Misuse of Unlawful Activities Prevention act

Why in news?

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Several human rights activists, communist thinkers, poets and Dalit voices are being detained under the UAPA act recently.

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What are its draconian provisions?

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- The Act introduces a vague definition of terrorism to encompass a wide range of non-violent political activity including political protest.
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- The Act empowers the government to declare an organisation as "terrorist" and ban it.
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- Even being a member of such a proscribed organisation becomes a criminal offence.
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- It **deprives** the accused of the **right to bail** and this made them to live long under detention.
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- The NCRB Statistics indicate that 67 % of the cases under the act end up either in acquittal or discharge of the persons accused.
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- The act allows police to remand for over 30 days as opposed to the 14 days under the IPC.
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- It also gives leave to the prosecution to file a charge sheet in 180 days rather than the usual mandate of 90 days.
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- The Act contains no sunset clause and provisions for mandatory periodic review.
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What is the SC's directive?

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- Supreme court set the scope and ambit to Article 19 in the context of sections 123 and 124 of the IPC, in the matter of **Kedar Nath vs. State of Bihar** (1962).
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- This case provided the scope within which a citizen is legally permitted to voice their protest against a government or organise opposition to it even for a constitutional purpose.
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- The Supreme Court clarified that the freedom of speech has three components: **Discussion, advocacy and incitement**.
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- The court says, only when discussion and advocacy reach the level of incitement not just in words but deeds to provoke people to violate the law, it falls under Section 124 A of the IPC.
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- Hence recent convictions of 'reading socialist or communist literature must be inciting violence', without evidence, is in fact an **extra-legal act** of violence by the state upon the citizen.
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What should be done?

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- The Constitution of a democratic and decolonised country could not have read any differently because the basis of true freedom is socialism, as propounded in Article 39.
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- Criminalising the mere espousing of socialist or communist ideology under the UAPA is patently unconstitutional as the objective is neither illegal nor unconstitutional.
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- It casts a duty upon the judiciary to ensure that the arrest itself is based on cogent and irrefutable evidence.
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- Else, it poses a greater threat to the sovereignty and integrity of India than the people being arrested under this Act.
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Source: The Indian Express

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