

2021 SCC OnLine Del 3255 : (2021) 282 DLT 294 (DB)

2021 SCC OnLine Del 3255 UPGRADE to access this judgement as a reported case in High Court Cases (HCC)

In the High Court of Delhi at New Delhi

(BEFORE SIDDHARTH MRIDUL AND ANUP JAIRAM BHAMBHANI, JJ.)

Devangana Kalita ... Appellant;

Versus

State of Delhi NCT ... Respondent.

CRL.A. 90/2021

Decided on June 15, 2021

Advocates who appeared in this case:

Mr. Adit S. Pujari, Ms. Tusharika Mattoo & Mr. Kunal Negi, Advocates.

Mr. Amit Mahajan, Mr. Amit Prasad and Mr. Rajat Nair, SPPs for the State alongwith Mr. Dhruv Pande & Mr. Shantanu Sharma, Advocates.

HEADNOTE UPGRADE to access the headnote

The Judgment of the Court was delivered by

ANUP JAIRAM BHAMBHANI, J.:—

Introduction

1. The appellant, Devangana Kalita, is a student pursuing the M.Phil.-Ph.d. Programme in the Department of Women's Studies at the Jawaharlal Nehru University, New Delhi, having completed her Bachelor of Arts (Honours) degree in English from Miranda House College, Delhi University and Master of Arts degree in Gender & Development at the Institute of Development Studies, University of Sussex, United Kingdom.

2. The appellant has preferred the present appeal under section 21(4) of the National Investigation Agency Act 2008 ('NIA Act', for short) impugning order dated 28.01.2021 made by the learned Special Court rejecting the appellant's bail application in case FIR No. 59/2020 dated 06.03.2020 ('subject FIR', for short) registered initially under sections 147/148/149/120-B of the Penal Code, 1860 ('IPC', for short) at P.S. : Crime Branch, New Delhi, to which offences under sections 109/114/124A/153A/186/201/212/295/302/307/341/353/395/419/420/427/435/436/452/454/468/471/34 IPC, sections 3/4 of the Prevention of Damage to Public Property Act, 1984 ('PDPP Act', for short), sections 25/26 of Arms Act, 1959 and sections 13/16/17/18 of the Unlawful Activities (Prevention) Act, 1967 ('UAPA', for short) were subsequently added.

3. The appellant was arrested and is stated to be in custody in the subject FIR since 29.05.2020.

Backdrop & essence of allegations against Appellant

4. The appellant is one of the accused in 04 FIRs, bearing FIR No. 250/2019 dated 21.12.2019 registered at P.S. : Daryaganj; FIR No. 48/2020 dated 24.02.2020 registered at P.S. : Jafrabad; FIR No. 50/2020 dated 26.02.2021 registered at P.S. : Jafrabad; and FIR No. 59/2020 dated 06.03.2020 registered at P.S. : Crime Branch, the last one being the subject FIR in the present appeal. It would be relevant to mention at this point, that the appellant has already been admitted to regular bail in FIR Nos. 250/2019, 48/2020 and 50/2020 *vidé* orders dated 02.06.2020, 24.05.2020 and 01.09.2020 made by the concerned courts; and is presently in judicial custody only in FIR No. 59/2020, that is in the subject FIR.

5. The essential case alleged by the State against the appellant is that, as part of a women's rights group called *Pinjra Tod* (which may loosely be translated as 'break-free from the cage', namely from societal shackles), and other activist groups called the Delhi Protests Support Group ('DPSG', for short), the Jamia Coordination Committee ('JCC', for short), Warriors, and '*Auraton ka Inquilab*', the appellant participated in what is described by the State as a 'larger conspiracy', to commit certain offences that are subject matter of the subject FIR, which led to violence and rioting in the North-East Delhi between 22.02.2020 and 26.02.2020. These allegations arise from protests, in which the appellant is alleged to have participated, against the Citizenship Amendment Act, 2019 ('CAA', for short) passed by Parliament and the exercise undertaken by the Central Government to create a database of citizens called the National Register of Citizens ('NRC', for short); and the gravamen of the allegation is that as part of such protests, the appellant along with co-conspirators instigated the local population in certain Muslim dominated areas of Delhi, particularly women, and incited in them feelings of persecution, which subsequently led to violence and rioting.

6. The sequence of the appellant's arrest in the various cases mentioned above also deserves to be noticed. On 21.05.2020, an investigating team from P.S. : Crime Branch visited the appellant's residence and served upon her a notice directing her to join investigation. Two days later, that is on 23.05.2020, the appellant was arrested by police officers from P.S. : Jafrabad in FIR No. 48/2020; and upon being produced

before the learned Duty Metropolitan Magistrate, the appellant was released on regular bail on 24.05.2020, that is on the very next day, with an observation that the "*accused was merely protesting against the NRC and CAA and accused did not indulged in any violence*". Immediately upon being released on bail by the learned Duty Metropolitan Magistrate, then-and-there in the same court-room, the appellant was re-arrested by police officers from P.S. : Crime Branch in FIR No. 50/2020. Thereafter, while she was in judicial custody in Tihar Jail in FIR No. 50/2020, on 29.05.2020 she was arrested in the subject FIR namely FIR No. 59/2020; and then again on 30.05.2020, the appellant was also arrested in FIR No. 250/2019.

7. As recorded above, the appellant has been admitted to regular bail in FIR No. 48/2020 *vidé* order dated 24.05.2020; in FIR No. 250/2019 *vidé* order dated 02.06.2020; and in FIR No. 50/2020 *vidé* order dated 17.09.2020 by the concerned courts. It bears mentioning that at the time the appellant was arrested on 29.05.2020, while she was in Tihar Jail, the Investigating Officer did not seek her police custody in the subject FIR; but sought police custody in FIR No. 250/2019 for 04 days on 30.05.2020, which was declined and she was remanded to 04 days judicial custody in FIR No. 250/2019. Subsequently, on an application, police custody of 03 days was granted in FIR No 250/2019 till 02.06.2020. Subsequently on 06.06.2020, the appellant was remanded to 02 days police custody in the subject FIR, whereafter she was returned to judicial custody on 08.06.2020 and has remained there ever since.

8. As per the record therefore, the appellant has 04 FIRs registered against her, all of which however appear to arise from the same event, namely protests against the CAA and the NRC, in which she is alleged to have participated. It deserves to be noted that though FIR No. 59/2020, namely the subject FIR, was registered on 06.03.2020, the appellant was not arrested in the subject FIR until almost 03 months later i.e., till 29.05.2020.

9. The investigation in the subject FIR is complete. Charge-sheet dated 16.09.2020 has been filed *inter alia* naming the appellant as one of the accused persons; and although 02 supplementary charge-sheets dated 22.11.2020 and 01.03.2021 have also been filed in the subject FIR, admittedly, the other charge-sheets do not concern the appellant, and are therefore irrelevant for purposes of the present appeal.

10. The court is informed that *vidé* order dated 17.09.2020 the learned Special Court has taken cognizance of the offences alleged in the subject charge-sheet, except offences under section 124A/153A/109/120B IPC, for which sanction for prosecution was still awaited from the State Government as of the date of passing of the impugned order. However, charges have not yet been framed against the accused persons.

11. Although earlier-on, *vidé* order dated 10.11.2020 in Crl. M. C. No. 2119/2020 filed by the State, a learned Single Judge of this court had stayed further proceedings in the trial of the subject FIR, we are informed that that stay order has since been vacated *vidé* order dated 23.03.2021 made by the learned Single Judge.

Submissions on behalf of the Appellant

12. Mr. Adit S. Pujari, learned counsel appearing on behalf of the appellant, submits that in essence, the allegations contained in the subject charge-sheet against the present appellant Devangana Kalita are almost the same as those against co-accused Natasha Narwal, who has also preferred a criminal appeal bearing Crl. A. No. 82/2021 before this court the order made by the learned Special Court rejecting her bail application.

13. Counsel points-out that on a perusal of the subject charge-sheet, it will be seen that the names of the appellant and of co-accused Natasha Narwal appear more or less in the same breath, arising from alleged WhatsApp messages and other evidence sought to be cited by the prosecuting agency in the case. If anything, Mr. Pujari points-out, fewer allegations have been made against the appellant in the subject charge-sheet of involvement in the protests. For this reason in fact, Mr. Pujari has made common submissions in Crl. A. No. 82/2021 and in the present appeal bearing Crl.A. No. 90/2021.

14. Be that as it may, a brief summary of the submissions made on behalf of the appellant in the present case is as follows:

- (a) The appellant does not deny that she was part of the protests and the 24 × 7 sit-in organised predominantly by women at two separate sites, namely at the 66-foota Road at the Jafrabad Metro Station, and at a site near Madina Masjid, Seelampur; but the appellant submits that she was not present at the said protests sites at the time when violence and riots broke-out in and around those locations between 22.02.2020 and 26.02.2020; and in evidence thereof, the appellant seeks to rely upon her call detail records (CDRs) and CCTV footage of the cameras installed in that area.
- (b) The appellant also contends that she was in no manner concerned with calling for any violent protests against the CAA or the NRC, either as part of *Pinjra Tod*, DPSG, JCC, Warriors, or '*Aurat Ka Inquilab*' groups. In fact the appellant denies that she was a member of the JCC Whatsapp group at all.
- (c) The appellant further gainsays the allegation that she participated in various meetings as alleged; and also denies that she was present at various protest sites when violence and rioting occurred, submitting that such allegations are supported merely by bald statements of witnesses, most of whom are protected witnesses, and whose statements came to be recorded much after the dates of the alleged incidents. The appellant contends that what would be the best evidence in support of these allegations, namely the CDRs and relevant video footage is being intentionally withheld by the

investigating agency since it would belie their allegations.

- (d) Counsel also points-out that the investigating agency has not produced nor even relied upon any statement of an actual victim of the alleged violence that may name the appellant, since no such statement exists; and further that, any such statement would only disprove the appellant's alleged presence or involvement in the riots and violence. In this context, it is urged that copies of the CDRs and video footage is not being provided to the appellant, though it is the appellant's submission, that the protests in question were in fact professionally recorded by a videographer who was specially engaged by the Delhi Police for the purpose.
- (e) Counsel submits that in the subject charge-sheet, the court will find no reference to any specifics, such as names and addresses of any actual victims who may have suffered injuries; nor any evidence of the nature of injuries sustained nor any MLCs; nor any particulars of persons who may have died at the locations where the appellant is alleged to have been present, since such details would contradict the allegations levelled against the appellant. In fact, counsel contends that applications moved on behalf of the appellant before the learned Special Court asking for copies of the contents/data of the appellant's cellphone that was seized; for requisitioning her CDRs for the relevant period; and a copy of the video footage recorded at the instance of the Delhi Police, have all been rejected by the learned Special Court; and that thereby, the appellant has been put in a position where no exculpatory evidence, although collected by and available with the prosecuting agency, is on record.
- (f) The appellant contends that the effort of the State is evidently to make vague and non-specific allegations of the appellant being involved some imaginary 'larger conspiracy' and to thereby implicate her in events with which she had no concern.
- (g) Counsel contends that the ingredients of the offences alleged under sections 15, 17 or 18 appearing in Chapters IV and VI of the UAPA are not made-out even on a plain reading of the factual allegations levelled against the appellant; and accordingly, the additional conditionalities, limitations, and restrictions contained in section 43D(5) of the UAPA would not apply to the appellant's bail plea. Hence the bail plea must be decided on the usual and ordinary principles of grant of bail, that is, the 'triple test' of assessing the flight risk, evidence tampering and witness intimidation.
- (h) Counsel also submits that no notice under section 41A of the Cr.P.C. was issued to the appellant; yet she was arrested almost 03 months after the date of registration of the FIR. That she has always remained available for investigation at her own residence throughout; and accordingly there is no chance that she would flee from justice.
- (i) Counsel points-out that the subject charge-sheet has already been filed and therefore all evidence required to be collected is already available with the investigating agency; that there is no evidence in the appellant's possession and there is no risk that she could tamper with any evidence. Furthermore, considering the appellant's profile, including her educational background and the fact that she is a student pursuing an M.Phil.-Ph.d. degree at the Jawaharlal Nehru University, it can hardly be said that the appellant would influence any witnesses, much less intimidate them.

Submissions on behalf of the State

15. The State/Delhi Police has been represented in the matter by Mr. Amit Mahajan, learned Special Public Prosecutor, who has sought to explain the appellant's involvement in what is alleged to be a 'larger conspiracy' of inciting violence and rioting, which led to the events that occurred in the North-East part of Delhi between 23.03.2020 and 26.02.2020. To this end, Mr. Mahajan has drawn the attention of this court to certain portions of the subject charge-sheet dated 16.09.2020, which runs into about 19,000 pages. For ease of reference, the portions to which attention is drawn are extracted in **Annexure-A** to this judgment.

16. The principal allegations levelled by the prosecuting agency against the appellant are as follows:

- (a) It is alleged that the appellant is/was a member of the women's rights group called *Pinjra Tod* and various other groups and formations identified by the WhatsApp groups named 'Warriors', 'Auraton ka Inquilab', DPSG, and JCC; and that, as part of such groups, the appellant engaged in a conspiracy to incite violence and riots in the guise of a protest against the CAA and the NRC, with the aim and intent of destabilising the Government. To support this submission, the State draws attention to the portion of the subject charge-sheet extracted as Screenshot 1a-1b in Annexure - A attached to this judgment.
- (b) The appellant is alleged to have been present at a meeting on 23.01.2020 at the office of *Pinjra Tod* at E-1/13 Seelampur, Delhi, at which meeting, one of the principal accused advised the group to escalate their *chakkajam* agitation (which may loosely be translated as a form of protest in which protesters cause complete stoppage of vehicles and blockade of roads); and advised them that nothing would be achieved by only giving inflammatory speeches. In this behalf, the State has drawn attention of this court to the portion of the subject charge-sheet extracted as Screenshot 2, 3a-3c, 4 and 5 in Annexure-A attached to this judgment.
- (c) It is further alleged that the appellant also attended a meeting on the night of 16/17.02.2020 at a place called Chand Bagh, where it is alleged that the conspirators agreed to execute the *chakkajam*, in evidence of which the State points to the part of the subject charge-sheet extracted as Screenshot 6, 7 and 8a-8c in Annexure-A.

- (d) By way of a specific role assigned to her, it is alleged that the appellant was one of the leaders who organised the protesters *inter alia* at a site described as the plot of Chaudhary Mateen in Jafrabad, Delhi; at another site described as Opposite Tent Wala School, Jafrabad, Delhi; and also at a Fruit Market in Seelampur, Delhi. Attention of this court is invited in this behalf to the portion of the subject charge-sheet extracted as Screenshot 9, 10, 11, 12 and 13 in Annexure-A.
- (e) The State has also implicated the appellant as one of the co-conspirators in organizing and instigating the 24 × 7 sit-in protests led by around 300 women at the Madina Masjid, Seelampur; and the protest held on 23.02.2020, when women protesters occupied the 66-foota Road at Jafrabad Metro Station, blocking traffic and creating a *chakkajam* and also engaging in shouting slogans and instigating the public against the Government by giving *bhadkau-bhashan* namely inflammatory speeches. Support for this allegation is drawn by the State from the portion of subject charge-sheet appearing as Screenshot 14a-14b, 15a-15b, 16, 17a-17b, 18, 19, 20a-20b, 21, 22, 23a-23d and 24 in Annexure A.
- (f) The appellant is further sought to be implicated in distributing packets of chilly powder to women protesters, with instructions to attack the police and the military with it. It is further alleged that *inter alia* the appellant asked women and youngsters to stockpile chilly powder, *dandas* (sticks), empty bottles, acid and stones for use when occasion arises. In this regard, the State refers to the portion of the subject charge-sheet extracted as Screenshot 25, 26, 27, 28, 29, 30, 31 and 32 in Annexure A.
- (g) It is further alleged that the appellant that, along with other protesting women, proceeded from the Jafrabad protest site to the Maujpur-Babarpur metro station, which brought them near the pro-CAA protesters, where it is alleged, that the appellant distributed chilly powder, bottles, and stones to women protesters, which were thrown at the pro-CAA protesters sitting at that protest site. The State draws the attention of this court to the portion of the charge-sheet extracted as Screenshot 33a-33b, 34, 35, 36, 37, 38 and 39a-39b in Annexure A, to support this allegation.
- (h) The State also alleges that, as part of executing the conspiracy, the appellant was also *involved in the actual riots* that occurred in North-East Delhi, though no specific or particular role has been assigned to her in relation thereto. It is also alleged that as part of the protests, the perpetrators used firearms, petrol bombs, acid, iron rods, swords, knives, stones, sling shots, and chilly powder, *etc.*, to terrorise people and the society at large. To support this submission, the State references the portion of the subject charge-sheet extracted as Screenshot 40, 41a-41c, 42, 43 and 44.
- (i) The prosecuting agency seeks to substantiate the foregoing allegations on the strength of *statements of several witnesses*, including many who have been declared as protected witnesses; and on the *basis of video recordings*, which the prosecuting agency says they have seized and which, they say, show the appellant's presence.

Basis & reasoning of Impugned Order

17. It transpires that the learned Special Court has rejected the bail pleas filed by co-accused Natasha Narwal (appellant in CRL.A. No. 82/2021) as well as Devangana Kalita (appellant in the present CRL.A. No. 90/2021) by two separate but almost verbatim orders, both dated 28.01.2021. The reasoning that informs the rejection of the bail pleas is also identical in both orders.

18. For sake of completeness, we may summarise the reasoning which has impelled the learned Special Court to reject the appellant's bail, which reasoning we have also referred to in our contemporaneous judgment dated 15.06.2021 in CRL.A. No. 82/2021 titled '*Natasha Narwal v. State*'. The learned Special Court has proceeded essentially on an *un-critical acceptance* of the allegations contained in the subject charge-sheet and appears to have given weightage to the following considerations:

- (a) The learned Special Court says that since under section 45 of the UAPA, previous sanction of the Central Government is required for a court to take cognizance of any offence under Chapters IV and VI of the UAPA; and that, before the Central Government gives such sanction, the Central Government itself is required to consider the report of an authority to be appointed by it, which authority is supposed to make an independent review of the evidence gathered in the course of investigation, therefore: "*In the present case, previous sanction was taken under UAPA and thus, an independent review of the evidence gathered during the investigation has been done by an independent authority after its satisfaction about the evidence*". Accordingly, the learned Special Court says that since such 'independent review' by an 'independent authority' must already have been undertaken in respect of the evidence gathered in the investigation, on the basis of which the Central Government has granted sanction for prosecution for offences under Chapters IV and VI of UAPA, that lends credence to the allegations. In our reading of the impugned order, the learned Special Court appears to believe that the grant of sanction by the Central Government all but obviates the need for the court to apply its own mind or to consider whether any offence under Chapters IV and VI of the UAPA is made out;
- (b) The learned Special Court has also proceeded on the basis that the appellant was a member of *Pinjra Tod*, *DPSG*, *Warriors*, and '*Auraton ka Inquilab*' and was "*part of a multi-layered conspiracy and in regular touch and reporting to the higher conspirators*", which, the learned Special Court concludes, makes her actions culpable.

19. For one, we would wish to immediately debunk this *misconception* that merely because section 45 of

the UAPA mandates an independent review of the evidence gathered by an independent authority appointed by the Central Government; which independent authority is to recommend to the Central Government whether or not sanction for prosecution for offences under the UAPA is to be given, that legal requirement in itself, in any manner, obviates the need for the court to apply its own independent mind and to form its own independent judicial view as to whether any offence under the UAPA is disclosed in the charge-sheet and in the material placed along with it. *It does not.*

20. In fact we are of the view that the purported independent review of evidence by a purported independent authority; and the fact that the Central Government has, based thereupon, granted sanction of prosecution for offences under Chapters IV or VI of the UAPA, *must never enter the consideration* of the court when deciding whether the ingredients of any offence under the UAPA are disclosed in the charge-sheet.

21. We must point-out that offences under the UAPA are treated as extremely serious, inviting very severe punishment; and therefore, the formation of an independent judicial view by the court at every step of the way, is imperative.

22. In our contemporaneous judgment dated 15.06.2021 rendered in the case titled '*Asif Iqbal Tanha v. State of NCT of Delhi*' in CRL. A. No. 39/2021, we have given our interpretation of the phrase 'terrorist act' appearing in section 15 of the UAPA and in other related provisions. We have also expressed our view on the constitutionally guaranteed right to protest that flows from Article 19(1)(b) of the Constitution; as also our understanding of the general principles of bail. Since the present appellant is a co-accused in the same subject FIR, we would repeat, if only to reiterate, the view taken on these aspects in the said other case. The view taken in that case is set-out below.

Interpretation of 'terrorist act' & related provisions under UAPA

23. In its contemporaneous judgment rendered in *Asif Iqbal Tanha* (supra), this court has analysed in detail the provisions engrafting 'terrorist act' and 'conspiracy' or 'act preparatory' to the commission of a terrorist act. Without repeating that exercise in the present judgement, it would be sufficient to recapitulate the position of law in that regard, as expatiated by this court in the said judgement.

24. As detailed by this court in *Asif Iqbal Tanha* (supra), the position is that though the phrase 'terrorist act' has been given a *very wide and detailed definition* in section 15, in our considered view, the court must be careful in employing the definitional words and phrases used in section 15 in their absolute, literal sense or use them lightly in a manner that would trivialise the extremely heinous offence of 'terrorist act', without understanding how terrorism is different even from *conventional, heinous crime*.

25. In *Hitendra Vishnu Thakur v. State of Maharashtra*¹ the Hon'ble Supreme Court says that the extent and reach of a terrorist activity must travel beyond the effect of an ordinary crime and must not arise merely by causing disturbance of law and order or even public order. The Hon'ble Supreme Court says that the effect of terrorist activity *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 following words in *Hitendra Vishnu Thakur* (supra) bear careful attention:

"... 'terrorism' is generally an attempt to acquire or maintain power or control by intimidation and causing fear and helplessness in the minds of the people at large or any section thereof and is a totally abnormal phenomenon ..."

(emphasis supplied)

26. Furthermore, in the same judgment that the Hon'ble Supreme Court says:

*"... it is not the intention of the Legislature that every criminal should be tried under TADA, where the fall out of his activity does not extend beyond the normal frontiers of the ordinary criminal activity. **Every 'terrorist' may be a criminal but every criminal cannot be given the label of a 'terrorist' only to set in motion the more stringent provisions of TADA ...**"*

(emphasis supplied)

27. The Hon'ble Supreme Court has further explained the concept of terrorism in *People's Union For Civil Liberties v. Union of India*² ('PUCL', for short) in which decision, quoting *Mohd. Iqbal M. Shaikh v. State of Maharashtra*³, the Hon'ble Supreme Court says:

*"... it may be possible to describe it as use of violence when its **most important result is not merely the physical and mental damage of the victim but the prolonged psychological effect it produces or has the potential of producing on the society as a whole ...**"*

(emphasis supplied)

28. In *PUCL* (supra), the Hon'ble Supreme Court also observes that:

*"... **Terrorist acts are meant to destabilise the nation by challenging its sovereignty and integrity, to raze the constitutional principles that we hold dear, to create a psyche of fear and anarchism among common people, to tear apart the secular fabric, to overthrow democratically elected government, to promote prejudice and bigotry, to demoralise the security forces, to thwart the economic progress and development and so on.** This cannot be equated with a usual law and order problem within a State. On the other hand, **it is inter-State, international or cross-border in character. Fight against the overt and covert acts of terrorism is not a regular criminal justice***

endeavour. Rather, it is defence of our nation and its citizens. It is a challenge to the whole nation and invisible force of Indianness that binds this great nation together ...

(emphasis supplied)

29. More recently, in *Yakub Abdul Razak Memon v. State of Maharashtra through CBI, Bombay*⁴, the Hon'ble Supreme Court refers to acts of terrorism in the following words:

"... Acts of terrorism can range from threats to actual assassinations, kidnappings, airline hijackings, bomb scares, car bombs, building explosions, mailing of dangerous materials, computer based attacks and the use of chemical, biological, and nuclear weapons—weapons of mass destruction (WMD)"

(emphasis supplied)

30. As this Court has held in *Asif Iqbal Tanha* (supra) therefore, in our view, although the definition of 'terrorist act' in section 15 UAPA is wide and even somewhat vague, the definition must partake of the essential character of terrorism and the phrase 'terrorist act' cannot be permitted to be applied in a cavalier manner to criminal acts or omissions that *fall squarely within the definition of conventional offences* as defined *inter alia* under the IPC. We must not forget the principle laid down by the Constitution Bench of the Hon'ble Supreme Court in *A.K. Roy v. Union of India*⁵ where it says that the requirement that crimes must be defined with an appropriate definitiveness is a fundamental concept of criminal law and must be regarded as a pervading theme of our Constitution since the decision in *Maneka Gandhi v. Union of India*⁶; and that the underlying principle is that **every person is entitled to be informed as to what the State commands or permits and the life and liberty of the person cannot be put on peril of an ambiguity**. The Constitution Bench further says that to stand true to this principle, what is expected is that the language of the law must contain adequate warning of the conduct which may fall within the proscribed area **'when measured by common understanding'**. Most importantly, the Constitution Bench says:

"... These expressions, though they are difficult to define, do not elude a just application to practical situations. The use of language carries with it the inconvenience of the imperfections of language..."

"...We must, however, utter a word of caution that since the concepts are not defined, undoubtedly because they are not capable of a precise definition, courts must strive to give to those concepts a narrower construction than what the literal words suggest ..."

(emphasis supplied)

31. We must also carefully note the words of another Constitution Bench of the Hon'ble Supreme Court in *Sanjay Dutt v. State through CBI (II)*² to the effect that when law visits a person with serious penal consequences, courts must take extra care to ensure that **those to whom the legislature did not intend to be covered by the express language of the statute "are not roped in by stretching the law"**.

32. Our jurisprudence therefore dictates that where a provision of law which contains serious penal consequences is vague or widely worded, such provision must be *construed narrowly* to bring it within the constitutional framework; and most importantly, **must be applied in a just and fair way**, lest it unjustly draw within its ambit persons whom the Legislature never intended to punish. Where the court finds that an act or omission is adequately addressed and dealt with by the ordinary penal law of the land, the court must not countenance a State agency 'crying wolf'.

33. Upon a careful consideration of the aforesaid verdicts of the Hon'ble Supreme Court, in our opinion, the intent and purpose of Parliament in enacting the UAPA and in amending it in 2004 and 2008 to bring terrorist activity within its scope, was and could only have been, to deal with matters of profound impact on the 'Defence of India', nothing more and nothing less. Had that not been the case, UAPA could not have been enacted by Parliament since the only entries in List-I of the Seventh Schedule to the Constitution that would bring the statute within the legislative competence of Parliament are Entry 1 read with Entry 93 relating to the Defence of India and offences with respect to the Defence of India. It was not the intent, nor purpose of enacting UAPA that other offences of the usual and ordinary kind, *however grave, egregious or heinous in their nature and extent*, should also be covered by UAPA, since such conventional matters would have fallen within Entry 1 of List-II (State List) and/or Entry 1 of List-III (Concurrent List) of the Seventh Schedule of our Constitution. This is the only possible view that can be taken if we are to lean in favour of constitutionality of the provisions of section 15, 17 and 18 of the UAPA, as we must.

Right to Protest

34. As in *Asif Iqbal Tanha* (supra), since this matter also emanates from protests organised by certain persons against the CAA and the NRC; and since the State alleges that these were not ordinary protests but were of a kind that have shaken, or are 'likely' to have shaken, the entire foundations of our Nation, we must discuss what the law considers as permissible contours of a protest that would not threaten our Nation.

35. In this context, we are required to examine, as to when the constitutionally guaranteed right to protest flowing from the right under Article 19(1)(b) of the Constitution to "assemble peaceably and without arms", turns into a cognizable offence under the ordinary penal law; and when the right to protest gets further vitiated and becomes a terrorist act, or a conspiracy or an act preparatory, to commission of a terrorist act under the UAPA.

36. The observations of the Hon'ble Supreme Court in *Mazdoor Kisan Shakti Sangathan v. Union of India*⁸ give the most lucid answer, explaining the contours of legitimate protest. In the said decision, the Hon'ble Supreme Court says that legitimate dissent is a distinguishable feature of any democracy and the *question is not whether the issue raised by the protestors is right or wrong or whether it is justified or unjustified*, since people have the right to express their views; and a particular cause, which in the first instance, may appear to be insignificant or irrelevant may gain momentum and acceptability when it is duly voiced and debated. The Hon'ble Supreme Court further says that a demonstration may take various forms : *it may be noisy, disorderly and even violent*, in which case it would *not* fall within the permissible limits of Article 19(1)(a) or 19(1)(b) and in such a case the *Government has the power to regulate, including prohibit*, such protest or demonstration. The Government may even prohibit public meetings, demonstrations or protests on streets or highways to avoid nuisance or disturbance of traffic *but* the Government cannot close all streets or open areas for public meetings thereby defeating the fundamental right that flows from Article 19(1)(a) and 19(1)(b) of the Constitution.

37. In the present case, we are not deciding if the protests, in organising which the appellant is alleged to have been involved, were within the constitutionally guaranteed right to assembly, or whether they crossed the limit of what is permissible under Article 19(1)(a) and 19(1)(b) and became non-peaceful protests. However, what we find is that, for one there is nothing to say that the Government had prohibited the protest in the first instance. What we know is that offences, if any, that are alleged to have been committed by reason of the protests having been turned non-peaceful, are subject matter of FIR Nos. 48/2020 and 50/2020, in which the appellant is one of the accused *and in which the appellant has been admitted to bail* and will face trial in due course. There is absolutely nothing in the subject charge-sheet, by way of any specific or particularised allegation, that would show the possible commission of a 'terrorist act' within the meaning of section 15 UAPA; or an act of 'raising funds' to commit a terrorist act under section 17; or an act of 'conspiracy' to commit or an 'act preparatory' to commit, a terrorist act within the meaning of section 18 UAPA. Accordingly, *prima-facie* we are unable to discern in the subject charge-sheet the **elemental factual ingredients** that are a must to found any of the offences defined under section 15, 17 or 18 UAPA.

38. In our view, the subject charge-sheet and the material filed therewith does not contain any **specific, particularised, factual allegations** that would make-out the ingredients of the offences under sections 15, 17 or 18 UAPA. As we have observed in *Asif Iqbal Tanha* (supra), alleging extremely grave and serious penal offences under sections 15, 17 and 18 UAPA against people frivolously, would undermine the intent and purpose of the Parliament in enacting a law that is meant to address threats to the very existence of our Nation. Wanton use of serious penal provisions would only trivialise them. Whatever other offence(s) the appellant may or may not have committed, at least on a *prima facie* view, the State has been unable to persuade us that the accusations against the appellant show commission of offences under sections 15, 17 or 18 UAPA.

39. Since, in the opinion of this Court, no offence under sections 15, 17 or 18 UAPA is made-out against the appellant on a *prima facie* appreciation of the subject charge-sheet and the material collected and cited by the prosecution, the *additional* conditions, limitations and restrictions on grant of bail under section 43D (5) UAPA do not apply; and the court must therefore apply the usual and ordinary considerations for bail under section 439 Cr.P.C.

General Principles of Bail

40. The general principles of grant or refusal of bail are well settled. Since a detailed discussion of such principles has recently been made by us in our judgment in *Asif Iqbal Tanha* (supra), only a brief reiteration of the principles would suffice in the present case, since both cases arise from the same subject FIR.

41. Though grant of bail involves exercise of discretionary power by the court, as always, the exercise of discretion must be judicious and not perfunctory or as a matter of course. In granting bail the court must keep in mind not only the *nature of accusations* but also the *severity of the punishment* and the *nature of evidence* in support of the accusations. Apart from being *prima facie* satisfied as regards the charges levelled; the court must also reasonably assess the apprehension of *flight risk*, *evidence tampering* and *witness intimidation*; with careful regard to the *genuineness of the prosecution*. The court must also consider the *character, behaviour, means, position and standing* of the accused and the *likelihood of the offence being repeated*⁹.

42. Furthermore, we remind ourselves that the object of bail is *neither punitive nor preventative* but is principally to *secure the presence* of the accused at the trial; and that punishment begins only after conviction and that everyone is deemed to be innocent until duly tried and found guilty. It is well settled that detention in custody pending completion of trial can cause great hardship to an accused; that it is *improper for any court to refuse bail as a mark of disapproval of the past conduct or to refuse bail to a person yet to be convicted only to give him a taste of imprisonment as a lesson*. "Necessity" to secure the attendance of an accused at the trial, the Hon'ble Supreme Court has held, is the operative test.¹⁰ It also requires to be understood that though the *larger interest of the public or the State and other similar considerations* are also relevant, there is no hard and fast rule and each case has to be considered on its own facts, circumstances and merits.¹¹

43. Since courts often tend to fall into this error, it is extremely important to bear in mind the words of

the Hon'ble Supreme Court that grant of bail cannot be thwarted merely by asserting that an offence is grave, since *the gravity of the offence can only beget the length of the sentence*, which may be awarded upon conclusion of the trial.¹²

44. We must also never forget the profound insight of V.R. Krishna Iyer, J., when he said that the *consequences of pre-trial detention are grave*; that by being kept in custody, an undertrial accused, though presumed innocent, is subjected to psychological and physical deprivations of jail life; that the accused is also prevented from contributing to the preparation of the defence; and that the burden of pre-trial detention frequently falls heavily on the innocent members of the family.¹³

Discussion & Conclusions

45. From the foregoing discussion the position that emerges is this. There is no contest that, as member of certain women's rights organisations and other groups, the appellant did participate and help organise protests against the CAA and the NRC in Delhi. Considering however, that the right to protest is a fundamental right that flows from the constitutionally guaranteed right to assemble peaceably and without arms enshrined in Article 19(1)(b) of our Constitution, surely the right to protest is not outlawed and cannot be termed as a 'terrorist act' within the meaning of the UAPA, unless of course the ingredients of the offences under sections 15, 17 and/or 18 of the UAPA are clearly discernible from the **factual allegations** contained in charge-sheet and the material filed therewith. So, the question we must answer is, whether on a *plain, straightforward and objective reading of the allegations* against the appellant contained in the subject charge-sheet read with the purported WhatsApp chats and statements of various witnesses relied upon by the State, do such allegations impute to the appellant any *specific, particularised or definite act*, which answers the ingredients of the offences under sections 15, 17 and/or 18 of the UAPA?

46. In fact, on a reading of the portions of the subject charge-sheet to which attention has been invited by the State and which have been extracted in the screenshots in Annexure-A to this judgment, we find that *invariably* the appellant's name appears *along with that of several other alleged co-conspirators* and even the instructions and directions allegedly issued by the main accused persons are *not directed* to the appellant. In our reading of the subject charge-sheet and the material included in it, therefore, *prima-facie* the allegations made against the appellant are not even borne-out from the material on which they are based.

47. We are afraid, that in our opinion, shorn-off the superfluous verbiage, hyperbole and the stretched inferences drawn from them by the prosecuting agency, the factual allegations made against the appellant do not *prima facie* disclose the commission of any offence under sections 15, 17 and/or 18 of the UAPA. As expatiated by the Hon'ble Supreme Court in the precedents cited above, protests against Governmental and Parliamentary actions are legitimate; and though such protests are expected to be peaceful and non-violent, it is not uncommon for protesters to push the limits permissible in law. The making of inflammatory speeches, organising *chakkajams*, and such like actions are not uncommon when there is widespread opposition to Governmental or Parliamentary actions. Even if we assume for the sake of argument, *without expressing any view thereon*, that in the present case inflammatory speeches, *chakkajams*, instigation of women protesters and other actions, to which the appellant is alleged to have been party, crossed the line of peaceful protests permissible under our Constitutional guarantee, that however would yet not amount to commission of a 'terrorist act' or a 'conspiracy' or an 'act preparatory' to the commission of a terrorist act as understood under the UAPA.

48. *We are constrained to say, that it appears, that in its anxiety to suppress dissent and in the morbid fear that matters may get out of hand, the State has blurred the line between the constitutionally guaranteed 'right to protest' and 'terrorist activity'. If such blurring gains traction, democracy would be in peril.*

49. Therefore, having bestowed our anxious consideration to the allegations contained in charge-sheet dated 16.09.2020 and the material adduced therewith, we do not think that the accusations made against the appellant under sections 15, 17 and/or 18 of the UAPA are *prima facie* true. In view thereof, the stringent conditionalities contained in section 43D(5) of the UAPA will not apply; and the appellant's bail plea would need to be considered on the general principles of bail enunciated above.

50. Since the subject charge-sheet has been filed and cognisance of some of the offences has been taken, but charges are yet to be framed by the learned Special Court; and there are around 740 prosecution witnesses, including public witnesses, protected witnesses, and police witnesses, who would have to be examined during trial, there is hardly any doubt that the process will take a very long time, since not even one witness has so far been examined. The prevailing pandemic and the consequent truncated functioning of courts, will only add to the delay.

51. It is the conceded position that the appellant has already been granted regular bail in FIR Nos. 250/2019, 48/2020 and 50/2020 *vidé* orders dated 02.06.2020, 24.05.2020 and 01.09.2020 respectively made by the concerned courts; and as we have noticed, in order dated 24.05.2020 the court has in fact recorded that the appellant had only engaged in protests against the CAA and the NRC but did not indulge in any violence. From the factual matrix it appears that there is evidently some overlap between the allegations against the appellant as contained in the other FIRs and in the subject FIR, since the offences alleged in all cases arise from alleged violence and rioting that occurred in the North-East Delhi between 22.02.2020 and 26.02.2020.

52. Furthermore, considering the educational background, profile and appellant's position in life, we also see no reason to suspect or apprehend that the appellant is either a flight risk or that she will indulge in evidence tampering, or witness intimidation, or will otherwise impede the trial in any way.

53. Due notice is also taken of the fact that the appellant was not arrested in the subject FIR for nearly 03 months after the date of its registration.

54. In the circumstances, we see no reason, basis or justification to detain the appellant in judicial custody in the subject FIR any longer.

55. As a sequitur to the above discussion, we deem it appropriate to allow the present appeal and set-aside impugned order dated 28.01.2021 made by the learned Special Court in case FIR No. 59/2020 dated 06.03.2020 registered at P.S. : Special Cell, Delhi.

56. Accordingly, we also admit the appellant to *regular bail* until conclusion of the trial subject to the following conditions:

- (a) The appellant shall furnish a personal bond in the sum of Rs. 50,000/- (Rs. Fifty Thousand Only) with 02 *local* sureties in the like amount, to the satisfaction of the learned trial court;
- (b) The appellant shall furnish to the Investigating Officer/S.H.O. a cellphone number on which the appellant may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;
- (c) The appellant shall *ordinarily* reside at her place of residence as per the trial court records and shall inform the Investigating Officer if she changes her usual place of residence;
- (d) If the appellant has a passport, she shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;
- (e) The appellant shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The appellant shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial.

57. Nothing in this order shall be construed as an expression on the merits of the pending trial.

58. A copy of this order be sent to the concerned Jail Superintendent.

59. The appeal stands disposed of in the above terms.

60. Pending applications, if any, are also disposed of.

ANNEXURE-A

**RELEVANT SCREENSHOTS EXTRACTED
FROM THE SUBJECT CHARGE-SHEET**

The names and other identifying details of persons other than the appellant and co-accused Natasha Narwal have been redacted by this Court.

Screenshot 1a

JCC also worked in tandem with the other conspirators for the mobilisation of the crowd, sustaining and providing logistic support to the different protest sites in Delhi raised by DPSG through its constituents namely UAH, JCC, Pinjra Tod and others.

Following members of JCC were representative of JCC in DPSG group:

- 1) [REDACTED] AAJMI & JCC)
- 2) [REDACTED] (UAH, SIO, JCC)
- 3) [REDACTED] Khudai Khidmatgar & JCC)

Following member of Pinjra Tod were representative of Pinjra Tod in DPSG group:

Screenshot 1b

- 1) Devangna Kalita
- 2) Natasha Narwal

Following members of UAH were representative of UAH in DPSG group:

- 1) [REDACTED] (UAH)
- 2) [REDACTED] (UAH)
- 3) [REDACTED] (UAH)
- 4) [REDACTED] (UAH)

This factum of all these organisations working in tandem under the aegis of DPSG is manifested in the events which unfolded during these protests which includes creation and establishment of permanent 24*7 sit in protest sites in Muslim majority areas, sustenance of these protest sites, funding of these protest sites, providing logistics to these protest sites and escalation of protests leading to completely blocking the traffic at pre-designated spots on pre-decided roads i.e. **Chakka Jaam** and then engineering riots by inciting violence, attack on Police and Public Personnel, damage and destruction of Public and Private properties by use of firearms, arson and by other means.

In pursuance and furtherance of common conspiracy various constituents of DPSG, which includes JCC, UAH, Pinjra Tod and others were successful in creating permanent 24*7 sit in protest at following places:-

2129

Screenshot 2

उसकी साथी | [REDACTED] का नाम [REDACTED] हैं [REDACTED] के साथी [REDACTED]
[REDACTED], Devagana, Natasha [REDACTED]
उन्होंने [REDACTED] के घर के नीचे -E 1 /13, Seelampur में अपना office
बना रखा था | उस room XXXX भी गया था सबके साथ | उस room में
[REDACTED] ने बोला [REDACTED] से की भाषण से कोई काम नहीं चलेगा, यह
समझो कि सरकार मुसलमानों के खिलाफ है | खून बहाना पड़ेगा, ऐसे नहीं
चलेगा | चक्का जाम ही आखरी रास्ता है | हमें सरकार के घुटनों के बल
लाना ही होगा | संघियों की सरकार इस तरह नहीं मानेगी | फिर वह photo
खिंचवा कर चला गया उसके कुछ दिन बाद, [REDACTED] औरतों से बोलने लगी कि
अपने साथ lal mirch powder, डंडे और acid bottle लेकर आओ | [REDACTED]
कुछ अलग ही code words भी use करती थी | जैसे कि कल ईद है कल
Nanital जाना है | इसका मतलब होता था कि road block करने चलना है
और आज चांद रात है मतलब road block की रात है ऐसे code word
use होते थे जो उन औरतों और लड़कियों को ही पता होते थे उसके बाद
पता चला कि 22.02.2020 को रात fix की गई [REDACTED] ने road block
करने के लिए [REDACTED] ने अलावा Pinjaratod की लड़कियां [REDACTED],
[REDACTED] decide किया था मुझे पता चला तो मैंने अपने local लोगों से
बात की XXXXXXXXXXXXXXXX से | मैंने उन्हें कहा कि यह ठीक

1434

Screenshot 3a

होता था। 5 जनवरी को, [REDACTED] अपने साथियों व लोकल औरतो के साथ, Old Central bank, Seelampur, Fruit Market के पास, CAA-NRC के खिलाफ धरने पर बैठी लेकिन उन्हें पुलिस ने हटा दिया। इसके बाद [REDACTED] अपने साथियों के साथ गली गली में घूमकर लोकल ladies को भड़काने का काम करने लगी और CAA कानून के खिलाफ लोगो को डराती थी कहती थी कि अगर तुम्हारे पास कागज नहीं होंगे तो तुम्हें डिटेंशन सेंटर में रखेंगे तुम्हारे बच्चे भी वहीं बंद रहेंगे। दिनांक 15 जनवरी

1553

Screenshot 3b

को रात के वक़्त करीब 8 बजे [REDACTED] अपनी टीम के अन्य सदस्य Devgana, Natasha नरवाल जो JNU कि छात्र है व पिंजरा तोड़ ग्रुप से भी सम्बंधित है, [REDACTED]

[REDACTED] व 100-150 औरतो के साथ Old Bus Stand (Madina Masjid) Zafrabaad, Delhi पर धरने पर बैठ गई व पुलिस मौके पर आई लेकिन [REDACTED] व वहां बैठी औरतें वहां से नहीं उठी। इस दौरान उन्होंने [REDACTED] के घर E-1/13, Seelampur, Delhi को, secret meetings के लिए ऑफिस बना लिया। इस दौरान, इस आन्दोलन में जामिया के [REDACTED], [REDACTED] और Pinjra Tod की [REDACTED] Devangna, Natasha, [REDACTED] और [REDACTED]

[REDACTED] आदि भी उपरोक्त office में कई meetings में शामिल हुए। मैं चाय पानी देने के लिए उस office में आता जाता रहता था। 23/01/20 की रात को मैं वही पर था जहाँ पर देर रात को [REDACTED] भी आये थे जिनके बारे में [REDACTED] ने बताया था कि ये [REDACTED] भाई है जो मुसलमानों के हमदर्द हैं तथा मुझे वहां बैठे लोगों के लिए XXX आदि लाने को कहा था। जब मैं चाय का इंतजाम कराके वहां पहुंचा तो वहां बैठे लोगों से [REDACTED] कह रहे थे कि हमें भारत सरकार को झुकाना होगा तभी वो CAA/NRC वापस लेगी जिसके लिए हमें अभी से तैयारी करनी होगी। इस meeting [REDACTED] ने यह बताया protests के बाद चक्का जाम करना होगा। यह चक्का जाम हमें जहाँ हिन्दुओं की आबादी अधिक हो वहां करना होगा। चक्का जाम के बाद जैसे ही वहां हिन्दू चारों तरफ से घिर जायेंगे तो वहां तुरंत पथराव कर देंगे जिससे दंगे भड़क जायेंगे। [REDACTED] ने

[REDACTED] और [REDACTED] को कहा की वो लोगों को acid, कांच की खाली bottles, पत्थर, डंडे, chilly powder, आदि अभी से इकट्ठा करने

1554

Screenshot 3c

को कहा ताकि दंगो के समय इस्तेमाल किया जा सके। फिर [REDACTED]
ने कहा चक्का जाम का टाइम आप लोगों को बता दिया जायेगा। [REDACTED]
[REDACTED] व [REDACTED] इस काम के लिए तैयार हो गए थे। XXX [REDACTED]

1955

Screenshot 4

[REDACTED] का मकान E -1-13 जिसे उन्होंने office बना रखा था वही पर इनकी मीटिंग हुआ करती थी। 23.1.2020 को [REDACTED] का भाषण हुआ। फिर उस office में [REDACTED] दिवांगना, ओर नताशा, [REDACTED] को लेकर चली गयी। XXX भी पीछे पीछे उनके गया था। मैंने देखा की [REDACTED] नताशा देवांगना [REDACTED] ओर [REDACTED] ओर अन्य लडकिय बंठी हुई थी। [REDACTED] कह रहे थे CANRC के खिलाफ भारत सरकार को झुकाने के लिए भी हम तैयार हैं। हमने हथियार इकट्ठा कर रखा है। जिस पर सब लोग मिलकर बोले हम सब तैयार हैं। इनके इरादे खतरनाक लग रहे थे। ये बात सुनकर XXX डर गया था ओर बाहर निकल आया। दो तीन दिन के बाद [REDACTED] नताशा, दिवांगना, लेडीज से कह रही थी की कांच की खाली बोतल, acid, पत्थर, छुरी आदि इकठा करो।

1956

Screenshot 5

Two whatsapp groups in the name of "WARRIOR" (created on 26/12/2020) and "AUROTO KA INKLAB" were created by the accused [REDACTED] Devangana Kalita, Natasha Narwal and others were the members of this group. Chats of both the groups were deleted by the accused [REDACTED], Natasha and Devangana Kalita. Chats of Warrior group were recovered from the mobile phone of accused [REDACTED]

In pursuance and furtherance of common conspiracy, in the intervening night of 23-24/1/2020 one of the main conspirators [REDACTED] had visited the Seelampur protest site and held a secret meeting at E-1/13, New Seelampur, Delhi which was attended by [REDACTED] Natasha Narawal, Devangana Kalita, [REDACTED] and other associates. In this meeting [REDACTED] directed that protest should ultimately escalate to riots and should result in spilling of bloods of policemen and others. Further, [REDACTED] told them that this is the only possible means to bring the government of India on its knees and to force the Government to withdraw the CAA/NRC. [REDACTED] had also directed the above said accused persons to induce local women of Seelampur to start stockpiling knives, bottles, acids, stones, chilli powder and other dangerous articles to be used in rioting as a part of conspiracy. (Statements of protected public witnesses Delta, Gama, Echo, Yankee, Smith and Sierra are on record in this regard). The position of the participants was corroborated by their mobile phone details.

Screenshot 6

इन्हीं निर्देशों के आधार पर 16/17 फरवरी की रात को चौद बाग protest site पर [REDACTED], [REDACTED] ने एक secret meeting बुलाई जिसको [REDACTED] देवांगना, नताशा, आदि सभी नार्थ ईस्ट protest sites के representatives ने attend किया। XXXXXX गया था पर जब XXXX इस मीटिंग के बारे में मालूम चला तो XXXXX इस meeting में XXXXX । इस meeting में चक्का जाम कर-कर, दिल्ली को रोकने और दंगो की बात की गयी थी इस बात पर सभी सहमत भी थे । XXXX इस बात का विरोध किया पर XXXX को किसी ने नहीं सुना। XXXXX बात XXXXX जोकि DPSG group का मेम्बर भी था को बताया तो XXXXX मेरी बात से सहमत था और हम लोगों ने इस बात को DPSG whatsapp group पर भी जोर-शोर से उठाया।

1518**Screenshot 7**

"15/1/2020 को सीलमपुर पुराना बस स्टैंड पर CAA-NRC का प्रोटेस्ट हुआ था । XXX वहां पहुंचा तो मेरी मुलाकात [REDACTED] से हुई । उसने XXX देवांगना, नताशा, [REDACTED] [REDACTED] और [REDACTED] से मेरी मुलाकात कराई । उसने बताया कि ये लोग पिंजरा तोड़ से हैं और इस प्रोटेस्ट को चला रहे हैं ।

जनवरी के लास्ट वीक में मुझे पता चला कि इन लोगों ने डंडे, पत्थर और लाल मिर्च इकट्ठा इकट्ठा करने की शुरुआत करी । और लोगों से बोला कि ये सब इकट्ठा करें । 15/2/2020 को मुझे पता चला कि रात 2-3 बजे (16/17 फरवरी) में चौद बाग में एक मीटिंग होने वाली है जिसमें रोड ब्लाक पर बात होनी है । XX उस मीटिंग में पहुंचा । वहां XXXXXX [REDACTED] मौजूद थे । XX उन्हें जानता था । वह 50-100 लोग थे मीटिंग में [REDACTED]

1964

Screenshot 8a

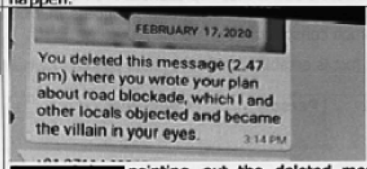
EXECUTION OF THE CONSPIRACY:

The visit of U.S President Donald Trump, which was known to the conspirators from 14th January 2020, when it was first broken on television media, got formal schedule declared on 11.02.2020. In pursuance and furtherance of common conspiracy, a meeting of protest site leaders of Chand Bagh, Mustafabad, Kardumpuri and Jafrabad was held in the intervening night of **16/17 Feb'20 at 02:00 AM**. In the meeting it was decided and agreed that a coordinated blockade of traffic on roads i.e. Chakka-Jaam would be executed during the visit of President of USA, Donald Trump by the members of all the protest sites of the North-East Delhi. Post Chakka-Jam, all protest site members will adopt violent measures to escalate the protests.

17/02/2020, 02:33 PM	[REDACTED]	<p>Yesterday, we at chandbag tried to organize a meeting of 5 protest site namely 1) Chandbagh 2) Mustafabad 3) Kardumpuri 4) Zafrabad & 5) Sunder Nagri.</p> <p>We invited only organizers for meeting.</p> <p>[REDACTED] didn't participated and some uninvited and disturbing elements somehow got aware of meeting time and venue and as a result meeting failed.</p> <p>Our agenda was how to sustain the on-going protests and how to coordinate between these protest sites as they within 5km radius.</p>
17/02/2020,	[REDACTED]	Some ppl are saying they discussed about 1 protest

2204

Screenshot 8b

02:45 PM	[REDACTED]	instead of 4 and some road block plan
17/02/2020, 02:58 PM	[REDACTED]	<p>Locals from any protest sites are not willing to block the road. Because they are locals and they will suffer.</p> <p>But some outsiders who claim to facilitate the protests, they are planning to block the roads.</p> <p>[REDACTED] is saying disturbing elements to some of us who are strongly opposing any road blockade in our trans Yamuna protest sites.</p> <p>We want nonviolent protests. We can't allow road block plans.</p>
17/02/2020 , 03:06 PM	[REDACTED]	<p>Two people from our organising team said.</p> <p>And you deleted your own message where you mentioned about the road block plan.</p> <p>I was there in my individual capacity. I was not representing any group.</p> <p>You can't distract the issue, please.</p> <p>We don't want violence in our areas. And we will prevent violence at any cost.</p> <p>You may label me with anything. I will not let violence happen.</p>
17/02/2020 , 03:14 PM	[REDACTED]	 <p>[REDACTED] pointing out the deleted message of</p>

2205

Screenshot 8c

17/02/2020 03:20 PM	Road block and plan of inciting violence	<p>I am not educated one</p> <p>But I would like to tell you that some local people have evidences of what you all were saying last night about your plans of road blockade – your proposal to incite violence.</p> <p>So, don't play with fire because it will not hurt you. It will hurt us badly.</p> <p>Our protests will remain nonviolent.</p> <p>3:20 PM</p>
17/02/2020 03:34 PM		Itnaa samjh lo sirf ki violence nahi karne denge tumhe aur tumhare dosto ko, bhai

In pursuance and furtherance of common conspiracy members of JCC were alerted to start preparations for escalating the 24*7 sit in protest to higher level by completely blocking the traffic at pre-designated spots on pre-decided roads i.e. **Chakka Jaam** and then engineering riots by inciting violence. As JCC is also represented in DPSG, hence they were privy to all the decisions taken by DPSG group members in pursuance and furtherance of common conspiracy.

This fact is established by the chats posted in whatsapp group of JCC.

Date & Time	Person	Chat/Post
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2206

Screenshot 9

05.01.2020 को | उस दिन [REDACTED] और उसकी friend Deveangana, [REDACTED] ने seelampur में Central bank के पास धरना दिया औरतों के साथ | Natasha, [REDACTED] भी थी fruit market के साथ | [REDACTED] ने औरतों को कहा कि अपने साथ बच्चों को भी लेकर आओ ताकि police कोई action ना ले सके | अगर police action ले लेती है तो बच्चों के होने से हम लोगों को हमदर्दी मिलेगी | police के हटाने के बाद को शाम को औरतों को लेकर हट गई | फिर कुछ दिन candle march, protest human train/ chain बन कर गलियों में करती रही 15.01.2020 को Nadeena Masjid जो old DTC bus stand metro pillar no. 164 seelampur काफी सारी औरतों के साथ रात को 8 बजे धरना दे दिया | police आई | police ने हटने के लिए बोला तो [REDACTED] और सबने मना कर

1433

Screenshot 10

इसका विरोध करने के लिए उकसाने लगे। हमारे इलाके की ही एक लड़की [REDACTED] जो जाफराबाद की रहने वाली है हमारे area में काफी एक्टिव रही है। वह जाफराबाद/सीलमपुर में local ladies को गलियों में घूम घूमकर उकसाती थी तथा उन्हें धरने में शामिल होने को कहती थी। उसके साथ और भी कई लोग शामिल थे जो की [REDACTED] कई लड़कियां बाहर से भी आती रही जिनमें [REDACTED] देवांगना नताशा भी थी व और भी कई लोग लड़के लड़किया आते थे। जिनके नाम मुझे [REDACTED] ने बताये थे। जनवरी के शुरुआत में, [REDACTED] अपने साथियों व लोकल औरतों को साथ लेकर, Central bank, Seelampur के पास, CAA-NRC के विरोध धरने पर बैठी थी पर उन्हें पुलिस ने उन्हें वहां से हटा दिया था। जनवरी के दूसरे हफ्ते के करीब रात को [REDACTED] अपने साथियों और 100-125 औरतों के साथ XXXXX Old Bus Stand (मदीना मस्जिद) Seelampur, Delhi, धरने पर बैठ गई व पुलिस मौके पर आई लेकिन [REDACTED] व वहां बैठी औरतें वहां से नहीं उठी। इसी दौरान

1560**Screenshot 11**

On dated **05.01.2020** in pursuance and furtherance of the preplanned conspiracy an attempt to start a sit in protest at Fruit Market, Seelampur, Delhi was made by [REDACTED] (Pinjra Tod), Natasha Narwal (Pinjra Tod), Devangana Kalita (Pinra Tod), [REDACTED] and others in the protest against CAA/ NRC. This fact has also been revealed

2497

Screenshot 12

by the witnesses. This protest lasted for few hours due to the intervention of the local police. In pursuance and furtherance of common conspiracy in the month of December, to gather the protestors nukkad natak programs and candle marches were done in the area Seelampur/Jaffarabad, Delhi

Date & Time	Sender	Message
5/1/2020 15.30	Devangana Kalita Warrior Group	<p>Devangana Kalita 5/1/2020, 3:30 PM WOMEN RESIDENTS OF SEELAMPUR, JAFFRABAD AND WELCOME BEGIN INDEFINITE DHARNA against CAA-NPR-NRC. PLEASE JOIN IN LARGE NUMBERS</p> <p>Venue: Old Central Bank, Seelampur</p> <p>The police and RAF barricaded and blocked all routes to Eid-gah, state intelligence agents and RSS members also went to Janta Colony and threatened community women leaders. Any woman who was going towards Eid-gah or even gathering in the nearby areas was threatened to leave by the police.</p> <p>But the women were determined to continue their struggle, they immediately regrouped and have begun an indefinite sit-in dharna in a new location. The police has now reached here, but we are not going to move now!</p> <p>Modi Sarkar Khabardar Mahilaye hai Taiyyar!</p> <p>How to reach Take metro to Seelampur or Jaffrabad Metro Station, and then ask for old Central Bank, Seelampur.</p>

2498

Screenshot 13

➤ On dated 06.01.2020 in pursuance and furtherance of common conspiracy an attempt to start a sit in protest at Gali Akhadde Wali, plot of [REDACTED], Jafraabad, Delhi was made by [REDACTED], Devangna Kalita and other members of Pinjra Tod group in the protest against CAA/ NRC. This protest dispersed in few hours due to the intervention of local police. Protest at Fruit Market, Seelampur-Jafraabad, Delhi on 5 January was done and the same was removed by the local police within 6 hours.

➤ A chat from Warrior whatsapp group (this group was created by accused [REDACTED]) was retrieved showing their efforts to mobilize the women in Seelampur and Jafraabad area.

8/1/2020 12.40	Devangana Kalita Warrior Group	<p>Sathiyon aap log arahe ho gull ka phone nahi lag raha</p> <p>Devangana Kalita Sathiyon aap log aa rahe ho kya? [REDACTED] ka phone nahi lag raha</p>
8/1/2020 13.19	[REDACTED] Warrior Group	<p>Kitne baje tak pahuchana hai</p> <p>Kitne baje tak [REDACTED]</p> <p>Pahuchna hai [REDACTED]</p>
8/1/2020 13.23	[REDACTED]	Abhi programme suru ho gaya ha jald se jald ajiye

2499

Screenshot 14a

जहाँ पर धरना करना चाहती थी, तो वो कर नहीं पाई। इन मैडम से साथ कुछ 4-5 लड़कियाँ देवांगना, [REDACTED] नताशा और [REDACTED] और 4-5 लड़के

1423

Screenshot 14b

[REDACTED] और 1-2 और लड़के थे। एक दिन अचानक पता चला कि इन्होंने 15/01/20 को seelampur old Bus stop, 66 foota Road पर धरना किया था जिसमें ये सब लोग साथ थे। मैंने ये

1424

Screenshot 15a

दिनों आया था। Seelampur SHO और हम सबने बड़ा ध्यान रखा, वहाँ पर protest site पर तो ये Block नहीं कर पाई, कुछ code word भी था जैसे ईद पर Nainital जाना है यानि कि Road Block करना है, आज

1425

Screenshot 15b

चाँद रात है Road Block से पहले वाले दिन की रात और भड़काऊ भाषण भी दिये जैसे कि आंदोलन खून माँगता है। Candle march के बहाने औरतों को तैयार कर लिया। Candle march के बहाने चौहान बांगर, जाफराबाद कि गलियों में से और जनता colony में से छुपते छुपाते लगभग 22/02/20 को jaffrabad Metro Station के नीचे road Block कर दिया जैसे ही बात XXXX पता चली, XXXX SHO seelampur को बताया और थाने गया, थाने में हड़कंप मचा हुआ था और पुलिस मौके पर पहुंच गई।

1426

Screenshot 16

हो। हमने [REDACTED] और उसकी team के लोगों को बहुत समझाया, वह मान नहीं और XXXXX अच्छा नहीं लगा इनके इरादे भी ठीक नहीं लगे 22. 02.2020 को रात में seelam pur protest से औरतों के साथ, गली मोहल्लों में लोगों को इकट्ठा करते हुए CAA और NRC के बारे में भड़काती हुई कि NRC के कागज नहीं दिखाएं तो आपको detention center में डाल दिया जाएगा। ऐसा कहते हुए औरतें इकट्ठा करके Jaffrabad Metro station के नीचे road block कर दिया। मुझे पता चल गया कि यह peaceful या silent protest नहीं होगा क्योंकि वह घक्का जाम कर रहे थे XXXX उस march में नहीं गया Pinjra tod की ये लड़कियां [REDACTED] protest में CAA और NRC के खिलाफ भड़काऊ भाषण देते रहते थे। JCC के लोग इन सब का motive ही यह था कि दिल्ली में दंगे भड़के लोग मरे [REDACTED] का भी यही motive था। 24. 02. 2020 के बाद मैं भी कभी इनको contact नहीं किया। मैं किसी protest में नहीं गया और इन लोगों ने भी मुझे contact नहीं किया। पर इन लोगों ने lock down तक इन लोगों ने Seelampur में protest चलाया पर इन इरादे पता चलने पर मैं कभी protest में नहीं गया।

1435

Screenshot 17a

chilly powder, आदि इकट्ठा करने को कह रहे हैं। इस तरह से उन्होंने पूरे इलाके के लोगों को सरकार के खिलाफ भड़काया और कहा कि ये सरकार Muslims के खिलाफ है सिर्फ धरने से काम नहीं चलेगा जब तक कुछ काफ़िर मर नहीं जायेंगे ये हिन्दुओं की सरकार नहीं मानेगी। मैंने देखा 20-21/02/20 को [REDACTED] सबको समझा रही थी कि भारत में अमेरिकी राष्ट्रपति डोनाल्ड ट्रम्प भी भारत यात्रा पर आने वाले हैं इस समय पूरे संसार का ध्यान भारत के उपर है तो ऐसे में अगर Hindu- Muslim दंगे भड़केंगे तो हमारी मांग मान ली जाएगी। [REDACTED] के साथ [REDACTED] और [REDACTED] भी लोगों को समझा रहे थे कि दंगों में बहुत से लोग घायल होंगे और मारे जायेंगे जिससे सरकार झुक जाएगी और CAA/NRC वापस ले लिया

1555

Screenshot 17b

जायेगा। इसके चलते वो योजना के मुताबिक 22/02/20 को जाफराबाद मेट्रो station के नीचे चक्का जाम करेंगे। 22/23-02/20 की रात को एक JNU का लड़का भी वहां पर आया था जिसके साथ कई लड़के और थे जिसका नाम [REDACTED] ने XXX [REDACTED] बताया था जिसने [REDACTED] को कहा था कि हम हर protest site पर लार्शें बिछा देंगे। 23/02/20 को दिन में मैं जाफराबाद मेट्रो station के पास गया तो देखा कि [REDACTED] की टीम के अन्य सदस्य Devangana, [REDACTED] Natasha, [REDACTED] बहुत औरतों के साथ Zafrabaad Metro Station के नीचे इकट्ठा हैं और उन्होंने मिलकर main road को जाम कर दिया है। उस दिन जो protesters मदीना मस्जिद, seelampur के पास बैठे थे वो भी जाफराबाद मेट्रो station पर आ गए थे तथा वो जाम लगाने वालों में शामिल हो गए थे। कुछ protesters अशरफिया मस्जिद, Kardampuri की ओर से आये थे तथा उन्होंने 66' road पर जाम लगा दिया था। उसी दौरान XXX पता चला कि Wazirabad-Ghaziabad highway, 66 foota road, Seelampur पर कई जगहों पर चक्का जाम कर दिया गया व आवाजाही का रास्ता रोक दिया गया तथा CAA के खिलाफ protest पर बैठे लोगों ने jaam में फर्स ट्रैफिक पर पथराव किया जिससे दिल्ली में कई जगहों पर हिन्दू मुस्लिम दंगे भड़क गए। [REDACTED] उसके साथियों व Pinjra tod के लोगों का मकसद साजिश के तहत इलाके के माहोल को खराब करके बेवजह लोगों का रास्ता रोककर हिन्दू मुस्लिम दंगे करवाना था। इसके बाद इनकी साजिश के तहत दिल्ली में हिन्दू मुस्लिम दंगे हो गए और बहुत से लोग मारे भी गए। मैं बहुत डर गया था मुझे इनसे बहुत खतरा लग रहा था। और

1556

Screenshot 18

मिल जायेगा। इसी के चलते दिनांक 22 फरवरी को, [REDACTED] की टीम के अन्य सदस्य Devangana, [REDACTED] Natasha, [REDACTED] कई औरतों के साथ Zafrabaad Metro Station, पहुँचे व [REDACTED] Bangar, Zafrabaad, Janta Colony की गलियों से घूमते हुए कई बुर्कानर्शों औरतों और लड़कों को इकट्ठा किया और जाफराबाद मेट्रो station पहुँच गयी, और उन्होंने मिलकर main road को जाम कर दिया। उसी दौरान से दिल्ली के और जगहों में चक्का जाम हो गया जिससे लोगों का आवाजाही का रास्ता रुक गया और हिन्दू मुस्लिम दंगे भड़क गए। [REDACTED] Jamia islamia के छात्रों, Pinjra tod के लोगों का मकसद साजिश के तहत इलाके के माहोल को खराब करके बेवजह दिल्ली में चक्काजाम लगाकर हिन्दू मुस्लिम दंगे करवाना था। इसके बाद इनकी साजिश के तहत दिल्ली

1562

Screenshot 19

है। मुझसे ये protest के दौरान ही मिली थी। दिवांगना, नताशा, [REDACTED] और अन्य लड़कियाँ मिलकर सीलमपुर-जाफराबाद में local लेडीज को बाहर निकालने के लिए उकसाते थी। ये लोग कहती थी की अगर आपके कागज नहीं होंगे तो आपको आपके परिवार के साथ डिटेंशन सेंटर में दाल दिया जायगा। 15.1. 2020 को रात को दिवांगना,, नताशा [REDACTED] और अन्य लड़कियों ने 100-150 औरतों के साथ पुराना बस stand मदीना मस्जिद पर धरना दे दिया था। मोके पर पुलिस

1956

Screenshot 20a

23.2.2020 को जाफराबाद मेट्रो स्टेशन पर मैंने देखा की [REDACTED] नताशा, देवांगना और बहुत सी औरतों ने road block कर रखा था और

1956

Screenshot 20b

कह रही थी की पुलिस वालो को मारो थोड़ी देर बाद पता चला की बजीराबाद, गाजियाबाद, सीलमपुर वाली road सब जाम हो गए थे और आवाजाही ठप हो गयी थी। local लेडीज ने भीड़ में फसे लोगो पर पथराव किया। इससे हिन्दू मुस्लिम दंगे शुरू हो गए। उनके खतरनाक इरादे पहले से ही माहौल खराब करने के लिए थे। जमनापार में भी हिन्दू मुस्लिम दंगे छिड़ गए और बेगुनाह लोग मारे गए। ये बहुत खतरनाक

1957

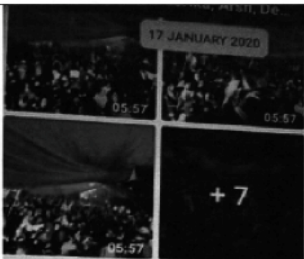
Screenshot 21

➤ Chats from **Warrior** whatsapp group were retrieved showing that they created a 24x7 protest site at Seelampur.

Date & Time	Sender	Message
15/1/2020 10.55	Devangna Kalita	Ha vo baar baar location puch raha ta kaha karoge 24*7 dharna kon organise kar raha h, koi b human first being human foundation jafrabad se h humne vohi bola ki roj kehtara silent march hoga bs

2503

Screenshot 22

		<p>Devangana Kalita</p> <p>Haan woh baar baar location puch raha tha, kaha karoge 24*7 dharna, kaun organise kar raha hai, koi Be Human First Foundation Jaffrabad seh hai, humneeh wahi bola ki roj keh tara silent march hoga bas.</p> <p>10:55</p>
15/1/2020 11:47	Devangana Kalita	<p>Me lawyer ka intjam karne ki kosis kar rahi hu hamari jo lawyer aye pichle do bar wo bimar hai aj wo bi kuch logo se bat kar rahi hai</p> <p>Devangana Kalita</p> <p>Mai lawyers ka intezaam karne ki koshish kar rahi hoon, humari jo woh lawyer aayi pichle do baar woh bimar hai saj, woh bhi kuch aur logo seh baat kar rahi hai.</p> <p>11:47</p>
17/1/2020 05:57 hrs	Group member	
17/1/2020 12:00		<p>Jald se jald sabji orete protest ki jagah par pohche fors badti ja rahi hai</p>

2504

Screenshot 23a

➤ Chats from DPSG whatsapp group were retrieved showing that they created a 24x7 protest site at Seelampur.

Finally, creation of protest site at "Seelampur"

Date & Time	Sender	Message
15/1/20, 11:34PM		<p>Welcome Natasha from Pinjra Tod to the Delhi Protests Support Group</p> <p>1:34 PM</p>

2505

Screenshot 23b

15/1/20, 2:16 PM	(Natasha Narwal)	<p>JANUARY 15, 2020 2:16 PM</p> <p>APPEAL TO JOIN WOMEN'S MARCH AT SEELAMPUR-JAFFRABAD TODAY EVENING AT 6.30PM</p> <p>Women of Seelampur and Jaffrabad have been organising peaceful candle light rallies everyday in their neighbourhoods against CAA-NRC. But everyday the police patrolling and surveillance is increasing in the area as the rallies grow stronger and more women are joining. There were around 500 women in yesterday's march.</p> <p>As we all know that the Police is trying to crackdown on similar protests in other areas. In nearby Shastri Park, protestors were detained yesterday night, including minors.</p> <p>We request you to join the women of Seelampur-Jaffrabad today evening to provide more support.</p> <p>The march starts everyday from Titanic Marriage Hall, Jaffrabad at 6.30 pm. From Seelampur Metro, you can take an e-rick to Ex-Taj Hotel and then ask directions to the starting point. It would be a huge support for the women if more people from other areas also join them.</p> <p>PINJRA TOD 2:16 PM</p>
15/1/20, 2:30 PM		Natasha, we are spreading the word. Trying to get people to come. Will call you shortly.

2506

Screenshot 23c

15/1/20, 7:58 PM	(Natasha Narwal)	<p>JANUARY 15, 2020 7:58 PM</p> <p>MASSIVE WOMEN'S GATHERING AT SEELAMPUR-JAFFRABAD ROAD, INDEFINITE SIT-IN WOMEN'S PROTEST BEGINS</p> <p>PLEASE JOIN IN LARGE NUMBERS. The location is 5min walking distance from Seelampur metro station on the Jaffrabad Main Road.</p> <p>Auraton ke naaro seh inquilab ayega! Savitri-Fatima tere sapno Ko manzil tak pohchayenge!</p> <p>7:58 PM</p> <p>142 KB</p> <p>7:59 PM</p> <p>There is chances police crackdown. It would be really helpful if more people can come here. 9:00 PM</p>
16/1/20, 2:48 AM	(Natasha Narwal)	SOS: The Police force is steadily increasing in Seelampur. Nothing has happened yet but there is a chance of crackdown. Please be ready in case people are needed.
16/1/20, 3:12 AM	(Natasha Narwal)	But everything is control till now.
16/1/20, 11:37 AM	(Natasha Narwal)	<p>*WOMEN OF SEELAMPUR JAFFRABAD HAVE BEGAN THEIR INDEFINITE SIT-IN*</p> <p>On the 15th of January the women began their an all night sit-in! 3 rallies and a one day long dharna</p>

2507

Screenshot 23d

		<p>had also taken place through the past weeks which has now led to the massive women's gathering at Seelampur- Jaffrabad D road against CAA-NPR-NRC. As the women's gathering continues we *CALL FOR VOLUNTEERS* to help in the coordination and organizing of the Sit-In Dharna. We also give *shout out to Artists and Performers to join us at Seelampur*</p> <p>Reach out to us at: (names and numbers)</p> <p>PLEASE JOIN US IN LARGE NUMBERS. The location is 5min walking distance from Seelampur metro station on the Jaffrabad Main Road.</p> <p>Auraton ke naaro seh inquilab ayege!</p> <p>Savitri-Fatima tere sapno Ko manzil tak pohchayenge!</p> <p>*#pinjratod*</p>
17/1/20, 05:22 PM	(Natasha Narwal)	<p>*SEELAMPUR KI AURATON KA INQUILAB JARI HAI*</p> <p>As the resistance against CAA-NPR-NRC gains strength in Seelampur-Jaffrabad, thousands of women have been joining the protests and continuous sit-in Dharna.</p> <p>Tonight we have. Comrade [REDACTED] and the [REDACTED] joining us at the protest site.</p> <p>Join us at Seelampur-Jaffrabad (it's a five minutes walking distance from Seelampur metro station on the red ride)</p> <p>*Collective, Organise and Join the Resistance against the Fascist Regime.*</p> <p>*Inquilab Zindabad*</p> <p>*#PINJ RATOD*</p>

2508

Screenshot 24

23/02/20, 10:57 PM	[REDACTED]	<p>FEBRUARY 23, 2020</p> <p>Sea of humanity at Jaffrabad metro station.</p> <p>The impression I have got from various posts on this group, is that in Jaffrabad it has been basically Pinjra Tod that has been propelling people to get on the road despite locals not being in agreement. Who are these people? Are they locals or mobilised from outside. Is this how influential Pinjra Tod is in the area? - that people, without using their own agency are following them in such large numbers? Curious.</p> <p>10:57 PM</p>
23/02/20, 10:58 PM	[REDACTED]	<p>All locals on the road. Energy is high and building up right now.</p> <p>10:58 PM</p>
24/02/20, 00:10 AM	[REDACTED]	<p>Aag lugwane ki pori tyari hy</p> <p>Y kaun log hain jinho n peaceful</p> <p>FEBRUARY 24, 2020</p> <p>Aag lugwane</p> <p>Y kaun log hain jinho n peaceful protest m chakka jam ka Nara diya</p> <p>12:10 AM</p>

2544

Screenshot 25

| मेरे संज्ञान में आया कि [REDACTED] कुछ Road Block करने का औरतों से जिक्र कर रही है। ये बात हमने सीलमपुर एसएचओ को बताई कि वो औरतों से कह रही है कि लाल मिर्च पाउडर, डंडे और बोटलें वगैरह के द्वारा हम पुलिस का सामना करेंगे और Road Block करेंगे | NRC और CAA को लेकर उन्हें अपनी तरफ ले लेंगे |XXXXX और हम लोगों ने | कुछ

1425

Screenshot 26

खिंचवा कर चला गया उसके कुछ दिन बाद, [REDACTED] औरतों से बोलने लगी कि अपने साथ lal mirch powder, डंडे और acid bottle लेकर आओ। [REDACTED] कुछ अलग ही code words भी use करती थी | जैसे कि कल ईद है कल Nanital जाना है | इसका मतलब होता था कि road block करने चलना है और आज चांद रात है मतलब road block की रात है ऐसे code word use होते थे जो उन औरतों और लड़कियों को ही पता होते थे उसके बाद पता चला कि 22.02.2020 को रात fix की गई [REDACTED] ने road block करने के लिए [REDACTED] ने अलावा Pinjaratod की लड़कियां [REDACTED], [REDACTED], [REDACTED] decide किया था मुझे पता चला तो मैंने अपने local लोगों से बात की XXXXXXXXXXXXXXXX से | मैंने उन्हें कहा कि यह ठीक

1434

Screenshot 27

[REDACTED] आये थे; पिंजरा तोड़ की लड़कियों [REDACTED], नताशा, देवांगना, [REDACTED], [REDACTED], व 4/5 लड़के जिनमे [REDACTED] व अन्य शामिल थे ने [REDACTED] के कहने पर पहले फ्रूट मार्किट, सीलमपुर में प्रोटेस्ट शुरू किया उसके बाद प्रोटेस्ट को अखाड़े वाली गली फिर मदीना मस्जिद, 66 फूटा रोड, सीलमपुर और 22 फ़रवरी को जाफराबाद मेट्रो स्टेशन ले गए । इन चारों जगह प्रोटेस्ट को [REDACTED], [REDACTED] व [REDACTED] चला रहे थे और [REDACTED] इन sites को डायरेक्ट supervise भी करते थे और पिंजरा तोड़ की लड़कियां उन्हें ही रिपोर्ट करती थी Jama Masjid, गेट

1516

Screenshot 28

इसी दौरान XXXXX चला की [REDACTED], नताशा, देवांगना और Pinjara Tod के अन्य सदस्य 26 जनवरी से घूम-घूम कर औरतों को पत्थर, कटीले तारों वाले डंडे, खाली बोटलें, एसिड की बोटले, लोहे की रोड, लाल मिर्च पाउडर, इत्यादि जमा करने के लिए कह रही है । XXXXX [REDACTED] को

1517

Screenshot 29

डिलीट क्यों की। मैंने ग्रुप पर यह भी लिखा की अगर प्रोटेस्ट पीसफुल है तो नताशा व उसके साथी chilli powder क्यों बाँट रहे हैं इस पर [REDACTED] ने XXXX whatsapp कॉल करकर धमकी दी की XXXX ग्रुप पर फालतू बातें न करूँ। जब XXXXX बात किसी ने नहीं सुनी और 24

1519

Screenshot 30

मुँह तो नहीं खोला, कौम से गद्दारी मत करना वरना बचेगा नहीं। जब उन्हें यकीन हो गया कि XXXXX तब एक दिन मुझे [REDACTED] ने बताया था कि [REDACTED], [REDACTED] और वो अपनी टीम के साथ जाफराबाद, सीलमपुर की गलियों में कैडल मार्च की आड़ में घर घर जाकर meeting में हुई साजिश के अनुसार लोगों को acid, कांच की खाली bottles, पत्थर, डंडे, chilly powder, आदि इकट्ठा करने को कह रहे हैं। इस तरह से उन्होंने

1555

Screenshot 31

देवांगना, नताशा, [REDACTED], [REDACTED], [REDACTED] वगैरह मौजूद थे। [REDACTED] ने इस मीटिंग में कहा था कि हम North-East दिल्ली कि प्रोटेस्ट साइट्स पर चक्का जाम करेंगे। अब चुपाप बैठकर कुछ नहीं होगा। North-East Delhi की सभी प्रोटेस्ट साइट्स के लोग सिवाय सुंदर नगरी के मौजूद थे। जब XXXXXXXXX ने विरोध किया तो उनकी तरफ से हमें नकारात्मक व्यवहार देखने को मिला। बोला आप इस मीटिंग में क्यों आये हैं। अगर हमारा साथ नहीं देना तो आपको इस मीटिंग में नहीं आना चाहिए। ये कहकर मीटिंग समाप्त कर दी गई की लोग जिनका किसी प्रोटेस्ट साइट्स से कोई ताल्लुक नहीं है वो मीटिंग में ना आये। दंगे में डंडे पत्थर के अलावा तेजाब इकट्ठा करने के लिए भी लोगों से बोला गया था। मीटिंग जो चौंद बाग में हुई थी उसमें [REDACTED] भी मिला था। [REDACTED] टीम खादिम का मेम्बर है और कर्दमपुरी साइट देख रहा था।"

1965

Screenshot 32

23/02/20, 00:18 AM	[REDACTED]	<p>I request all of you who have doubts, please come here and see for yourself. Thousands of women are ...</p> <p>Why had you distributed the packets of Red Mirchi power to women for attacking Police and Paramilitary?</p> <p>12:18 AM</p> <p>What are you doing with us.</p>
23/02/20, 00:20 AM	[REDACTED]	<p>What are you doing with us. My mother, my sister, aunts, cousins and niece go every day at Seelampur protest site.</p>
23/02/20, 00:58 AM	[REDACTED]	<p>You can't put our lives in danger. Please speak to locals.</p>

2531

Screenshot 33a

<p>ये दंगे [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] आदि ने planned conspiracy के तहत करवाए हैं। इसके लिए पहले प्रोटेस्ट sites create की गयी, भीड़ इकट्ठा की गयी, दंगे के लिए हथियार इकट्ठा करवाए गए और 22 फरवरी की रात को मदीना मस्जिद सीलमपुर प्रोटेस्ट साईट से पिंजरा तोड़ की लड़कियां [REDACTED], नताशा, देवांगना आदि औरतों की भीड़ को उकसाकर जाफराबाद मेट्रो स्टेशन पर</p> <p>1519</p>
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Screenshot 33b

<p>बीच सड़क पर ले आई और वहां पर बैठ गयीं जहाँ से सभी आने जाने वालों का रास्ता block हो गया।</p>

1520

Screenshot 34

नार्थ ईस्ट की बाकी प्रोटेस्ट साईट के representatives ने जाफराबाद मेट्रो स्टेशन जाम को विजित किया और अगले दिन करदमपुरी पुलिया प्रोटेस्ट साईट भीड़ ने 66 फूट रोड ब्लाक कर दिया, इसी तरह से चाँद बाग मजार प्रोटेस्ट साईट के लोगों ने main वजीराबाद हाईवे जाम कर दिया, फरुकिया मस्जिद ब्रजपुरी पुलिया प्रोटेस्ट साईट वालों ने अपनी साईट से 1 km दूर ब्रजपुरी T Point जाम कर दिया, इस वजह से सीलमपुर से लेकर वजीराबाद तक और Ghaziabad लोनी का main हाईवे जाम हो गया। इसके अलावा आलिया मस्जिद Khureji प्रोटेस्ट साईट के लोगों ने main रोड जाम कर दिया ये सब लोग जाम करने के लिए मुस्लिम majority एरिया से निकलकर, मिक्स population वाले एरिया में चले गए जहाँ पर दीगर community के लोग सड़कों पर फँस गए। इस तरह इन लोगों ने सुनोजियत साजिश के तहत सड़कों पर लोगों को ट्रैप करके उन पर व कुछ जगह जहाँ पर Pro CAA Protesters बैठे थे, उन लोगों पर पथराव शुरू करा दिया जिससे दंगे शुरू हो सकें और इन लोगों कि यह साजिश कामयाब रही और दंगे शुरू हो गए। इन लोगों ने जानबूझकर सीलमपुर रोड जाम किया था क्योंकि इन्हें पता था कि इस रोड को जाम करने पर दंगे होते ही होते हैं। यहाँ पर रोड जाम के कारण 1992, 2006 व 2019 में भी दंगे हुए थे।

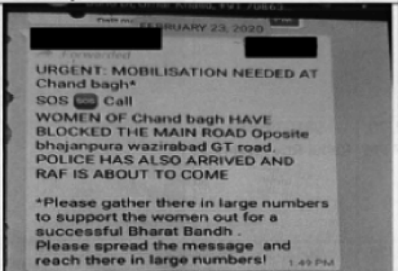
1520

Screenshot 35

किया। XXXXXXXX औरतो/बच्चे XXXXXXXXXXXX जाफराबाद, XXXXXX नताशा, देवांगना और XXXXXXXXXXXX सीलमपुर पुल के पास पहुंच गए जहाँ नताशा, देवांगना और xxx जाफराबाद मेट्रो स्टेशन की तरफ protest site पर ले गयी। रास्ते में ही नताशा और देवांगना ने XXXXXXXXXXXX नताशा, देवांगना व XXX ने जाफराबाद मेट्रो स्टेशन protest site पर पहुंचकर XXXXXX सभी महिलाओं से कुछ मिनट CAA/NRC के खिलाफ नारेबाजी कराई और फिर नारेबाजी कराते हुए ladies को कुछ दूर मौजपुर मेट्रो स्टेशन पर CAA/NRC के समर्थन में चल रहे protest के पास लेकर गई। मैं कुछ अन्य 10-12 लोगों के साथ ladies से पीछे था। समय करीब 7:00 बजे शाम मैंने आगे बढ़कर मौजपुर मेट्रो स्टेशन पर देखा कि देवांगना, नताशा और xx बुर्क वाली ladies को पत्थर, बोतले और मिर्च पाउडर के पैकेट बाट रही हैं जिन्हें XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX बुर्क वाली ladies मौजपुर/बाबरपुर मेट्रो स्टेशन पर दूसरी तरफ बैठे CAA/NRC समर्थक protestors पर फेंक रही हैं।

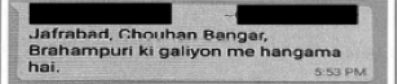
1966

Screenshot 36

23/02/20, 01:40 PM	[REDACTED]	I agree with you, Sir. We tried our best, but received only slander and false accusations. We are in great trouble as BJP's Kapil Mishra has announced counter rally in front of our Jaffrabad area in Seelampur.
23/02/20, 01:49 PM	[REDACTED]	

2537

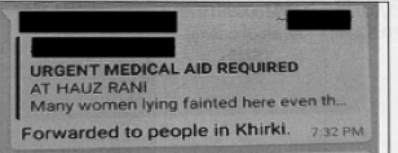
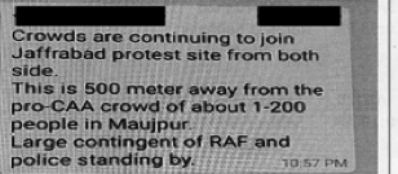
Screenshot 37

23/02/20, 05:48 PM	[REDACTED] (SwA)	Jaffrabad is fine as of now. Moujpur pro caa people started pathrav. Just had a conversation with locals.
23/02/20, 05:52 PM	[REDACTED]	I live here, situation is under control but not normal. Please don't make us commodity for your activist entertainment. Please.
23/02/20, 05:53 PM	[REDACTED]	

vn

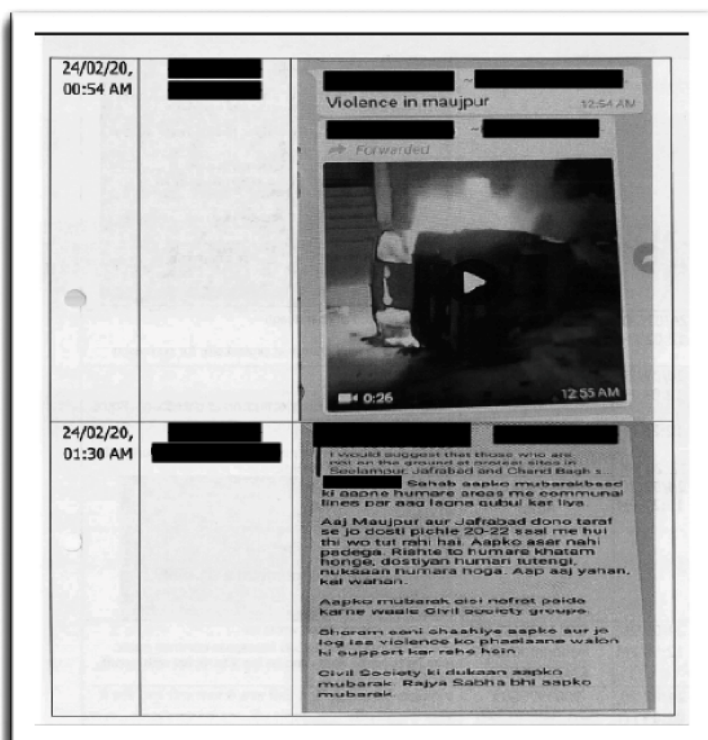
2540

Screenshot 38

23/02/20, 07:26 PM	[REDACTED] (NIMN)	
23/02/20, 10:43 PM	[REDACTED] (KeM)	Sea of humanity at Jaffrabad metro station. 10:43 PM
23/02/20, 10:48 PM	Natasha Narwal (PJT)	Yeah.. atleast 3-4 thousand people here 10:48 PM
23/02/20, 10:57 PM	[REDACTED] (KeM)	

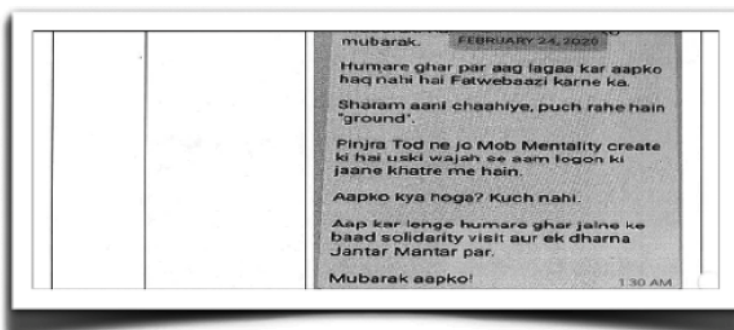
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Screenshot 39a



2545

Screenshot 39b



2546

Screenshot 40

अपने साथियों [REDACTED] व [REDACTED] के साथ मेरे पास आये उन्होंने कहा कि हमें XXXXX कि जरूरत है क्योंकि हम सारी बातें खुले में या स्टैज से नहीं कह सकते। उन्हें कोई आगे की planning के लिए खुफिया जगह की जरूरत थी जहाँ उनके बैठने का किसी को पता न चले। XXXXXXXXXXXXXXXXXXXXXXXXXXXX CAA/NRC के बारे में इनकी बताई बातों से बहुत डरा हुआ था। इसके बाद इन लोगों ने XXXXXX बना लिया तथा यहाँ पर [REDACTED] भी आने लगे। इनके साथ ही [REDACTED] Devangna, [REDACTED], नताशा नरवाल, [REDACTED] कौर जिनके बारे में मुझे पता लगा कि किसी पिंजरा तोड़ नाम की पार्टी से है भी वहाँ आकर बैठने लगे। इसके अलावा आम आदमी पार्टी का नेता [REDACTED] जो है, कांग्रेस पार्टी का नेता [REDACTED] भी इसी office में कई meetings में शामिल हुए। इन मीटिंग्स में भीड़ ज्यादा कैसे इकट्ठा हो, देश विरोधी नारे और भीड़ को कैसे हिंसक बनाया जाय इस पर चर्चा होती थी। कैसे तमाम सड़कों को जाम किया जाये जिस से दूसरी community के लोग परेशां हो जाएँ और कुछ हरकत करें जो दंगों को भड़काने के काम आयेगी। XX [REDACTED] को समझाया कि इस तरह की हिंसक बातें ना करें जिस से सब बरबाद हो जाए। लेकिन वह नहीं मानी और उस वक़्त मुझे लगा कि [REDACTED] व उसके साथियों के इरादे बहुत ही ज़हीरोने तौर पर खतरनाक, देश विरोधी व गैर कानूनी है। इसी दौरान [REDACTED] जामिया के और लोगों के साथ भी इलाके में आया था और XXXXXXXX भी आया था जहाँ [REDACTED] और उसके सभी साथी भी मौजूद थे। वह भी कमरे में इन सबके साथ बड़ी ज़हरीली बातें कर रहा था कि इसमें जामिया वाले बड़े लोग भी इनके साथ हैं और अगर दंगे होते हैं

1561

Screenshot 41a

12. Execution of common conspiracy.

In pursuance and furtherance of common conspiracy, in the night of 22nd Feb 20, key executors of the conspiracy, under the garb of women led protests at 24*7 sit in protest site near Madina Masjid Seelampur, moved and occupied 66 foota road at Jafraabad Metro Station completely blocking the traffic i.e. Chakka Jaam. Subsequently in pursuance and furtherance of common conspiracy, on 23rd Feb 2020, the conspirators from other protest sites in North East and other parts of Delhi moved from the protest sites to pre decided points on the important roads and blocked or attempted to block the traffic completely i.e. Chakka Jaams. These blockade points were so chosen that a co-ordinated simultaneous blockade of traffic would lead to a complete paralysis of traffic in a large part of city. The Intent was not to create traffic chaos but to ensure communal skirmish as is evident from movement from predominantly minority clusters where 24*7 sit-in dhama were being held to areas of mixed population for causing the Chakka Jam. In pursuance & furtherance of common conspiracy the Chakka Jaam were to be followed up by the engineered riots involving attack on Police personnels and attack on non-muslim population and damage and destruction of Govt property and public property by arson, vandalizing and other means. Thus in pursuance and furtherance of common conspiracy the protestors from other protest sites of North-East Delhi in the intervening night of 22/23rd Feb 2020 visited the site of Chakka Jaam at Jafraabad Metro Station so as to learn the modus operandi of Chakka Jaam from a live Chakka Jaam spot and to assess the response and response mechanism of police. From 23rd Feb 2020 the conspirators from various protest sites, in a coordinated manner moved from these protest sites and completely blocked the traffic at pre-designated spots on main roads. The event unfolded as under:

1. Protestors from the Chand Bagh Mazar protest site, moved and occupied the main road near Mazar and enacted Chakka Jaam on Wazirabad-Ghaziabad road.

2521

Screenshot 41b

2. Protestors from protest site at Farukhiya Masjid-Brijpuri pulliya, moved and enacted Chakka Jaam at Brijpuri T-Point on Wazirabad-Ghaziabad Road.
3. Protestors from protest site near Ashrafi masjid Kardampuri Pulliya moved and blocked the traffic at T Point of 66 foota road.
4. Protestors from Khureji protest site near Badi Masjid Khureji moved and blocked the main Patparganj road and similarly and simultaneously protestors from all other protest sites in North East Delhi and Shahdara acted like wise and completely blocked the traffic on 66 foota road, Wazirabad-Ghaziabad road and other important roads of North East Delhi, Shahdara & East Delhi.
5. Protestors from protest site at Jameela Masjid Ahle Hadees, Hauz Rani, Malviya Nagar moved and blocked the Press Enclave Road Saket.

As elaborated in the following paragraph, the conspirators, in pursuance and furtherance of common conspiracy post Chakka Jaam, executed attacks on police personnels and non-muslims and caused extensive damage to Govt. property and private property by arson, vandalizing and other means in these so engineered Riots. Fire-arms, petrol bombs, acid attacks, sharp-edged weapons, Iron rods, sticks, stone-pelting through pre-fabricated very large sized sling shots and by other means were used for attacking and killing police personnel, Govt. employees and public personnel. Petrol pump was set ablaze in an attempt to cause a very large scale explosion and which could have resulted in deaths on a very large scale and to create terror. Access to essential services such as hospitals, medical stores, DMRC and other public transport, school, colleges, universities were paralyzed. Board examinations were postponed. General public was deprived of essential supplies.

2522

Screenshot 41c

Two very important events where Pinjra Tod had assumed direct responsibility in the execution of the carnage are as under:

- a. The secret meeting at Chand Bagh in the intervening night of 16/17 Feb'20, which later became the genesis of several heinous and brutal murders including the murder of [REDACTED] and IB staffer [REDACTED] had three core members of Pinjra Tod amongst the select participants.
- b. It was Natasha Narwal, Devangana Kalita and [REDACTED] of Pinjra Tod who had received approximately 300 women protestors who had come along with [REDACTED] on the directions of [REDACTED] and [REDACTED] in the afternoon hours of 23rd Feb'2020. It was this group of women from Jahangir Puri who had precipitated the first organized violence of the riots.

It is also corroborated by the statement of witnesses' u/s 164 Cr.P.C. of protected witness.

22/02/20 07:28 PM	<p>[REDACTED]</p> <p>If something wrong happens, you will be responsible, [REDACTED]</p> <p>You all are putting life of locals in danger.</p> <p>Your wild entertainment for easy publicity will cost us heavily. 7:28 PM</p>
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2523

Screenshot 42

22/02/20, 11:14 PM	[REDACTED]	[REDACTED] [REDACTED] Any violence at seelampur? 11:14 PM
22/02/20, 11:15 PM	[REDACTED] (SwA)	Reaching in 20 mins Will update
22/02/20, 11:16 PM	[REDACTED] Devangana (PJT)	No violence Police in riot gear increasing.
22/02/20, 11:17 PM	[REDACTED] Natasha Narwal (PJT)	Women are sitting peacefully

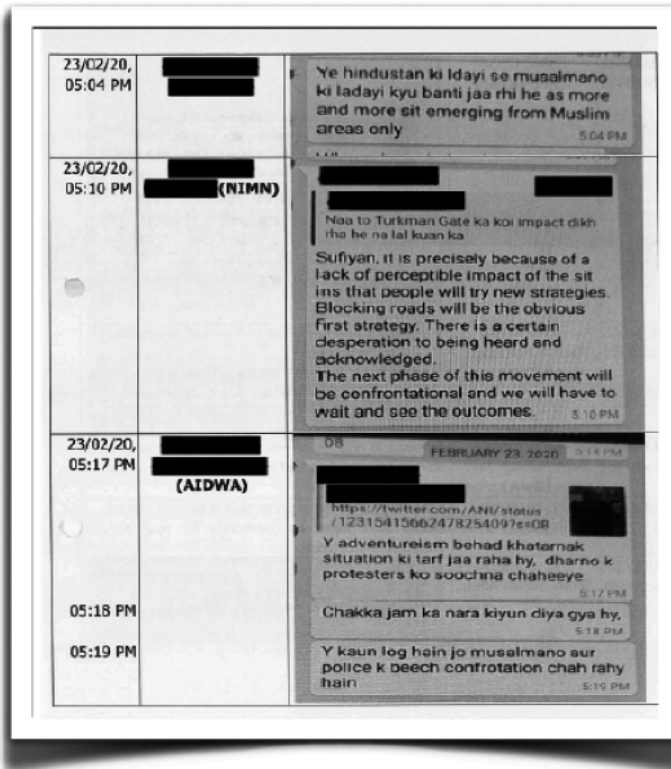
2524

Screenshot 43

22/02/20, 11:47 PM	[REDACTED]	[REDACTED] [REDACTED] Pinjra Tod said: "Kafan bandh ke aaye hain." "Aur jo humare sath nahi Desh ka Gaddar hai." When local women protesters requested them to not block the road. 11:47 PM
22/02/20, 11:48 PM	[REDACTED]	[REDACTED] [REDACTED] Pinjra Tod said: "Kafan bandh ke aaye hain." These sort of slogans ? What's the difference between you and fascist? 11:48 PM

2526

Screenshot 44



2539

¹ (1994) 4 SCC 602.

² (2004) 9 SCC 580.

³ (1998) 4 SCC 494.

⁴ (2013) 13 SCC 1.

⁵ (1982) 1 SCC 271.

⁶ (1978) 1 SCC 248.

⁷ (1994) 5 SCC 410.

⁸ (2018) 17 SCC 324.

⁹ cf. *Ash Mohammad v. Shiv Raj Singh*, (2012) 9 SCC 446 : para 8 and 11.

¹⁰ cf. *Sanjay Chandra v. CBI*, (2012) 1 SCC 40 : para 21-23.

¹¹ cf. *P. Chidambaram v. CBI*, 2019 SCC OnLine SC 1380 : para 22.

¹² cf. *P. Chidambaram v. Directorate of Enforcement*, 2019 SCC OnLine SC 1549 : para 12.

¹³ cf. *Moti Ram v. State of M.P.*, (1978) 4 SCC 47 : para 14.