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Two-rate GST to kick in on September 22

Govt. keeps slabs at 5% and 18%; introduces 'special' 40% rate for goods such as tobacco and luxury items | Individual life insurance policies, individual health policies will move to 0% slab from the earlier 18% | Move likely to reduce prices of daily-use goods, food items, life-saving medicines and cement

The Hindu Bureau
NEW DELHI

The Goods and Services Tax (GST) Council, during its 56th meeting, decided to revamp the tax structure into a primarily two-rate system, as proposed by the Central government, Union Finance Minister Nirmala Sitharaman announced on Wednesday.

Apart from the two rates of 5% and 18%, the new GST system would also include a 40% "special rate" on sin goods such as tobacco and luxury items such as large cars, yachts, and helicopters.

The decisions will come into effect from September 22 for most items, she said. Only tobacco and tobacco-related products will move to the new structure at a date to be specified by the Finance Minister.

The government also calculated that the net fiscal implication of the rate cuts, based on consumption patterns in 2023-24, would be ₹48,000 crore. However, the officials clarified that the real implication would be known on the basis of current consumption, and that the rate rationalisation was expected to result in a buoyancy effect, and improved compliance.

"These reforms have been carried out with a focus on the common man," Ms. Sitharaman said. "Every tax levied on the common man has gone through a rigorous looking into, and in most cases, the rates have come down. Labour-intensive industries have been given good support. Farmers and agriculture will benefit from the decisions. Health-related sectors will also benefit."

She further said that common-use and middle-class items will see a reduction, with products such as hair oil, soap, shampoo, toothbrush, toothpaste, bicycle, table and kitchen ware, and other household articles being moved to 5% from either 18% or 12%.

List is out: Union Finance Minister Nirmala Sitharaman speaking to the media after the GST Council meeting in New Delhi on Wednesday. PTI

No tax on Indian breads

The other items moving down to the 5% rate include namkeens, sauces, pasta, instant noodles, chocolates, coffee, and butter. Twelve specified bio-pesticides, bio-menthol, and labour-intensive items such as handicrafts, marble, travertine blocks, granite blocks, and intermediate leather goods would move from 12% to 5%. Notably, cement will move from 28% to 18%.

The Finance Minister further said that items such as ultra-high temperature milk, paneer, and all Indian bread, including rotis, chapatis, and parathas would see their tax rate fall to 0% from the earlier 5%.

On insurance services, individual life insurance policies and individual health policies will move to 0% from 18%.

A total of 33 life-saving drugs and medicines will move from 12% to 0%, while spectacles to correct vision would move from 28% to 5%. The tax on electric vehicles has been retained at 5%.

"The long-pending inverted duty structure is being rectified for the manmade textile sector by reducing the GST rate on manmade fibre from 18% to 5% and manmade yarn from 12% to 5%," Ms. Sitharaman said. "That will take care of every anomaly due to duty inversion in this sector."

Inversion rectified

The inverted duty structure regarding fertilizers will also be rectified, with the duty on sulphuric acid, nitric acid and ammonia being reduced from 18% to 5%.

The special rate of 40% will apply only on particular sin and super-luxury goods such as pan masala, cigarettes, gutka, chewable tobacco, zarda, unmanufactured tobacco and bidi, as well as goods including aerated water, caffeinated beverages, mid-size or large cars, motorcycles of engines exceeding 350 cc, helicopters and airplanes for personal use, and yachts or other vessels for private use.

Ms. Sitharaman further explained that the GST rate on pan masala, gutka, cigarettes, chewable and unmanufactured tobacco, and bidi would remain at 28%, in addition to a compensation cess, as currently in place.

Once the Centre discharges the loans it had borrowed to compensate States, these tobacco and tobacco-related items will move to the 40% slab. Ms. Sitharaman said the loan would likely be repaid within this calendar year.

KEY REDUCTIONS
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KEY HIGHLIGHTS

Structural Reform in GST

- Move towards a two-rate system:
  - 5% (essential & common-use items)
  - 18% (standard rate for most goods/services)
- Introduction of a 40% "special rate" → for sin goods (tobacco, pan masala, gutka, bidi, aerated/caffeinated drinks) and super-luxury goods (large cars, motorcycles >350cc, yachts, helicopters, airplanes for personal use).

Effective Date

- New rate structure effective from September 22, 2025 (most items).
- Tobacco-related items → transition later, after Centre repays loans for GST compensation to States.

Fiscal Implication

- Estimated ₹48,000 crore revenue impact (based on 2023–24 consumption patterns).
- Govt expects buoyancy effect and better compliance to offset losses.

Relief for Common Man

- Rate reductions on daily-use items:
  - From 18%/12% → 5%: hair oil, soap, shampoo, toothbrush, toothpaste, bicycles, kitchen/tableware, household articles.
  - From 5% → 0%: all Indian breads (roti, chapati, paratha), paneer, ultra-HT milk.
  - Processed foods: namkeens, sauces, pasta, instant noodles, chocolates, coffee, butter moved to 5%.

Health & Social Sector Benefits

- 0% GST:
  - Individual life & health insurance policies.
  - 33 life-saving drugs/medicines.
- 5% GST: spectacles for vision correction.

Labour-Intensive & Agriculture Support

- Handicrafts, marble/granite blocks, intermediate leather goods: 12% → 5%.
- 12 bio-pesticides & bio-menthol: 12% → 5%.
- Fertilizer input chemicals (sulphuric acid, nitric acid, ammonia): 18% → 5%.

Industry & Infrastructure

- Cement: 28% → 18% (big relief for infra sector).
- Manmade textile sector:
  - Fibre: 18% → 5%
  - Yarn: 12% → 5%
  - → Rectifies inverted duty structure (a chronic issue).

Continuity

- Electric vehicles: GST retained at 5% (no change).

Tobacco Sector Exception

- Current regime (28% + Compensation Cess) will remain till States' compensation loans are repaid.
- Later, tobacco & related products to be shifted to 40% slab.

Union govt. exempts Sri Lankan Tamil refugees who came before January 9, 2015 from penal provisions

Vijaita Singh
NEW DELHI

The Union Home Ministry has exempted Sri Lankan Tamil refugees who came to India before January 9, 2015 from penal provisions if found to be without valid passports, travel documents or visa.

India does not recognise refugees and the exemption effectively means that the Sri Lankan Tamils registered with the government will not be treated as illegal migrants.

Earlier, on December 16, 2015, the Ministry, through an executive order, had decided to waive the visa fees and overstay penalty in respect of Sri Lankan refugees who came prior to January 9, 2015 and who opt to voluntarily return to Sri Lanka.

Under the Immigration and Foreigners Act, 2025 enacted in April, the entry and stay of foreigners without passport or valid documents was made punishable by a fine of ₹5 lakh or up to five years' imprisonment or both.

The Act repealed and replaced four laws that determine the provision regarding entry and stay of foreigners and immigration.

"The provisions of subsections (1), (2) and (3) of Section 3 (requirement of passport or other travel document or visa) of the 2025 Act to the extent of their stay in India and for the purposes of exiting India shall not apply to registered Sri Lankan Tamil nationals who have taken shelter in India up to the 9th January, 2015," the Immigration and Foreigners (Exemption) Order, 2025 notified in the Gazette on September 2 said.

A Sri Lankan Tamil camp. The exemption means registered Sri Lankan Tamils will not be treated as illegal migrants. FILE PHOTO

The Ministry has also exempted undocumented members of six minority communities from Afghanistan, Bangladesh and Pakistan from penal provisions and possible deportation if they entered India before December 31, 2024.

A senior government official said the exemption made through the Immigration and Foreigners (Exemption) Order was to enable the undocumented migrants from the six minority communities from three countries "who were compelled to seek shelter in India due to religious persecution or fear of religious persecution" to seek long-term visas, which are a precursor to citizenship.

'Not extended'

The official clarified that the exemption does not mean that the cut-off date for the Citizenship (Amendment) Act, 2019 (CAA) has been extended from December 31, 2014 to December 31, 2024.

There have been demands from the Bharatiya Janata Party in West Bengal to extend the cut-off date. On Wednesday, Union Minister of State Sukanta Majumdar from West Bengal deleted a post on X thanking the Prime Minister and the Home Minister for extending the cut-off date.

He later clarified, "The thing is that people who have entered from Bangladesh in West Bengal...will not be deported if they have entered by December 31, 2024. The thing is that if they are not deported, then through the process of naturalisation, they will become citizens of India."

The Citizenship Act, 1955 prescribes citizenship by naturalisation to applicants with an aggregate stay of 11 years in India.

KEY HIGHLIGHTS

Immigration and Foreigners Act, 2025

- Enacted in April 2025 – consolidates and repeals four earlier laws dealing with entry, stay, and immigration of foreigners.
- Penal provisions:
  - Entry/stay without valid passport/visa → ₹5 lakh fine or up to 5 years' imprisonment or both.
- Section 3(1), (2), (3): Requirement of passport, travel document, or visa for entry/stay.

Sri Lankan Tamil Refugees

- Exemption granted under the Immigration and Foreigners (Exemption) Order, 2025.
- Applies to Sri Lankan Tamils who entered India before January 9, 2015 and are registered with the government.
- Exemption covers:
  - Stay in India without valid travel documents.
  - Exit from India.
- Earlier order (December 16, 2015): Waived visa fees & overstay penalty for voluntary return to Sri Lanka.
- Significance: Protects them from being treated as "illegal migrants."

Exemption for Six Minority Communities

- Applies to Hindus, Sikhs, Buddhists, Jains, Parsis, Christians from Afghanistan, Bangladesh, Pakistan.
- Cut-off: Entered India before December 31, 2024.
- Purpose: Enable long-term visas (precursor to citizenship).
- Justification: Protection from religious persecution.
- Note: Exemption ≠ extension of CAA cut-off date (still December 31, 2014).

Citizenship Framework

- Citizenship (Amendment) Act, 2019 (CAA):
  - Cut-off date for eligibility: December 31, 2014.
  - Applies only to six minority communities from 3 countries.
- Citizenship Act, 1955:
  - Naturalisation requires 11 years' aggregate stay in India.

Political Context

- BJP units (esp. West Bengal) have been demanding extension of CAA cut-off date.
- Recent confusion arose when Union MoS Sukanta Majumdar (BJP, West Bengal) posted (later deleted) thanking PM/ HM for extension.
- Clarified: Exemption = protection from deportation, not automatic CAA benefit.

Concealing a judge's dissent, eroding judiciary's authority

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Constitutional democracies are sustained not only by written laws but also by what the South African professor of law, Etienne Mureinik, first described as a "culture of justification". That is, the idea that every exercise of public power must be explained and defended. As Mureinik put it, "The leadership given by government rests on the cogency of the case offered in defence of its decisions, not the fear inspired by the force at its command."

Judges in India have routinely invoked this principle to demand accountability from the state. But with reports surfacing in the media of the dissent by Justice B.V. Nagarathna of the Supreme Court of India, on the Collegium's recommendation to elevate Justice Vipul M. Pancholi to the Court, it appears that this culture of justification ends at the Collegium's door. When it comes to the Court selecting its own members, the public seemingly have no right to know.

An indictment of the system

A dissent of this kind ordinarily would represent a moment of reckoning. But the Collegium and its almost total opacity has meant that the opposition has proven not so much a failure as a futile exercise. The resolution uploaded on the Court's website, displaying the recommendation, suggests unanimity. It makes no mention of dissent. We only learnt of Justice Nagarathna's objection through reports in the media. The note that she wrote remains hidden, but we are told that her reservations were "grave." It is unclear whether the dissent was even shared with the Union government, which, within 48 hours of the recommendation, went ahead and notified the appointment.

This gulf, between what we know happened and what we are permitted to know, epitomises the flaws inherent in the system governing how we appoint members to our courts. One of India's senior-most judges may have believed there were compelling reasons why the candidate's elevation should not have gone through, yet both her reasoning and the majority's response remain unknown. No doubt the dissent might only concern a single appointment. It is possible that the other members in the Collegium had overwhelming reasons to support the proposal. But the fact that the public is told nothing at all is itself an indictment of the system – its lack of transparency, its democratic deficit, and its refusal to explain itself to the people in whose name it acts.

The Collegium has been resistant to transparency from its inception. It is a product of judge-made law. Created in the "Second Judges Case" (1993) and entrenched in the "Third Judges Case" (1998), the system vests primacy in the five senior-most judges of the Supreme Court to appoint members of the higher judiciary. They deliberate in private, record decisions with minimal disclosure, and rarely explain their reasoning.

Beginning in 2017, the Collegium began publishing its resolutions. But these were skeletal at best and amounted to little more than formal announcements. For a short period in 2018, the Court uploaded fuller reasons for the Collegium's choices and rejections. However, the experiment was short lived, with the explanation that disclosure might damage reputations.

Justice Nagarathna's dissent reveals the cost of this retreat to secrecy. If even an objection from a serving Supreme Court judge is deemed too sensitive for the public, then we must ask whether the Collegium has not simply embraced opacity but crossed into outright rejection of accountability.

The weak defence

The defence of keeping its reasons confidential has always rested on two claims: that openness can harm the reputation of candidates who are not selected, and that it would expose the system to political pressures. On reasonable scrutiny, both claims collapse.

No doubt, marrying transparency with reputational fairness requires careful handling. But other constitutional democracies seem to manage it better than India does. Britain's Judicial Appointments Commission, for instance, sets out its criteria openly and issues reports explaining how candidates were assessed. In South Africa, candidates for higher judicial office are interviewed by the Judicial Service Commission, and their suitability debated in public. Neither system is flawless, but both proceed from the recognition that legitimacy flows from openness. India, by contrast, persists in treating the Collegium as a private conclave. Even the existence of dissent reaches us only through leaks. If reputational harm is a genuine concern, the answer must lie in carefully structuring disclosure to mitigate it. Denying justification altogether cannot be the solution. And if political pressure is feared, then secrecy has hardly prevented it. The executive, after all, continues to delay and stonewall inconvenient Collegium recommendations. It can return a name for reconsideration or, on re-recommendation, simply keep the file pending, stopping short of issuing the presidential warrant of appointment.

The stakes here go to the heart of India's democracy. Judges chosen today will shape the outcomes of India's most urgent constitutional questions that range from issues concerning civil liberties to the limits of executive power and the division of authority between the Union and the States. When citizens are informed only that a judge has been elevated, without reasons, or when a dissent by a sitting Supreme Court judge is shrouded in secrecy, institutional legitimacy withers. We quite rightly expect our courts to insist on accountability from other branches of the state. But in doing so, can they claim immunity for themselves?

Justice Nagarathna's dissent has not halted Justice Pancholi's elevation. Indeed, it is possible that the other members of the Collegium had good reasons to support his appointment. What they were, we will never know. But the larger issue here extends beyond a single name. It concerns whether the Court is prepared to live by the very principle it seeks to impose on every other organ of the state: that every exercise of public power must be justified.

In many democracies, anxieties about unelected judges striking down laws are framed as a counter-majoritarian difficulty. How can a system be democratic if those not chosen by the people wield such authority? At first blush, the concern seems real. But it misstates what democracy truly is. Democracy is not simply majoritarian rule by numbers. Properly understood, it is something more: a partnership between citizens that secures rights and ensures that liberty and equality structure public life. Unelected judges play an essential role here, by interpreting the law and by protecting rights against majoritarian excesses.

It is for this reason that the Constitution vests extraordinary prerogative power in an unelected judiciary. Judges are meant to act as independent arbiters, to check and balance government, to protect fundamental liberties. In doing so, they do not undermine democracy but only fulfil its highest aspirations.

The Collegium must accept reform

However, for the judiciary to retain its standing, the process by which judges are appointed must itself meet the strictest standards of accountability. The Collegium has too often withdrawn into a culture of concealment over justification. Unless it embraces reform, it risks diminishing the very legitimacy on which its authority rests. Too many opportunities for change have been spurned in the past; every step forward has been followed by two steps back, with each retreat eroding the values of transparency and integrity on which democracy depends.

A judiciary that subjects itself to the same standards of openness it demands of others will not weaken its autonomy. On the contrary, it will anchor its independence more securely in the trust and the confidence of the people.

A judiciary that subjects itself to the same standards of openness it demands of others will only gain greater trust and confidence of the people

- Reported as "grave reservations" but not officially recorded.
- Resolution uploaded on SC website showed unanimity, hiding dissent.
- Government notified the appointment within 48 hours, ignoring dissent.
- Highlights: Opacity, lack of accountability, suppression of internal disagreement.

Transparency Attempts & Retreat

- 2017: Collegium began publishing resolutions.
- 2018: Brief experiment with fuller reasons for decisions (later withdrawn).
- Reason for rollback: Fear of reputational harm to candidates.
- Current practice: Minimal, skeletal announcements → effectively a black box system.

Critiques of Collegium Secrecy

- Reputational harm argument weak: Can be mitigated with structured disclosure.

KEY HIGHLIGHTS

Core Concept – Culture of Justification

- Coined by Etienne Mureinik (South African law professor).
- Principle: Every exercise of public power must be explained and defended, not just commanded.
- Indian courts have invoked this principle often to demand state accountability.
- Irony: The judiciary demands justification from others but shields its own decision-making (Collegium) from scrutiny.

The Collegium System – Background

- Created by Judicial Pronouncements:
  - Second Judges Case (1993) → primacy to judiciary in appointments.
  - Third Judges Case (1998) → institutionalised Collegium of 5 senior-most SC judges.
- Nature: Judge-made law, not part of original Constitution.
- Functions: Appointment and transfer of judges in High Courts and Supreme Court.
- Criticism: Opaque, secretive, minimal disclosure of reasoning.

Justice Nagarathna's Dissent – Case in Point

- Objection to Collegium's recommendation of Justice Vipul M. Pancholi.
- Political pressure argument weak: Secrecy has not stopped the executive from delaying/ignoring Collegium recommendations.
- Comparative Perspective:
  - UK: Judicial Appointments Commission – transparent criteria, reports.
  - South Africa: Judicial Service Commission – public interviews, debates.
- Legitimacy flows from openness, not secrecy.

Democracy, Judiciary & Accountability

- Judiciary plays counter-majoritarian role: Protects rights, checks executive and legislature.
- Independence of judiciary = cornerstone of constitutional democracy.
- But legitimacy of unelected judges depends on trust.
- Without transparency in appointments, democratic deficit deepens.
- Paradox: Judiciary demands accountability from others but shields itself.

Reform Imperatives

- Collegium must adopt culture of justification in its own functioning.
- Public reasoning would strengthen, not weaken, judicial independence.
- Need for:
  - Transparency & structured disclosure.
  - Institutional reforms balancing independence with accountability.

India's recent maritime reforms need course correction

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India should modernise its maritime legislation, but reform should not be at the expense of federal balance and fair competition

The passage of the Indian Ports Bill, 2025 in the Rajya Sabha, on August 18, marks a pivotal moment in India's maritime legislative history. Intended to repeal and replace the Act of 1908, it comes alongside the newly enacted Coastal Shipping Act, 2025, the Carriage of Goods by Sea Bill, 2025, and the Merchant Shipping Act, 2025, a legislative package that the government hails as critical to streamlining maritime governance and bringing India's shipping regulation in line with global practices.

Progress but with pitfalls

At first glance, these new laws represent a comprehensive attempt to modernise India's maritime governance. India's maritime regulation is fragmented and outdated, with modern shipping finance, offshore operations and international conventions long having outpaced the legal and operational frameworks in place. For India to expand its trade, attract foreign investment and enhance its maritime standing, aligning with global best practices is indeed necessary. In particular, the Indian Ports Act has been hailed as a facilitative law – one that enables ease of business, promotes sustainable port development, and brings coherence to India's otherwise disjointed regulatory environment. Even so, the Bill's passage without a serious parliamentary debate or referral to a standing committee raises questions, underlining the absence of political consensus and public scrutiny.

Notably, the Ports Act, 2025, has been criticised for centralising power at the expense of the States, diluting safeguards meant to protect Indian sovereignty. Critics point to its main feature, the Maritime State Development Council (chaired by the Union Minister of Ports) as a centralised policy-making authority with the power to direct States to follow central guidelines. Far from an illustration of cooperative federalism, they contend, the new Ports Act is an example of federal subordination, designed to ensure that States align their port development with central plans, such as Sagarmala and PM Gati Shakti regardless of their own priorities. Critics point to the Maritime State Development Council's structure and intent, where State maritime boards cannot adjust their own frameworks without central approval, as stripping coastal States of fiscal autonomy and flexibility, even while burdened with tight port management responsibilities.

The criticism is not confined to federal concerns. Experts warn that the new law introduces vague, discretionary regulatory powers that could saddle smaller operators with unmanageable compliance burdens. Equally troubling is the approach to dispute resolution: Clause 17 of the Bill bars civil courts from hearing port-related disputes, forcing parties into internal dispute resolution committees created by the very authorities they are contesting. Analysts caution that the absence of impartial, independent judicial review could deter private investment and erode trust in the regulatory system.

The issue about ownership

The Merchant Shipping Act, 2025, is not free from flaws either. It seeks to modernise registration, ownership rules, safety standards, environmental obligations, and liability frameworks, with some admittedly notable pluses: expanding vessel definitions to cover offshore drilling units and non-displacement crafts; tightening oversight of maritime training institutes; and aligning India's liability and insurance rules with international conventions. Yet tucked into the fine print is a loophole in ownership safeguards. Under the Merchant Shipping Act, 1958, Indian-flagged vessels had to be fully Indian-owned. The new Act permits "partly" Indian ownership including by Overseas Citizens of India and foreign entities while leaving the actual thresholds to be decided later by government notification.

The law also formally recognises Bareboat Charter-Cum-Demise (BBCD) registration, intended to let Indian operators lease foreign vessels with a view to eventual ownership. While legitimate as a global financing tool, the BBCD could test India's regulatory capacity to ensure that transfers actually occur. Without clear, enforceable rules, foreign lessors may retain effective control indefinitely. Further, the Act mandates registration of all vessels, regardless of size or propulsion, without regard to the bureaucratic burdens that this places on small operators. What is most troubling is that it hands the executive a blank cheque to dilute ownership requirements whenever convenient, raising the risk of India sliding into a flag-of-convenience jurisdiction where foreign owners control ships flying the Indian flag.

Endangering smaller players

The final component of India's maritime reform package, the Coastal Shipping Act, ostensibly aims to clarify and strengthen cabotage rules, ensuring that only Indian-flagged vessels engage in domestic coastal trade. Though well-intentioned, it gives the Director General of Shipping sweeping discretion to licence foreign vessels on vague grounds such as "national security" or "alignment with strategic plans" – open-ended clauses that invite arbitrary or selective application. The real burdens are likely to fall on small operators, particularly in the fishing industry, who will struggle to comply with mandatory voyage and cargo reporting requirements in the absence of clear guidance on how such data will be used or protected. Members of Parliament from the Opposition have warned that the Act hands too much control to the Centre, potentially undermining local autonomy – a concern that applies equally to the centrally mandated National Coastal and Inland Shipping Strategic Plan.

None of this is to deny the need for an updated legal framework. India certainly must modernise its maritime legislation. But reform should not come at the expense of federal balance and fair competition. Ownership thresholds and licensing rules ought to be clearly specified in law, not left to executive discretion. As it stands, too many of the provisions are arbitrary – from dispute resolution that lacks judicial independence to excluding States from any meaningful role in planning. These measures may be a beginning, but without significant amendments, they risk delivering ease of doing business for the few while eroding the federal compact and weakening India's long-term maritime security.

KEY HIGHLIGHTS

Context & Significance

- New legislative package (2025):
  - Indian Ports Bill, 2025 (repeals Act of 1908)
  - Coastal Shipping Act, 2025
  - Carriage of Goods by Sea Bill, 2025
  - Merchant Shipping Act, 2025
- Aims: Streamline maritime governance, modernise fragmented legal framework, align with global conventions & best practices.
- Strategic importance: India has ~7,500 km coastline, handles ~95% of trade by volume.

Positives / Intended Outcomes

- Simplification & coherence in regulation.
- Facilitative framework for ease of doing business.
- Encourages sustainable port development.
- Harmonises with international shipping standards.
- Modernises ownership, liability, and environmental safeguards.
- Recognises offshore units, new vessel types, training oversight.

Concerns & Criticisms

(a) Federalism & Centralisation

- Maritime State Development Council (chaired by Union Minister) → directs States to follow Centre's policies (e.g., Sagarmala, Gati Shakti).
- Reduces States' fiscal & policy autonomy in port development.
- Seen as federal subordination rather than cooperative federalism.

(b) Judicial Independence & Dispute Resolution

- Clause 17: Bars civil courts from hearing disputes → only internal dispute resolution committees.
- Risk: Bias, lack of impartiality, reduced investor confidence.

(c) Ownership Loopholes (Merchant Shipping Act, 2025)

- Earlier: 100% Indian ownership required.
- Now: Partial Indian ownership allowed (incl. OCI & foreign entities).
- Thresholds left to executive notification → potential dilution.
- BBCD registration: May allow foreign control of Indian-flagged vessels indefinitely.
- Risk of becoming a "flag of convenience" jurisdiction.

(d) Small Operators & Compliance Burden

- Mandatory registration of all vessels, irrespective of size.
- Coastal Shipping Act → burdensome reporting rules for small players (fishing industry particularly).
- Sweeping discretion for DG Shipping to allow foreign vessels (grounds: "national security", "strategic alignment") → scope for arbitrariness.

Broader Implications

- Economic: Potential to boost trade, attract FDI, but compliance burdens may hurt smaller domestic players.
- Governance: Excessive centralisation → weakens federal compact.
- Judicial: Erosion of independent judicial review.
- Strategic: Risk of foreign dominance over Indian-flagged fleet; long-term maritime security concerns.
- Regulatory Philosophy: Heavy executive discretion, limited parliamentary oversight, minimal public debate.

Rain and repeat

Excess rain is no excuse for damage caused by neglect of sluices

The heavy rains and flooding across Andhra Pradesh and Telangana this season underline how extreme weather interacts with governance. In 2024, Andhra Pradesh recorded 27% of its annual rainfall in two days; this August, Vizianagaram logged a 46% excess, with some parts reporting up to 90%. Consecutive years of extreme precipitation signal a shift in the monsoon's behaviour. Reservoir and barrage systems in river basins are designed to manage seasonal inflows but the timing and intensity of recent rain events matter. At one point this year, Srisailam was 94% full and Nagarjuna Sagar 96%, leaving little room for additional inflow. The crisis is really excess rainfall plus its concentration into short bursts when reservoirs are already nearly full. Last year, Budameru, a rivulet with a capacity of 7,000 cusecs, received 35,000 cusecs and flooded Vijayawada. The recurrence points to how minor tributaries and drainage channels, which are often neglected in policy, become debilitating choke points. While sheer volume explains part of the flooding, infrastructural weaknesses magnify the damage. At the Prakasam Barrage, one gate damaged last year remained unrepaired well into this season, hampering smooth water release. Along the Godavari, floodbanks near Bhadrachalam sank or collapsed in places, raising anxiety among residents on both sides of the border. In urban areas, partly desilted drains, encroached stormwater channels, and concretised surfaces have restricted water absorption. Overall, infrastructure exists but is not maintained or upgraded with urgency.

The disaster management apparatus in both States is mature and saved many lives. Yet, institutions remain less agile at reducing risk. Year after year, large sums are sanctioned for immediate relief (Telangana recently released ₹1 crore per district at short notice) but strengthening floodbanks and completing diversion channels remain unfinished. In 2024 and 2025, extreme rainfall arrived late in August and early September. Both times, the Krishna and Godavari systems were severely strained and Vijayawada was inundated. Both times, protests followed, highlighting incomplete Budameru works and opaque relief fund uptake. Extreme rainfall cannot be prevented but its consequences can be moderated by anticipating it. Reservoir management, for example, needs to incorporate real-time hydrological modelling so that water levels are drawn down before a deluge, creating flood cushions. Urban planning must prioritise drainage networks and reserve permeable land for water absorption, moving beyond cosmetic desilting drives. Flood banks and sluices require continuous, not episodic, maintenance, and their upkeep should be insulated from political cycles. Neither State is wrong to argue that extraordinary rains can overwhelm even robust systems, but both risk fatalism if they use this as an excuse to avoid reform.

KEY HIGHLIGHTS

Context & Significance

- Andhra Pradesh & Telangana witnessing recurrent extreme rainfall events (27% of annual rainfall in 2 days in 2024; Vizianagaram 46% excess in Aug 2025).
- Reflects shifting monsoon behaviour → concentration of rainfall in shorter bursts.
- Highlights climate variability–governance nexus.

Hydrological Stress

- Reservoirs & barrages designed for seasonal inflows, but crises emerge when deluge coincides with near-full reservoirs (Srisailam 94%, Nagarjuna Sagar 96%).
- Tributaries & rivulets neglected → Budameru (capacity 7,000 cusecs; inflow 35,000 cusecs in 2024) flooding Vijayawada.
- Floodbanks near Bhadrachalam (Godavari) sinking/collapsing.

Infrastructure Weaknesses

- Damaged gates (Prakasam Barrage) left unrepaired, hampering water release.
- Urban vulnerabilities:
  - Encroached stormwater channels, incomplete desilting, concretised land → reduced absorption.
- Infrastructure exists but is not maintained or upgraded with urgency.

Governance & Disaster Management

- Disaster management apparatus effective in saving lives → institutional maturity.
- Weakness: reactive, relief-focused, not risk-reduction oriented.
  - Telangana → ₹1 crore per district (short notice) for relief.
  - Structural solutions (floodbanks, diversion channels) remain incomplete.
- Protests highlight opaque relief fund utilisation and unfinished works.

Recurrent Pattern

- In both 2024 & 2025:
  - Late Aug–early Sept extreme rainfall.
  - Krishna & Godavari systems severely strained.
  - Vijayawada inundated.
  - Public protests ensued.

Way Forward / Reform Agenda

- Reservoir Management:
  - Real-time hydrological modelling.
  - Pre-deluge drawdown for flood cushion creation.
- Urban Planning:
  - Prioritise drainage networks.
  - Ensure permeable land reserves.
  - Move beyond cosmetic desilting.
- Flood Infrastructure:
  - Continuous (not episodic) maintenance of floodbanks & sluices.
  - Depoliticised upkeep insulated from political cycles.
- Governance Mindset:
  - Avoid "fatalism" that extreme rainfall overwhelms all → reform still possible.

•'Tariff impacting 55% Indian exports to US'

government approach this challenge?

The government seems to be very active. They need to help the sectors that are most exposed. About 55 per cent of our exports to the US at the moment are facing punitive tariffs, and these are the sectors where the pain needs to be mitigated. Then it has to be seen what can be done subsequently in terms of finding new markets, etc. Because at the end of the day, globally, the US accounts for 13 per cent of world trade, but 87 per cent of global trade is carrying on as before, so there is scope for trade deepening.

I am not trying to underplay the importance of what has happened, but there are things that are carrying on in the rest of the world, and we see that evidence all the time. For example, our FTA with the UK happened almost simultaneously. And other countries are also trading normally. We just need to mitigate the pain and then see the other opportunities. It may take some time. If you see the goods that are most affected, they are consumer goods, where there is a large international market. We have to wait a little and see what kind of package is rolled out.

What do you make of the analysis that India's savings from buying cheaper Russian oil is lower than what we stand to gain via exports in the US market? The government has said this is a matter of sovereign choice in the nation's interest. What is your take?

The most important issue here is that any country, whether it is us or someone else, should buy whatever it wants to from whomever it wants to, at whatever price it wants to – and that is an extremely important principle. I haven't seen any credible calculations on the so-called analysis that you mention on this, because I don't think it is a simple static comparative exercise. The positive benefit to our balance of payments on account of this is huge. If we were to go into the open market, oil price increases would impact our balance of payments quite significantly. So, I think that calculation has to be done carefully. It's not a question of a one-time couple of billions here and there. It is substantially more. It's a counterfactual exercise that needs to be done carefully, and then you have to make the comparisons.

There are still a number of countries that purchase Russian energy. Whether you are purchasing oil or LNG doesn't matter – it's still hydrocarbons coming from a large exporter of these products. And Russia has continued to sell oil under the G7's oil price cap since 2022. Also, India's exports of petroleum products like diesel and jet fuel to the US continue to be exempt from the levy, to the best of my knowledge.

A very significant cost around the tariffs overall – whether in the form of secondary sanctions or retaliatory tariffs – is that investment uncertainty has become very high. It's not only that the tariffs are high, but the scope for abrupt changes in these tariffs is also there, as we have noticed over the last six months. I think the effect of all this on investment, on account of the uncertainties, is a significant cost to the global economy, and not only to the countries directly affected. That is why some are saying that the world has shifted from a "China plus one" to a "China plus wait" phase...

What is your take on these sanctions that have been historically seen as a tool for large powers such as the US to further political goals?

What is disappointing here is that multilateral institutions have not been fully cognisant and transparent that sanctions, secondary sanctions, counter-sanctions, counter-measures, are a substantial source of economic instability. They not only affect the countries directly, but the spillovers are immense – and this has been the case for a while. This not only needs to be acknowledged, but we need precise estimates of these spillovers from each of these separately. You know, a war has a direct cost. But sanctions and counter-sanctions also do, and we need granular estimates of how much they cost each country. Dozens of countries have been affected. Institutions and entities whose job is to look at spillovers themselves have not done this seriously enough.

I think the whole business of sanctions and secondary sanctions as a source of economic instability is something very serious. The issue of spillovers is not only about fiscal and monetary policy. A lot more needs to be done – bringing in transparency about the cost of this instability in a granular manner would do a lot to inform policymaking and policy advice.

It's not just a question of geopolitics. It's a fundamental source of economic uncertainty and instability for the global economy. In fact, that has been one of the valid reasons why India has been legally allowed to buy Russian oil – so as to mitigate economic instability and the spike in oil prices, if we were to buy in the open market as the world's third largest oil importer.

What merit do you see in India's association with BRICS at this time? How risky can it be given the US warnings to India?

The BRICS grouping has been around for a very long time now, and the New Development Bank (NDB) has been an important component of BRICS. And now BRICS is not just five countries — six other countries have joined. I think it is a more inclusive and growing group. It was never formed to be a counterpoint to anything. It was just a new institution set up for the mutual interests of some of the leading emerging markets at the time.

Entities like the NDB, the AIIB, and also the Contingent Reserve Arrangement amongst the BRICS, are high forms of risk mitigants to anything. It doesn't have to be because of the economic policies of any one other country outside BRICS. I think it's an inclusive group, and it has moved beyond the five.

Climate financing and climate regulations by Western countries have been flashpoints between developing and developed nations. Your thoughts?

The fact of the matter is that it's mainly the developed countries who are consuming the high carbon intensity products. Look at data on per-capita emissions as well. And the interesting thing is that the Carbon Border Adjustment Mechanism (CBAM) will, I am sure, not be imposed by the EU on the US. They have just had a trade agreement where tariffs, investment and market access have been determined, and the CBAM is supposed to come into effect on 1 January 2026. I am sure not all countries are going to agree to CBAM, and if the EU gives carve-outs to the world's largest economy, it remains to be seen what will be done.

But the precedent – the words I was looking for – is that the US has basically driven a truck through CBAM. I think this should actually be used as a benefit for everyone else, especially the emerging markets which were being targeted by CBAM, which is a non-tariff barrier to trade. Period.

KEY HIGHLIGHTS

India–US Trade Tensions

- Tariffs Impact: ~55% of Indian exports to US currently under punitive tariffs (as high as 50%).
- Affected Sectors: Mostly consumer goods → globally large markets, hence diversification possible.
- Policy Approach Needed:
  - Short-term: Mitigation support for most-exposed sectors.
  - Long-term: Finding new markets, leveraging FTAs (e.g., India–UK).
- Global Context: Despite US measures, ~87% of global trade continues normally → scope for trade deepening.

Russian Oil & Balance of Payments

- Sovereign Choice Principle: Nations must retain autonomy to buy energy from any source.
- Economic Benefit: Cheaper Russian oil → significant savings for India's BoP.
- Counterfactual Impact: Without Russian oil, global market prices would spike, hurting India's import bill.
- Legal Justification: India allowed to continue purchases to mitigate instability as world's 3rd largest oil importer.

Sanctions as a Source of Instability

- Ignored by Multilateral Institutions: IMF, World Bank etc. have not fully quantified sanctions' spillover effects.
- Sanctions & Counter-Sanctions: Comparable to war costs in terms of economic instability.
- Investment Climate: Secondary sanctions + tariff uncertainty → high investment risk globally ("China + wait" phase).
- Policy Gap: Need granular estimates of spillover costs to inform global policymaking.

BRICS & Alternative Institutions

- Expanded BRICS: Now includes new members beyond the original five → inclusive, growing bloc.
- Not a Counterpoint to the West: Framed as a cooperative institution for emerging economies' interests.
- Institutional Tools:
  - New Development Bank (NDB)
  - Asian Infrastructure Investment Bank (AIIB)
  - Contingent Reserve Arrangement (CRA) → risk-mitigation frameworks.

Climate Financing & CBAM (Carbon Border Adjustment Mechanism)

- Developed vs Developing Divide: Developed nations consume high-carbon products; developing nations bear adjustment costs.
- CBAM Implementation: EU's CBAM effective 1 Jan 2026 → non-tariff barrier for exports from emerging economies.
- Geopolitical Bias: EU unlikely to impose CBAM on the US (due to trade agreement) → creates asymmetry.
- India's Opportunity: Use US carve-out precedent to argue for relief/exemptions for emerging economies.

An EPIC exclusion

EC's refusal to accept the identity card it created, in SIR in Bihar, appears arbitrary and self-contradictory

SY QURAISHI

FEW DOCUMENTS IN independent India have so profoundly shaped the democratic experience as the Electors Photo Identity Card (EPIC). Introduced by the Election Commission of India (ECI) in the 1990s, the EPIC has transformed the way we vote, conduct elections, and even prove who we are in daily life. It is therefore astonishing that the very institution that created the EPIC now refuses to accept it.

In July, the ECI announced a Special Intensive Revision (SIR) of electoral rolls in Bihar. A welcome step in principle: Voter lists have historically been vulnerable to errors, duplication and under-registration. A clean and credible roll is the bedrock of a free and fair election. But the details of the exercise contain a startling twist.

Applicants for enrolment or correction have been asked to furnish any one of 11 specified documents to prove their residence and identity. Conspicuously absent from this list are the EPIC — the Commission's own flagship identity card — and Aadhaar, the nation's most widely-used proof of identity. The omission has rightly raised eyebrows, triggered litigation, and prompted the Supreme Court to express surprise.

The exclusion of the EPIC and Aadhaar from Bihar's SIR was challenged in the Supreme Court. During hearings, the Court was openly puzzled: "EPIC and Aadhaar are readily available documents. Tomorrow, 10 out of 11 accepted documents could also be fake — that cannot justify blanket exclusion of these", said Justice Surya Kant. The Bench repeatedly urged the ECI to focus on mass inclusion rather than exclusion, and specifically suggested that the EPIC and Aadhaar be accepted.

However, surprisingly, in its final order, the Court directed only Aadhaar's inclusion (that too for the 65 lakh deleted voters and not for all 7 crore applicants). It stopped short of mandating the EPIC's acceptance. This nuance has allowed the ECI to claim compliance with judicial directions while still refusing to rely on its own most powerful tool of voter identification.

It is important to remember that the EPIC was not a bureaucratic whim — it was a reform born of conviction and confrontation. In the late 1980s, concerns about impersonation and bogus voting were eroding public trust. Under the redoubtable TN Seshan's uncompromising leadership, the ECI launched an ambitious programme to photo-identify every voter.

> If the EPIC is good enough for the nation's first citizen to bestow with such pomp, surely it must be good enough for the Commission to recognise. Besides, there is a very important question: In the coming election, will the EPIC be required or accepted from each voter? Moreover, if it has been discarded by its creators/owners, willthey issue EPICs to the new voters as was always done? The practical consequences of excluding the EPIC, the most possessed ID, are serious.

The project met with immediate resistance. It required substantial funds and political backing. When Seshan approached Prime Minister PV Narasimha Rao for funding, Rao reportedly refused, citing budget constraints. Seshan, in characteristic style, is said to have warned that unless the request was granted, he would not call the by-election Rao needed to contest to continue as Prime Minister — a constitutional requirement under Article 75(5). The funds were sanctioned within days.

This episode is more than an anecdote. It symbolises the assertion of the Commission's independence and its determination to strengthen the integrity of elections. The EPIC was, from its inception, a reform secured against odds — not a gift of political generosity but the fruit of institutional insistence.

The current exclusion is not only baffling — it is deeply symbolic. Every year on January 25, India celebrates National Voters' Day, an event created precisely to encourage enrolment. Millions of young voters receive their EPICs at polling booth level on this day. At the national function, no less than the President of India personally hands over EPICs to a select group of new voters — a moment of pride telecast across the country, in the presence of over 30 election commissioners of the world.

That the very card ceremonially handed over by the Rashtrapati is now disqualified as proof of identity in Bihar's revision process is a bitter irony. It risks turning a proud democratic ritual into an empty spectacle. If the EPIC is good enough for the nation's first citizen to bestow with such pomp, surely it must be good enough for the Commission to recognise.

Besides, there is a very important question: In the coming election, will the EPIC be required or accepted from each voter? Moreover, if it has been discarded by its creators/owners, will they issue EPICs to the new voters as was always done? The practical consequences of excluding the EPIC, the most possessed ID, are serious. Bihar is a state with high migration and large numbers of rural poor. Many citizens possess only the EPIC as their proof of identity. Denying its validity risks making the process cumbersome, dissuading participation, and disenfranchising genuine voters.

Given its rich history, the exclusion of the EPIC from the SIR document list is baffling. It creates a paradox: The same card that was good enough to run the 2024 General Election, with 642 million voters participating, is suddenly deemed inadequate for revising the rolls. When the rules appear arbitrary or self-contradictory — when a card used to elect a government cannot be used to stay on the roll — public confidence erodes.

The solution is straightforward. The EPIC should be reinstated as an admissible document with reasonable safeguards as ECI may choose. This approach would protect roll purity while ensuring no genuine voter is excluded for lack of alternative documents like passport or driving licence. The ECI must also communicate clearly with voters. Why was the EPIC excluded? Is there evidence of large-scale misuse that justifies this step? How will the Commission guarantee that legitimate voters are not struck off?

By answering these questions explicitly, the ECI can turn controversy into a moment of civic education — restoring confidence and proving its commitment to impartiality. The EPIC was conceived as a weapon against electoral malpractice. It has been celebrated globally as a symbol of India's democratic capacity. To sideline it now, without a compelling explanation, sends the wrong signal.

The credibility of an election depends as much on the perception of fairness as on the mechanics of the process. In a country of India's scale, no institution can afford to appear arbitrary or inconsistent.

It is time for the Election Commission to reaffirm its faith in the card it created — and in the voters whose faith it must protect.

The writer is former Chief Election Commissioner of India and the author of An Undocumented Wonder — The Making of the Great Indian Election

Issues and Concerns

- Paradox: EPIC valid for 2024 General Election (642 million voters) but invalid for roll revision.
- Symbolic irony: On National Voters' Day (25th Jan), President of India personally hands over EPICs to new voters.
- Risk of disenfranchisement:
  - Particularly severe in Bihar (high migration, rural poor).
  - Many citizens possess only EPIC as ID.
  - Exclusion may deter enrolment, reduce participation, erode trust.
- Public perception: Arbitrary/inconsistent rules undermine credibility of elections.

KEY HIGHLIGHTS

Electors Photo Identity Card (EPIC): Origins and Significance

- Introduced by Election Commission of India (ECI) in 1990s, under T.N. Seshan's leadership.
- Aimed to curb impersonation, bogus voting, and electoral malpractice.
- Became the most widely possessed ID in India, central to voter identification.
- Symbol of ECI's independence and assertion of electoral integrity.
- Funded after confrontation with PM P.V. Narasimha Rao (Article 75(5) anecdote).

Current Controversy (Bihar SIR – 2025)

- Special Intensive Revision (SIR) of electoral rolls announced in Bihar.
- Applicants asked to submit any of 11 documents to prove identity/residence.
- EPIC and Aadhaar excluded from the accepted list → raised litigation & SC intervention.
- Supreme Court's response:
  - Surprised at exclusion of EPIC & Aadhaar.
  - Directed inclusion of Aadhaar (limited to deleted voters), not EPIC.
- ECI's stance: Claimed compliance with Court, but continued non-acceptance of EPIC.

Constitutional & Democratic Dimensions

- Free and fair elections = part of basic structure doctrine (Kesavananda Bharati case).
- ECI's independence under Article 324 questioned if its own reform (EPIC) sidelined.
- Right to vote & participation linked to Article 326 (universal adult suffrage).
- Trust in institutions: Democracy depends not only on procedure but also on perception of fairness.

Way Forward / Reform Imperatives

- Reinstate EPIC as valid document with safeguards against duplication/misuse.
- Ensure no genuine voter excluded for lack of alternative IDs (passport, DL, etc.).
- Transparent communication by ECI: Why excluded? Any evidence of misuse?
- Use controversy as an opportunity for civic education.
- Reaffirm EPIC's central role as an anti-fraud measure & democratic symbol.

Delhi riots: Why UAPA accused jailed for 5 yrs were denied bail

VINEET BHALLA
NEW DELHI, SEPTEMBER 3

DELHI HIGH Court on Tuesday declined to grant bail to Umar Khalid, Sharjeel Imam, Gulfisha Fatima, and seven others charged as key conspirators of the February 2020 Delhi riots, saying the riots were a "premeditated, well-orchestrated conspiracy".

The accused have been charged under various provisions of the Unlawful Activities (Prevention) Act, 1967 (UAPA), including Section 16, which prescribes the death penalty for committing a "terrorist act".

They have spent more than five years in jail, and the trial is yet to begin.

The prosecution's case

The prosecution has argued that the riots were a result of a "deep-rooted" and "well-orchestrated" criminal conspiracy hatched by the accused. Fifty four people, including a senior police officer and an Intelligence Bureau official, were killed, and more than 1,500 properties were damaged.

Section 15 of UAPA criminalises any act "with intent to threaten or likely to threaten the unity, integrity, security, economic security, or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India".

Striking terror could be by use of "bombs, dynamite or other explosive substances or inflammable substances or firearms…or any other means".

The prosecution's case is that a "*chakka jam*" that the accused allegedly conspired to organise over WhatsApp messages and in "secret meetings" would fall under the definition of "any other means".

Evidence with the police

Court records show that the evidence is heavily reliant on inferences from WhatsApp chats and testimony of "protected witnesses" who were present in "secret" meetings.

The identity of the protected witnesses is not revealed, and their statements cannot be tested through cross-examination. Court records show that witnesses identified as 'Radium' and 'Sodium' stated that in "secret meetings", there were "open discussions regarding escalation of violence and setting parts of Delhi on fire".

All accused argued that the statements of protected witnesses were unreliable, lacked specific details, and had been obtained belatedly after the accused were arrested.

The court did not refute these claims, but noted that at the bail stage, the credibility of the evidence cannot be examined, and it must be presumed to be true.

The specific charge against Gulfisha Fatima is that she created WhatsApp groups to organise women at protest sites. A protected witness has testified that Sharjeel Imam allegedly told a crowd that the government is anti-Muslim and the Citizenship Amendment Act "targets only Muslims".

The court had to distinguish whether the evidence shows participation in a protest, which is a constitutionally protected right, or a larger conspiracy.

EXPLAINED LAW

Reasons to deny bail

The definition of 'terror' will be tested only during the trial. Grant of bail in UAPA cases is restricted by law and court rulings.

The state has to pass a very low threshold for a court to deny bail — if there are grounds to believe that the accusation is *prima facie* true, bail can be denied. The High Court denied bail to each of the accused because it found reasonable grounds to believe the accusations against them were *prima facie* true.

"...A comprehensive examination of evidence at this stage may adversely affect the trial. The explanations advanced by the... Appellants in respect of the various statements of the protected witness cannot be considered in isolation,...especially in cases involving conspiracy. A mini trial at the stage of consideration of bail is impermissible," the court said.

The accused argued that they deserved bail on grounds of parity with co-accused Devangana Kalita, Natasha Narwal, and Asif Iqbal Tanha, whose bail by the HC in 2021 was upheld by the Supreme Court.

However, the court said that the SC had directed that the HC's bail to Kalita, Narwal, and Tanha "shall not be treated as a precedent and may not be relied upon by any of the parties in any of the proceedings".

The accused also argued that their actions at worst fell under Section 13 of UAPA, which deals with "unlawful activities", which is a lesser offence to which the bar of Section 43D(5) — under which bail can't be granted without hearing the public prosecutor — does not apply.

To this, the court said that exercising its appellate jurisdiction in bail proceedings does not empower it to conduct a "detailed analysis of the evidence for determining the validity of the accusations".

Delay in the trial

The Supreme Court in its 2021 decision in *Union of India v K.A. Najeeb* granted bail in a UAPA case where the accused had been in jail for more than five years, and 276 witnesses were still to be examined.

Referring to the restrictive bail conditions in Section 43D(5) of the UAPA, the court held that "the rigours of such provisions will melt down where there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence".

The trial court in Delhi is currently hearing arguments on the preliminary question of whether these charges can even be framed against the accused. However, the question of bail is important because prolonged incarceration, even before charges are framed, is a violation of liberty.

The HC dismissed concerns about the delay in trial and said that "a hurried trial would also be detrimental to the rights of both the Appellants and the State". The bail pleas were filed in 2022, and were passed on to three different Benches. Twice, they had to be heard afresh since judges who reserved the verdict did not pronounce the order and were subsequently transferred.

KEY HIGHLIGHTS

Background

- Delhi HC (Sept 2025 ruling) denied bail to Umar Khalid, Sharjeel Imam, Gulfisha Fatima, and 7 others.
- Accused in the Feb 2020 Delhi riots case; charged under UAPA, 1967.
- In custody for 5+ years without trial commencing.

Legal Provisions Involved

- UAPA Sections:
  - Section 15 – defines a "terrorist act" (includes causing terror by explosives, firearms, or any other means).
  - Section 16 – prescribes punishment (including death penalty) for terrorist acts.
  - Section 13 – "unlawful activities" (lesser offence, bail provisions less stringent).
  - Section 43D(5) – bar on bail if accusations are prima facie true, unless exceptional delay/lapse.

Prosecution's Case

- Riots were a "deep-rooted, premeditated conspiracy".
- Allegations: conspiracy through WhatsApp groups + secret meetings; "chakka jam" = "any other means" of striking terror.
- 54 deaths, 1,500+ properties destroyed.
- Key evidence:
  - WhatsApp chats.
  - Testimony of protected witnesses ("Radium", "Sodium").
  - Alleged open discussions on escalation of violence.

Defence Arguments

- Evidence from protected witnesses unreliable (delayed, vague, not cross-examinable).
- Actions, at worst, fall under Section 13 UAPA (not terrorism).
- Bail should be given on parity with co-accused (Kalita, Narwal, Tanha).
- Prolonged incarceration without trial violates liberty.

Court's Reasoning

- At bail stage: evidence presumed true; credibility not examined.
- No mini-trial permissible during bail hearing.
- Found prima facie grounds for allegations → bail denied.
- On parity: SC had earlier directed that 2021 bail to Kalita/Narwal/Tanha cannot be precedent.
- On delay: acknowledged 5 years in jail, but said "hurried trial" also risks fairness.

Constitutional & Legal Issues

- Article 21 (Right to Life & Liberty) vs State's interest in security & terrorism cases.
- Due process concerns: prolonged undertrial detention = punishment before conviction.
- Culture of justification vs culture of suspicion in anti-terror laws.
- Bail as a rule vs UAPA making jail the rule.

Supreme Court Precedent

- Union of India v. K.A. Najeeb (2021):
  - Bail granted when incarceration exceeds 5 years and trial unlikely soon.
  - Restrictive UAPA bail provisions "melt down" if liberty disproportionately curtailed.
- Delhi HC distinguished current case, citing "ongoing trial process".