Delhi HC Ruling on UAPA - Terrorist act

Why in news?

- The Delhi High Court granted bail to three student activists, who were arrested under the stringent Unlawful Activities (Prevention) Act (UAPA).
- The Court also ruled that “terrorist activity” cannot be broadly defined to include ordinary penal offences.

What is the case about?

- The three accused were JNU students Natasha Narwal and Devangana Kalita, and Jamia Millia Islamia student Asif Iqbal Tanha.
- They were arrested in May 2020 in connection with the riots in north east Delhi.
- Communal clashes had broken out in north east Delhi on 24 February 2020 after violence between citizenship law supporters and protesters.

What did the Court observe?

- Section 15 of the UAPA defines the phrase ‘terrorist act’ in a very wide and detailed manner.
- The Court thus stressed on how terrorism was different even from conventional, heinous crime.
- It reasoned that “the more stringent a penal provision, the more strictly it must be construed”.
- This is a “sacrosanct principle of interpretation of penal provisions.”
- This ensures that a person who was not covered by the legislative ambit does not get roped into a penal provision.
- The Supreme Court itself, in the 1994 case of Kartar Singh v State of Punjab, flagged similar concerns.
- It addressed the misuse of another anti-terror law, the Terrorists and Disruptive Activities (Prevention) Act, 1987.

What constitutes a terror activity then?

- The UAPA is meant to deal with matters of profound impact on the ‘Defence of India’ and address threats to the very existence of our Nation.
- So, the extent and reach of terrorist activity must travel beyond the effect of an ordinary crime.

- It must not arise merely by causing disturbance of law and order or even public order.
- It must be such that it travels beyond the capacity of the ordinary law enforcement agencies to deal with it under the ordinary penal law.
- The Court clarified this, citing a 1992 SC ruling in the case of Hitendra Vishnu Thakur v State of Maharashtra.

What is the significance of the ruling?

- This is perhaps the first instance of a court calling out alleged misuse of the UAPA.
- UAPA relaxes timelines for the state to file chargesheets and has stringent conditions for bail.
- So, it gives the state more powers compared to the Indian Penal Code.
- But the Act is being used against individuals even in cases that do not necessarily fall in the category of "terrorism."
- A total of 1126 cases were registered under UAPA in 2019, a sharp rise from 897 in 2015.
- It was frequently used against tribals in Chhattisgarh, those using social media through proxy servers in Jammu and Kashmir, and journalists in Manipur among others.
- The Court ruling has now, in effect, raised the bar for the State to book an individual for terrorism under the UAPA.

Source: The Indian Express, The Hindu

Quick Fact

UAPA

- The 'terrorist act' (including conspiracy and act preparatory to the commission of a terrorist act) was brought within the purview of UAPA by an amendment made in 2004.
- This came on the heels of Parliament repealing Prevention of Terrorism Act (POTA).
- POTA's precursor, the Terrorist & Disruptive Activities (Prevention) Act (TADA) was repealed in 1995.
- Section 15 of the UAPA defines "terrorist act" and it is punishable with imprisonment for a term of at least 5 years to life.
- In case the terrorist act results in death, the punishment is death or imprisonment for life.



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