिच है
अरशद : अच्छा आ सकते हैं आप
जावेद : हां आ गया
अरशद : नहीं आधे घंटे में
जावेद : ठीक है आधे घंटे में आ गया
अरशद : ठीक है अस्सलाम वालेकुम
जावेद : वालेकुम सलाम

923214460675 (Pakistan number of Javed Baluchi) and 844806905 (Reliance Kolkata number used by Arshad Khan).

Dated 26.12.2013 Time 14:48:25 Duration 00:18:00 Seconds

923214460675 ----- 844806905

अरशद : अस्सलाम वालेकुम
जावेद : वालेकुम सलाम क्या हाल है जनाब खैरियत है
अरशद : चौधरी साहब आ नहीं रहे आप
जावेद : अभी आ गया जनाब
अरशद : ठीक है जी सलाम वालेकुम
जावेद : वालेकुम सलाम

923214460675 (Pakistan number of Javed Baluchi) and 844806905
(Reliance Kolkata number used by Arshad Khan).

Dated 10.01.2014 Time 14:22:09 Duration 00:49:00 Seconds

923214460675 ----- 844806905

अरशद : असलाम वालेकुम
जावेद : वालेकुम सलाम जनाब की हाल है खैरियत है
अरशद : ठीक है चौधरी साहब वह पार्सल भेज दिया
जावेद : ना जी पार्सल कहां भेज दिया उसी काम में लगा हूं वहां से आया अभी
गाड़ी में हूं वापस आ रहा हूं
अरशद : अच्छा ठीक है
जावेद : अभी आज पहुंचा हूं तो आज खरीदूंगा तो कल छुट्टी है परसों छुट्टी
है
अरशद : खैर उस चीज को छोड़ें
जावेद : है जी
अरशद : दूसरी तरीके से आ रहे हैं क्या
जावेद : हाँ - हाँ वो - वो तो आ रहे हैं दूसरा जी मैं सफर में हूं अभी
अरशद : अच्छा - अच्छा ठीक है अस्सलाम वालेकुम
जावेद : वालेकुम सलाम

923214460675 (Pakistan number of Javed Baluchi) and 844806905
(Reliance Kolkata number used by Arshad Khan).

Dated 16.01.2014 Time 10:06:31 Duration 00:20:00 Seconds

923214460675 ----- 844806905

अरशद : अस्सलाम वालेकुम
जावेद : वालेकुम सलाम क्या हाल हैं जी खैरियत हैं
अरशद : चौधरी साहब आ रहे हैं क्या
जावेद : हां कितने तकरीबन पाँच मिनट लगेंगे
अरशद : ठीक है
जावेद : ठीक है आ रहे हैं आ गए

29. The conversation sounds very general wherein the persons involved exchange greetings and enquire about each others well being. For the objectionable part, it seems to be the portion of the conversation wherein accused Arshad Khan makes an enquiry about a 'parcel' from Javed Balluchi. However, prosecution has

failed to throw any light regarding the meaning of the word 'parcel'. Thus, I cannot but disagree that merely upon the basis of this intercepted conversation an irresistible inference regarding the existence of conspiracy to commit terrorist act or kidnap a rich businessman can be validly drawn.

Besides the above said transcript, there is no other admissible piece of transcript or evidence. The only interception order (Ex. PW 38/A) available on record is dated 05.12.2013. Although the sanction order dated 05.12.2013, makes a mention that impugned mobile numbers were taken on interception under Rule 419A of IT Rules on 29.11.2013 and testimony of IO Manishi Chandra (PW39) also makes a mention that Sanction order bearing no. 13/14/3/97-T dated 28.10.2013 was issued by Ministry of Home Affairs but the said sanction order was never brought on record. Therefore, I am not inclined to look into any intercepted conversation prior to 05.12.2013 as the same is inconsistent with the provisions of Sub Rule 1 of Rule 419A of the Indian Telegraph Rules framed under Section 7 of Indian Telegraph Act.

30. Further, even the entry in the Jail Visiting Register Ex. PW 25/A is not free from difficulties. The relevant entry Ex. PW 25/B mentions the name of visitor as Ab. Suman and not Abdul Subhan. Furthermore, Insp. Bhushan Azad (PW25) and even IO Manishi Chandra (PW39) have admitted that the visitors in any jail in order to meet any convict or UTP have to mandatorily provide a photo identity proof issued by competent authority. However, no explanation is forthcoming on record as to why no efforts were made by the investigating agency to produce the photo ID proof used by the person who visited accused Ashabuddin in Kolkata Jail. Thus, it is not clear as to if Ab. Suman

is infact accused Abdul Subhan, who visited accused Ashabuddin in Kolkata Jail. Furthermore, even if for the sake of arguments, it is presumed that accused Abdul Subhan met accused Ashabuddin in Kolkata Jail, it is not sufficient to assume the existence of any conspiracy to commit terrorist act or to kidnap any rich business man. An uncle meeting his jailed nephew serving a long sentence, is neither illegal nor illogical.

Further, the testimony of Mohd. Aris (PW11) can at best prove that he handed over the sim card of mobile no. 9992664785 to accused Mohd. Shahid. Admittedly, the said mobile number does not belong to Mohd. Aris (PW11). It has come on record that the said mobile number infact belongs to one Shahida Noor, who was reportedly not traceable. However, it is baffling to note that no explanation is forthcoming on record as to how come Mohd. Aris (PW11) was able to procure the mobile no. 9992664785 in the name of Shahida Noor.

Further, with respect to the contention that an adverse inference needs to be drawn against accused Mohd. Rashid for his refusal to give his voice sample, Suffice it would be to observe that prosecution is required to stand on its own legs. Mere refusal of the accused Mohd. Rashid to give his voice sample is not sufficient in itself to dislodge the sacrosanct principle of presumption of innocence.

Thus I cannot but disagree with the Ld. Addl. PP that the prosecution has successfully discharged the onus placed upon it to prove the existence of any conspiracy to commit any terrorist act beyond the shadow of a reasonable doubt. The case of the prosecution accordingly fails on this count.

Section 18B of Unlawful Activities (Prevention) of Atrocities Act, 1967

31. In the case at hand, accused Abdul Subhan and Mohd. Rashid have been charged for the commission of offence punishable u/s 18B of UAPA alleging that they recruited Liyakat Ali (PW3), Zamirul Islam (PW10), Mohd. Javed (PW13) and Shabbir (PW14) for committing terrorist acts.

32. Section 18B of Unlawful Activities (prevention) of Atrocities Act reads as under :

18B Punishment for recruiting of any person or persons for terrorist act. —Whoever recruits or causes to be recruited any person or persons for commission of a terrorist act shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

33. In the case at hand, Mohd. Javed (PW13) and Shabbir (PW14) have not supported the case of the prosecution in the witness box. Despite elaborate cross-examination by Ld. Addl. PP, nothing material could be elicited during their cross-examination to substantiate the allegations that accused Abdul Subhan and Mohd. Rashid recruited or caused to be recruited Liyakat Ali (PW3), Zamirul Islam (PW10), Mohd. Javed (PW13) and Shabbir (PW14) for any terrorist acts. Even Liyakat Ali (PW3) has simply deposed that accused Abdul Subhan and accused Mohd. Rashid came to his house despite his reluctance and he introduced them to Zamirul Islam (PW10). Liyakat Ali (PW3) has simply testified that Zamirul Islam (PW10) had informed him that accused Abdul Subhan and Mohd. Rashid are not good persons. The testimony of Zamirul Islam (PW10) remained incomplete and he expired during the course of trial and thus his incomplete testimony cannot be read in evidence. Furthermore, even in the incomplete

testimony, there is no incriminating piece of evidence against the accused persons. Thus in the absence of any evidence against the accused persons to the effect that they recruited or caused to be recruited any person for the purpose of committing any terrorist act, accused persons cannot be presumed to be guilty for commission of the offence u/s 18B of UAPA.

Thus, I cannot but disagree with the Ld. Addl. PP that prosecution has successfully proved its case against accused Abdul Subhan and Mohd. Rashid for commission of offence u/s 18B of UAPA.

34. Now let us deal with the final charge against all the five accused person framed under Section 20 of Unlawful Activities (Prevention) of Atrocities Act.

35. **Section 20 of Unlawful Activities (Prevention) of Atrocities Act** reads as under :

Punishment for being member of terrorist gang or organisation—Any person who is a member of a terrorist gang or a terrorist organisation, which is involved in terrorist act, shall be held liable.

36. Hon'ble Mumbai High Court in the matter of **Jyoti Babasaheb Chorge v. State of Maharashtra (Criminal Bail Application No. 1020 of 2012)** and **Sushma Hemant Ramtekke v. State of Maharashtra (Bail Application no. 1066 of 2012)** decided on **03.10.2012**, while dealing with interpretation of Section 20 of UAPA has observed here as under:-

“...20. It follows that considering from this point of view, the membership of a terrorist gang or organization as contemplated

by Section 20, cannot be a passive membership. It has to be treated as an active membership which results in participation of the acts of the terrorist gang or organization which are performed for carrying out the aims and objects of such gang or organization by means of violence or other unlawful means...”

37. In order to bring home a charge for commission of the offence punishable u/s 20 of UAPA, it is incumbent upon the prosecution to prove that accused persons were members of a terrorist gang or terrorist organisation.

38. It is alleged by the prosecution that the accused persons are members of a banned terrorist organisation Lashkar-e-Taiba (LeT). The prosecution has placed heavy reliance upon the intercepted conversations between the accused persons and the dreaded terrorist Javed Balluchi.

Doubts regarding the probative value of intercepted telephonic conversations has already been discussed above. Once the intercepted conversations available on record is discarded, there is no material available on record to connect accused persons with LeT. Therefore, I am convinced that prosecution has miserably failed to prove on record that accused persons were member of banned terrorist organisation Lashkar-e-Taiba and they accordingly deserves to be acquitted for the charge of offence punishable u/s 20 of UAPA.

39. In the case of **Sadhu Singh v. State of Punjab 1997(3) Crime 55** the Hon'ble Punjab & Haryana High Court observed as under:-

“...In a criminal trial, it is for the prosecution to establish its case beyond all reasonable doubts. It is for the prosecution to travel the entire distance from may have to must have. If the prosecution appears to be improbable or lacks credibility the benefit of doubt necessarily has to go to the accused...”

40. It is settled proposition of law that in a criminal trial, the prosecution is required to prove its case beyond a shadow of reasonable doubt and in the case at hand, the prosecution has miserably failed to prove its case and accused persons deserves to be acquitted.

41. With these observations, accused Mohd. Shahid, Mohd. Rashid, Ashabuddin, Abdul Subhan and Arshad Khan @ Masab are hereby acquitted of the offences charged with.

42. Instant judgment be uploaded on the website immediately.

43. File be consigned to Record Room after due compliance.

**Announced in the open court
on 09.05.2022**

**(Dharmender Rana)
ASJ-02: NDD: PHC:ND**

Case ID No. DLND01-000477-2014

Sessions Case No. 22/2014

Case No. 8857/2016

State v. Mohd. Shahid & ors

09.05.2022

Present: Sh. Irfan Ahmed, Ld. Addl. PP for State.
Accused Mohd. Shahid present on bail.
Accused Mohd. Rashid produced from j.c.
Accused Ashabuddin and Abdul Subhan produced from j.c through VC.
Accused Arshad Khan @ Masab produced from Presidency Jail, Kolkata through VC.
Sh. Maninder Singh, Ld. Senior Advocate with Sh. Dinhar Takiar, Sh. Harsh Vashisht, Sh. Sahib Kochhar and Ms. Anshika Batra, Ld. counsel for accused.
Sh. Mehmood Pracha and Sh. Jatin Bhatt, Ld. Counsel for accused Mohd. Shahid and Mohd. Rashid.
Sh. M. S. Khan, Sh. Prashant Prakash and Ms. Qausar Khan, Ld. Counsel for accused Ashabuddin and Arshad Khan.

Today, the matter is listed for orders.

Accused Mohd. Shahid, Mohd. Rashid, Ashabuddin, Abdul Subhan and Arshad Khan @ Masab are directed to furnish PB/SB in the sum of Rs.25,000/- each, in terms of Section 437A CrPC. Surety Bonds are furnished by the accused persons and the same are accepted.

Vide separate judgment of even date, accused Mohd Shahid, Rashid, Ashabuddin, Abdul Subhan and Arshad Khan @ Masab are acquitted of the charges framed against them for commission of offence punishable u/s 18/20 of UAPA. Accused Abdul Subhan and Mohd. Rashid are also acquitted of the charges framed against them for commission of offence punishable u/s 18B of UAPA.

Accused Mohd. Rashid, Ashabuddin, Abdul Subhan and Arshad Khan @ Masab are directed to be released forthwith if not required in any other case.

File be consigned to Record Room after due compliance.

(Dharmender Rana)
ASJ-02: NDD: PHC:ND
09.05.2022