



AN UNCONSTITUTIONAL PREJUDICE

ARBITRARY ARRESTS AND WRONGFUL
PROSECUTIONS UNDER THE UAPA IN HUBBALI, 2022

PUCIL



A Report by Peoples Union For Civil Liberties and
National Alliance for Justice, Accountability and Rights

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IN HUBBALLI, 2022

A Report by the PUCL and NAJAR

November 2025

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Preface

Although it is being published in 2025, this fact-finding report investigating the implications of an ordinary law-and-order matter being turned into a UAPA case in 2022, in Hubballi is still deeply relevant. The incident itself occurred on the 16th April, 2022 following a WhatsApp post against the religious beliefs of Muslims made by a youngster. It resulted in crowds protesting the failure of the police to act. The police, to counter the angry mob, resorted to lathi charge and converted what began as a peaceful protest, into a law and order issue at the Old Hubballi Indi Pump Police station, Hubballi. It led to stone pelting and the destruction of police vehicles and government property. The police then went on to file 12 FIRs against 150-200 unnamed persons and arrested 158 Muslims. The report documents in great detail the arbitrary nature of the arrests, which included persons who may have not had anything to do with the incident of rioting.

The report notes that arrests were likely based on locations being mapped by CCTV cameras and cell phone towers which resulted in a number of innocent people were picked up. The reason being the area being mapped was a busy commercial area and not everyone in the vicinity were complicit in the violence. As the Report argues, what if 'someone was accessing the hospital or police station in question itself? What if it was someone who was only praying in one of those mosques near the place of the incident? What if someone was buying fruits from the street vendors near the police station in preparation for next day's iftaar? What if someone was working very hard to earn money near the place of the incident? What if someone was just a curious bystander who was trying to understand the commotion? What if someone was trying to disperse the crowd so that the issue does not escalate? What we saw was that unfortunately, most of the arrested accused were victims of the logically unsound and arbitrary criteria applied by the police.' The report makes a strong case that what happened was a 'law and order' issue in which the 'the mob dispersed and vanished from there in half an hour after the incident and the 'riot' did not spread anywhere apart from the police station area.'

However, in spite of this, the families of the accused found out on 23rd April, 2023 that the police had decided to also invoke Sections 16, 18 and 20 of the draconian Unlawful Activities Prevention Act, 1967 (UAPA), making the journey of release of the accused that much more difficult.

This unconscionable decision to invoke the UAPA converted what was a case of rioting into a matter of national security with all its human rights implications. It was clear that the incident on 16th April was at best a law and order issue, and not an offence with implications for national security, meriting the invoking of the UAPA. This decision of the BJP-led state government to use the UAPA for a law and order issue marks a dangerous escalation in the use of the UAPA in Karnataka.

The previous precedent for such a use was also under the BJP government when the UAPA was invoked against 163 people after a mob resorted to violence following a post which hurt religious sentiments, resulting in injury to police officers and damage to property. The incident occurred in DG Halli-KG Halli in Bangalore on 11th August, 2020. The police invoked UAPA in 2 of the 68 FIRs. As the report notes, 'It was the largest number of people ever charged en masse under UAPA in Karnataka.' The report rightly notes that, 'DG Halli and KG Halli saw a bad precedent being set with the insertion of UAPA since the same was later used in the Hubbali violence. For the first time in the country 180 people were arrested with no history of terrorism whatsoever and were termed terrorist.'

In both the DJ Halli-KG Halli incident in 2020 and the Hubbali incident in 2022, there was no evidence to suggest that the accused had prior terror links and they have carried out organized terror acts. They could have been prosecuted under any ordinary law but the state chose to use the draconian anti-terror law.

As the Delhi High Court noted in *Asif Iqbal Tanha v. State of Delhi NCT*, 'A terrorist activity does not merely arise by causing disturbance of law and order or of public order. The fall out of the intended activity must be such that it travels beyond the capacity of the ordinary law enforcement agencies to tackle under the ordinary penal law.' This was not the case either in DJ Halli KG Halli (2020) or in Hubbali (2022).

This decision to invoke the UAPA meant that ordinary Muslims spent a lengthy time in jail as UAPA reverses the fundamental tenets of bail jurisprudence that bail is the rule and jail is the exception. The report documents the grave suffering of those who were forced to endure the harsh rigours of the UAPA through a denial of bail.

While 8 of the accused got bail on medical grounds within 16 days of the incident, the majority had to languish in jail for long periods of time. The difficulty can be seen in the fact that 35 of the accused got bail only by approaching the Supreme Court (after petitions before the Special Court and the High Court had failed) on 15th December 2023, almost 7 months after the incident. It was following the Supreme Court decision that the High Court of Karnataka granted bail to the remaining 106 Accused on 16.02.2024, bringing a closure to the arbitrary incarceration of those falsely accused under the UAPA.

With a change in government in Karnataka in May of 2023, the Siddaramiah government constituted a 5-member cabinet sub-committee (G. Parameshwara (Chairman), Ramalinga Reddy, H.K Patil, H.C Mahadevappa, Cheluvayaswamy) to look into all the such previous cases of arbitrary arrests and consider their withdrawal. Following the recommendations of the Committee and the decision of the Government to withdraw prosecution, the prosecutor moved to withdraw prosecution against all the accused. However the Karnataka High Court struck down the order withdrawing prosecution against the accused. Thus as of today, though all the accused are out on bail, the case against them continues due to the decision of the Karnataka High Court.

What makes this report of deep contemporary significance is the analysis of the jurisprudence on bail under the UAPA. The Report argues that, 'judges frequently struggle to balance the strict requirements of the law against fundamental human rights, resulting in an inconsistent application of the rules where the outcome of a bail plea often depends on whether the specific judicial bench prioritizes statutory stringency or constitutional freedom.'

The story of arbitrary arrest, long incarceration and the failure of justice, makes a strong case for the repeal of the UAPA. The story of the injustices of Hubballi 2022

unfortunately has resonances around the country and will hopefully contribute towards the eventual repeal of this unjust law.

Arvind Narrain

President, PUCL- Karnataka

This report critically documents the testimonies of victims of police action at a time when fact-findings and documentation of human rights violation face unprecedented challenges. The incident and its witness narratives, viewed against the selective response of law enforcement, reveal a troubling duality: while those responsible for initiating communally provocative posts often face no legal repercussions, those who react, often in protest, are swiftly targeted through draconian laws such as the Unlawful Activities (Prevention) Act, 1967. This pattern starkly illustrates the manifestation of dual standards in law enforcement, and testimony after testimony in this report highlights these recurring violations.

The Supreme Court's 'landmark' judgment in DK Basu, subsequently woven into both the Code of Criminal Procedure Code in 2008 and now the Bharatiya Nagarik Suraksha Sanhita 2023 (even as it undoes procedural protections), promised meaningful safeguards against police excesses. Yet, for the most vulnerable, as seen through the testimonies of families, these protections are routinely reduced to what has also been characteristic of such landmark pronouncements- that their precedential and academic value is greater than any meaningful impact on real lives. As testimonies would indicate, the accused remained clueless about the grounds of arrest or their families about their whereabouts following their "arrest". While principles of fair disclosure, as articulated in Sidharth Vashisht (2010) and Youth Bar Association (2016) exist, their practical application is persistently absent in counter-terrorism prosecutions. This is evident in the testimonies of defence lawyers in the Hubballi arrests, wherein the lawyers were shocked to discover the invocation of UAPA only upon seeking bail.

Procedural inconsistencies compounded the dilemma: cases were transferred to Special Courts for trial without the corresponding transfer of investigation to the National Investigation Agency (NIA). This phenomenon, while not uncommon, is

contrary to the Full Bench ruling in *Bahadur Kora v. State of Bihar* (2015). Until the Supreme Court resolves this critical question, arbitrary application of the National Investigation Agency Act, 2008 as seen in the *Hubbali* cases, will continue to erode the rights of the accused. The NIA Act fundamentally alters both the procedural framework and substantive rights available to those prosecuted for the Scheduled Offences under the Act, and therefore this becomes a question bearing wider implications for prosecutions in such cases.

Finally, repeated promises by authorities to withdraw charges, followed by a failure to honour such commitments, underscore the political motivations governing these prosecutions. It is in this climate of selective justice and procedural opacity that this report seeks to bear witness, document violations, and advocate for the meaningful protection of fundamental rights.

- National Alliance for Justice Accountability and Rights

EXECUTIVE SUMMARY

Overview of the Incident and State Response

The report details the events following communal tensions in Hubbali on **April 16, 2022**. The conflict began after a youngster named Abhishek Hiremath, allegedly associated with Sri Ram Sene, uploaded an **objectionable, morphed video** to his WhatsApp status, which was deemed blasphemous by the Muslim community. The video, captioned with phrases like 'Hindu Samrat' and 'Jai Sree Ram,' portrayed a saffron flag on top of the dome of the Mosque of Madina suggesting that Hindutva would prevail and Muslims would be erased.

Angered by this, community members initially approached the police station to register a complaint against Hiremath and seek stringent action. However, when the community saw that **no FIR was registered** and no action was taken, a crowd started gathering outside the Old Hubbali Indi Pump Police Station in protest, demanding an immediate action. This peaceful protest eventually escalated into violence around midnight (12:00 - 12:30 AM, April 17, 2022). Accounts vary on whether the police lathi-charge started first or the mob's stone-pelting. The violence resulted in damage to police vehicles and, injuries to officers and a few protestors.

In response, the police arrested people **indiscriminately from the minority community** starting in the early hours, the next morning. Twelve FIRs were registered against 150-200 **unnamed** persons, and **about 158 Muslims were arrested**.

Arbitrary Arrests and Procedural Impropriety

The report highlights **arbitrary incarceration** with catastrophic consequences for the community. The police justified arrests based on over broad and misleading conjectures of guilt. The criteria applied included:

- **Cell phone location:** If the mobile signal bounced off a tower near the incident site.
- **WhatsApp evidence:** If the accused's phone had received or shared the offensive WhatsApp post of Hiremath, even if merely forwarded to an inactive WhatsApp group.

- **CCTV footage:** If the accused were found in photo-video footage near the place of the incident, even if they were just passers-by.

Due to the Police Station's **strategic location** at an intersection of five key routes in a densely populated area, many innocent people, including passers-by, vendors, and those attending prayers, were caught in the dragnet.

The fact-finding observed multiple instances of procedural impropriety and police tyranny:

- Most of the arrests were made arbitrarily, without any notice or explanation.
- Police sometimes used **deceptive tactics** (e.g., asking individuals to come to the Police Station for a "signature" or "casual questioning") or even **held a family member for ransom**, to ensure the alleged accused surrendered at the earliest.
- Initially, FIRs were filed against unnamed persons, after which individuals were randomly 'picked up' and the charges were framed against them subsequently, showing the arbitrariness of the Police action.
- None of the arrests complied with the guidelines set forth in the *Arnesh Kumar* and *D.K. Basu* judgments.
- Police authorities offered many individuals a Faustian bargain, i.e., they could name a person from his community to face arrest instead of themselves.

Demography of the Arrested and the Prejudice

The arrested individuals were found to share a common demographic profile:

- They were predominantly residents of **slums or economically backward areas**.
- Their literacy levels were low, and their occupations were mostly working-class (e.g., construction workers, auto drivers, barbers, fruit sellers, vendors, etc.)
- Most were the **sole breadwinners** of their families, often supporting young children, elderly parents, or ill relatives.
- The arrests caused immense financial hardship, forcing wives and mothers to take up domestic work or make beedis to survive, and preventing children from attending school.
- Despite the support from many civil liberty personalities & organizations, these people suffer from lack of financial aid and trustable legal aid.

The report notes a **clear bias and prejudice** manifested by the state against the minority community. In contrast to the mass arbitrary arrests of Muslims, the

originator of the offensive post, Abhishek Hiremath, was allowed to write his examinations under police protection, facing no severe adverse consequences.

Invocation of UAPA and Legal Battle

To the shock of the defense lawyers, the stringent **Unlawful Activities (Prevention) Act, 1967 (UAPA)**, (specifically, section 16, 18, and 20) was invoked during the bail application stage. The chargesheet alleged that the riots were a **pre-planned conspiracy** to spread fear among the majority community through "terrorist activities". It claimed the accused belonged to "terrorist gangs" and were a part of WhatsApp groups like "Lion Lifter Fitness Gym" and "Islamic Sultan Group".

The report critiques this invocation, asserting that there are **no ingredients that attract offences under UAPA** and that the "weapons" recovered were merely stones. This arbitrary invocation of the UAPA cost the accused and their families dearly, as it severely restricted the possibility of bail, reversing the burden of proof onto the accused and allowing for prolonged detention up to 180 days.

The report notes that UAPA has an abysmal national conviction rate (just 2.8% based on arrests).

After repeated rejections by the NIA trial court, the bail scenario shifted:

- The Supreme Court granted bail to two, and subsequently **34 accused, on December 15, 2023**, citing the period of incarceration.
- The Karnataka High Court then granted bail to **106 accused on February 16, 2024**.
- **As of the report's recording**, currently all accused are out on bail.

Though the accused are out on bail and back to home after a long time, their hearts are filled with constant fear of court trial that awaits them.

This brief relief was soon unsettled by developments on the policy front. On 10 October 2025, the State Government decided to withdraw 43 cases, including the Old Hubballi case, based on a Cabinet Sub-Committee's recommendation, and issued a Government Order (HD 129 MHB 2024 dated 15/10/2024) directing Public Prosecutors to move for withdrawal under Section 321 CrPC.

A PIL was filed before the Karnataka High Court challenging this directive. On 29 May 2025, the Court made it clear that the decision to withdraw a case under Section 321 rests solely with the Public Prosecutor, and the Government cannot compel such action. Finding the order to be an unlawful interference with the Prosecutor's independent role, the Court quashed it. As a result, the trial in the Old Hubballi case continues.

Conclusion and Call to Action

The PUCL and NAJAR report concludes that the **UAPA is routinely misused**, leading to long and unjust detention, and undermining democratic rights. The investigation and prosecution of the Hubballi incident demonstrate an **unconstitutional prejudice** within the state apparatus against the minority community.

The organizations strongly call for the **repeal of the UAPA** and the development of laws that respect constitutional freedoms and due process. They also recommend establishing community-based engagement mechanisms to prevent escalation of violence and building stronger unity and support systems for the victims.

1. TIMELINE OF EVENTS:

We spoke to two eyewitnesses to help us understand what transpired on the night of 16.04.2022. The following is their narration of the event.

TIME	EVENT
6:00 - 7:00 PM	<p>A youngster named Abhishek Hiremath uploaded an objectionable post as his WhatsApp status. It was a morphed video of a saffron flag atop the sacred mosque dome of Madina accompanied with blinking pictures of Hanuman, captioned 'Hindu Samrat', 'Rama Sena Shiva Hindu Huli', 'thale kettare illu bhagwadhwaj haarisu', 'Jai Sree Ram'.</p> <p>A few members of the Muslim community had approached the police station when the post came to their knowledge, to register a complaint in the evening. After getting assurance from the police to take stringent action against the culprit following an investigation, the members left the police station.</p>
8:00 - 9:30 PM, 16.04.2022	<p>On the same day in the evening, when one of his classmates from Anand Nagar, Hubballi saw it, he along with a group of youths identified Abhishek Hiremath and went near his house in Anand Nagar's Ghodke Plot and had a quarrel with him. There is also a purported audio of this on YouTube.¹</p> <p>Then, a personnel from the crime department went and took Hiremath to the Old Hubballi police station. The local corporator of Anand Nagar, Imran Yaligar played an</p>

¹ TV9 Kannada, 'Hubballi Violence: Viral Audio Of Muslim Youths Phone Call To Abhishek' (April 19 2022)
Available at: <<https://youtu.be/A11C1N014zo?si=IFgAv9vRM4LNXPCs&t=90>>

	<p>important role in ensuring that Hiremath was handed over to the police. Upon receiving a call from one of his close aides at around 8 p.m. stating that a few youths from Anand Nagar gathered outside the boy's home, Imran Yaligar, sensing the gravity of the situation, asked them to hand over the boy to the police to ensure that the law would take its own course. The police then took the boy into their custody and the small group of youths dispersed.</p> <p>When the community saw that no action was taken and no FIR was registered until then, a second delegation approached the Police requesting to register an FIR. By then the word started to spread.</p>
9:45 - 10:00 PM, 16.04.2022	People started coming out of the surrounding mosques after finishing their prayers.
10:00 - 10:30 PM, 16.04.2022	<p>A crowd started to gather right opposite the police station after finding out about the incident and some of them gathered there out of curiosity.</p> <p>This made the Inspector anxious. So he asked his subordinates to go check why a crowd had gathered near the Dargah. The constables went there to inquire as to what happened and ended up standing there for too long. Out of anxiety, the inspector also goes out to see what has happened.</p>
10:40 - 11:00 PM, 16.04.2022	At around 10:40 PM people from various mosques who finished their namaz came and sat outside the police station in protest. At this time, around 50 - 100 people were outside the police station sitting in <i>dharna</i> requesting the police to

	<p>register an FIR against Abhishek Hiremath, and arrest him immediately.</p> <p>It was around the same time that different political party representatives arrived there and tried to lodge a complaint against Hiremath.</p> <p>The negotiations were happening inside the police station, while the people outside were sitting in <i>dharna</i>. At around 11 PM the people outside also started shouting hoping to build pressure on the police asking them to register an FIR at the earliest. At this time, some exchange of words with the police happened, while police tried to assure the public that law would take its course now and they all must leave.</p> <p>Everything about this was still peaceful.</p>
<p>11:00 PM - 12:00 AM, 16.04.2022 - 17.04.2022</p>	<p>At around this time, more people started to gather there looking at the crowd and out of curiosity as to what was happening and why some people were sitting outside the police station. The word had spread and the crowd got a little frustrated.</p> <p>The road was blocked by police vehicles and police personnel. The road that was blocked joins Indi Pump petrol bunk to Old Hubballi Road.</p> <p>The crowd that was stopped got very angry and started yelling at the police. Police also got angry and were not equipped to handle the situation. They requested community leaders to help disperse the crowd</p> <p>By this time, many leaders and community heads along with the police started to make announcements through the mosque loudspeaker, police speakers, some standing atop</p>

	<p>vehicles calling for peace, asking the crowd to cool down, to not cause disturbance in front of the police station.</p>
<p>12:00 - 12:30 AM, 17.04.2022</p>	<p>Since controlling the crowd was becoming difficult, the Old Hubballi Police Station personnel panicked and called the Kasaba Police Station personnel for backup. Significant number of police personnel arrived at the spot.</p> <p>One very important turn of events happened at this time. The electricity in the entire area was cut. It is unclear whether the police started <i>lathi-charge</i> first or the mob started pelting stones first. (According to testimonies, lathicharge started first). But one thing is for sure, things started escalating very quickly at this point.</p>
<p>12:30 - 1:00 AM, 17.04.2022</p>	<p>There was <i>lathi-charge</i> by police at one end, there was pelting of stones at the other end, and the darkness due to high mast lights being cut did not make the situation any better. There was a lot of commotion. The stones that were being thrown at the police station hit and missed, some of them hit the police station, some hit police vehicles, some of them hit the other buildings around there.</p> <p>Then the crowd in front of the police station damaged the police jeep and toppled it. This scene was reported by a lot of news channels.²</p> <p>In this process, the inspector also got hit by the stone which leaves him grievously injured. The ACP then found out</p>

² *The Scroll*, 'Karnataka: 40 arrested, 12 police officers injured after violence in Hubballi over social media post,' (17 April 2022) Available at: <<https://scroll.in/latest/1022019/karnataka-40-arrested-12-police-officers-injured-after-violence-in-Hubballi-over-social-media-post>>

	<p>about this, shots were fired in the air, in order to disperse the crowd.</p> <p>The next day morning news reported that this riot was a planned attack by the Muslims to counter the WhatsApp picture. The whole incident was given a communal colour.</p>
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2. INTRODUCTION:

The Old Hubballi Police Station in flickering neon letters reads in Kannada, “Janasnehi Police Thane” (People Friendly Station). These words mocked the scene unfolding the following days of 16th April 2022 as each crimson letter seemed to bleed into the twilight, staining the ground where young men, faces contorted in fear, were wrestled into police vans. In the shadow of the historic Syed Fatesha Wali Dargah, once a symbol of peaceful coexistence, the sky crackled with the guttural voice of the police officers whisking away the anxious family members.



Picture 1 - Old Hubballi Police Station, the site of the protest

On 16th April 2022, when many were celebrating the holy month of Ramadan, the city of Hubballi had woken to arrests of men following a chaotic previous night. News broke out that a mob had

allegedly vandalized a police jeep and pelted stones at the station. The police swung into action, arresting people indiscriminately from the minority community from early morning. The previous day, after an offensive post led to an outrage among the community members, the old city of Hubballi had grown tense.

The mayhem was the result of a WhatsApp post against the religious beliefs of Muslims made by a youngster aged around 18 years, named Abhishek Hiremath, a

resident of Hubballi City, at around 8 PM. The crowd gathered there was protesting the police's inaction against Hiremath, possibly associated with *Sri Ram Sena*.³

What was the WhatsApp post? It was a morphed video⁴ of a saffron flag atop the sacred mosque dome of Madina accompanied with blinking pictures of Hanuman, captioned '*Hindu Samrat*', '*Rama Sena Shiva Hindu Huli*', '*thale kettare illu bhagwadhvaj haarisu*', '*Jai Sree Ram*' suggesting that Hindutva will prevail in the country and Muslims would be erased. When the post came to the notice of a few members of the minority community, their religious sentiments were hurt. It is to be noted that the boy's Muslim classmate is said to have seen the status first. On the same day in the evening, a group of few youths identified the boy and went near his house in Anand Nagar's Ghodke Plot and had a quarrel with him. There is also a purported audio of this on YouTube.⁵

The news reports suggested that what started as a peaceful protest outside the police station turned into a rampage which led to the pelting of stones at the Old Hubballi Indi Pump Police station, Hubballi, and the destruction of police vehicles and government property. To counter the angry mob, police resorted to lathi-charge and even fired in the air.⁶ As a result, 12 FIRs against 150-200 unnamed persons were registered and about 158 Muslims were arrested.

What followed was the arbitrary incarceration of ordinary residents of the Muslim community of Hubballi with catastrophic consequences for the community.

³ *The Wire*, 'Hubballi Tense After Muslim Mob Turned Violent at Police Station Over Hindutva WhatsApp Post,' (17 April 2022) Available at: <<https://thewire.in/communalism/Hubballi-muslim-mobs-protests-outside-police-station-over-hindutva-whatsapp-post-sec-144-imposed>>

⁴ The delegation while recording testimonies heard two versions of what the WhatsApp post was. Some witnesses stated it was a photo and some said it was a video. However, we have retained 'video' as mentioned in the chargesheet.

⁵ *TV9 Kannada*, 'Hubballi Violence: Viral Audio Of Muslim Youths Phone Call To Abhishek,' (19 April 2022) Available at: <<https://youtu.be/A11C1N0I4zo?si=IFgAv9vRM4LNXPcS&t=90>>

⁶ Manjunath Hegde, 'Situation in Hubballi tense after mob pelts stones over social media post, two cops injured' (*Deccan Herald*, 27 February 2024) Available at: <<https://www.deccanherald.com/state/karnataka-districts/situation-in-Hubballi-tense-after-mob-pelts-stones-over-social-media-post-two-cops-injured-1101441.html>>

It was observed that insufficient media coverage of the alleged riot led to gaps in information on the reality of what had happened. A series of questions arose about - What was this post? Why did people react with stones - more so who were the people behind the stone pelting? Why were 150-200 unknown persons FIR registered?

Background: Events preceding 16th April 2022

According to Shoeb Mirza, a local news reporter, who was present on the spot that day, the gathering of the crowd against the post was a result of intense hate-mongering by the then BJP government - Hijab ban, Halal controversy, Economic Boycott of Muslim vendors, contemplating a ban on 'Azaan' through loudspeakers - due to which the members of the minority community were feeling a sense of insecurity as there was a continuous onslaught on their identity. Backed by the then-ruling BJP, the Hindutva bogey gained traction. There were many instances of provocative actions from the right-wing groups. The Hijab issue contributed to a significant rise in communal tensions across the state.

Just days before, on April 9th, 2022, Dharwad saw a disturbing incident at the Hanuman Temple in Nuggikeri. A Muslim vendor selling watermelons was physically harassed, and his produce was damaged by members belonging to a fringe organization.⁷ Karnataka witnessed a trend of communal tensions earlier to this, starting from the Hijab ban. A group of students wearing saffron shawls and headgear raised slogans on the college campus as a counter to Hijab wearing Muslim girls;⁸ a saffron flag was hoisted on the college post in Shivamogga by a student protesting against the Hijab;⁹ a Muslim student was heckled with the slogans of 'Jai Shree Ram'

⁷ *The Wire*, 'Hindutva Group Destroys Carts of Fruits Sold by Muslim Sellers at Dharwad Temple,' (10 April 2022) Available at: <<https://thewire.in/communalism/hindutva-activists-destroy-carts-of-fruits-sold-by-muslim-sellers-at-dharwad-temple>>

⁸ *Economic Times*, 'Hijab controversy: Protest erupts outside MGM College in Karnataka,' (08 February 2022) Available at: <<https://economictimes.indiatimes.com/news/india/hijab-controversy-protest-erupts-outside-mgm-college-in-karnataka/videoshow/89427929.cms?from=mdr>>

⁹ *The Hindu*, 'Saffron flag on college flagpost in Shivamogga' (09 February 2022) Available at: <<https://www.thehindu.com/news/national/karnataka/saffron-flag-on-college-flagpost-in-shivamogga/article38398881.ece>>

by scores of saffron-shawl-clad students in Mandya; a fringe right-wing organization called for boycotting Muslim cab drivers;¹⁰ the then Chief Minister of Karnataka makes a statement on the floor of the house to not allow Muslim vendors to set up stalls near temples during religious festivals;¹¹ Muslim vendors were banned from doing business in temple fairs;¹² the State BJP President Kateel had remarked that 'Talibanization' of the education system won't be allowed;¹³ the BJP MLA Yatnal stated students insisting on wearing Hijab should go to Pakistan;¹⁴ another BJP MLA CT Ravi demanded a ban on 'halal meat' terming it a part of 'economic jihad'.¹⁵

There was simmering frustration in the community and the patience broke which ultimately took the shape of a passionate mob at the Old Hubballi police station, registering their protest against the inflammatory post. The mob appeared agitated, unwilling to disperse even after several attempts. Mirza who was present on that fateful day also tried to convince the crowd but was unsuccessful in doing so. "I could see the angst in the eyes of the youngsters that day. They were not ready to vacate the place. All attempts to placate them went in vain. The sky was reverberating with intense sloganeering and no one could hear anything," he said.

¹⁰ *Hindustan Times*, 'Outfit calls for Muslim cab, tour operators' boycott in Karnataka,' (09 April 2022) Available: <<https://www.hindustantimes.com/india-news/outfit-calls-for-muslim-cab-tour-operators-boycott-in-karnataka-101649442902180.html>>

¹¹ *The News Minute*, 'Economic boycott of Muslims from Karnataka temple fairs unconstitutional: Lawyers Forum' (25 March 2022) Available at: <<https://www.thenewsminute.com/karnataka/economic-boycott-muslims-karnataka-temple-fairs-unconstitutional-lawyers-forum-162272>>

¹² Anusha Ravi Sood, 'Hindus have become aware': How Hindutva groups are boycotting Muslims at Karnataka temple' (*The Print*, 23 March 2022) Available at: <<https://theprint.in/india/hindus-have-become-aware-how-hindutva-groups-are-boycotting-muslims-at-karnataka-temple-fairs/885129/>>

¹³ *The Economic Times*, 'Won't allow Talibanisation, says K'taka BJP Chief Kateel on Hijab,' (05 February 2022) Available at: <<https://economictimes.indiatimes.com/news/india/wont-allow-talibanisation-says-ktaka-bjp-chief-kateel-on-hijab-row/articleshow/89365767.cms>>

¹⁴ [Go To Pakistan If You Want To Wear Hijab: Karnataka BJP MLA Yatnal](#)

¹⁵ *The Wire*, 'Karnataka: BJP Leader Demands Ban on Halal Meat, Says it Is Part of 'Economic Jihad'(30 March 2022) Available at: <<https://thewire.in/communalism/karnataka-bjp-leader-demands-ban-on-halal-meat-says-it-is-part-of-economic-jihad>>

Methodology

This report is a product of a collaborative exercise by the People's Union for Civil Liberties (PUCL) & the National Alliance for Justice, Accountability and Rights (NAJAR), an initiative of National Alliance of People's Movements (NAPM). Fact finding teams from both PUCL and NAJAR visited the affected families at different points of time.

A fact-finding delegation consisting of PUCL members Prof Y.J Rajendra and Adv. Syeda Saba visited Hubbali on the 19th and 20th of June 2022 to speak to the families of the arrested victims residing at Sadar Sofa and Anand Nagar in Hubbali City as well as to human rights activists from Hubbali to understand the consequences of the incident and its impact after two months.

A follow up visit was conducted by Khalil ur Rehaman, Zainulabideen, Maharathi Madhukiran and Chandana M., all members of NAJAR in November (24th to 29th) and December (2nd, 7th to 13th) of 2023 to assess the current situation of the families involved, understand the progress of the case and revisit aspects related to the incident following the chargesheet being filed. The analysis on UAPA and its impact also forms an important part of the report.

3. GEOGRAPHIC LOCATION OF THE PLACE OF INCIDENT



Picture 2 - Syed Fatehshah Wali Dargah in front of the Police Station

The Old Hubballi Police Station is located in the middle at the intersection of five key routes which connects the rest of the city and is a strategic location where the commuter frequency is always high. It is also surrounded by many mosques and Sultan Fateh Shah Dargah. This main road connects the Highway and all other major areas of the Hubballi city. There is always a hustle-bustle here. Also, the Old Hubballi Circle in close proximity to the location connects six wards. As it happened to be the holy month of Ramadan, many had come to offer the special prayer (*taraweeh*, a special namaz offered during the month of Ramadan after the night prayers) at the nearby mosques. The incident occurred at around the same time when the *taraweeh* namaz got over. When it was known by then that a boy had posted a blasphemous picture on WhatsApp and that there was no action taken by the police against him (the police delayed the process of registering an FIR), word spread and the crowd started gathering in front of the police station soon after the prayers, as several were agitated.

4. COMMUNAL HISTORY OF HUBBALI

In the 1980s and 1990s, the city of Hubballi was gripped by the tumultuous tides of communal tensions. Around the same time, when the city was already grappling with indiscriminate street stabbing and 'cutting',¹⁶ the Eidgah Maidan issue in 1994 became a communal flashpoint in Hubballi city. Known as Karnataka's mini-Ayodhya, the issue gave the BJP a significant political boost. Before the Eidgah Maidan controversy the BJP had no MLAs in the Hubballi-Dharwad region, but today the saffron party wields considerable political influence in the region.

The city has been a communally sensitive area ever since the BJP tried to hoist the national flag at the venue in the wake of MM Joshi's 'Save Kashmir campaign' which intended to hoist the national flag in the Lal Chowk of Srinagar.¹⁷

A sizable Muslim population and complex local demographics provide a fertile ground for fringe organizations to rake up communal sentiments. Pramod Mutalik's *Sri Ram Sene* is also headquartered in Hubballi. (It is pertinent to mention that the boy Abhishek Hiremath is also said to be associated with the same organization). Four things have been attributed to the rise of communal tensions in the city *viz.* A) Conflicting Business Interests B) Significant minority population (2.56 lakh Muslims while Hindus constitute 6.36 lakh) C) Proximity to Maharashtra.¹⁸ D) Muslims and Patvegars share the same neighbourhoods Eg: Kamaripeth, Baklegalli, Channapet,

¹⁶Mayabhushan Nagvenkar, 'Once a Commercial Hub, How Hubballi Hubballi Became The Epicentre of Communal Politics in Karnataka,' (*Outlook*, 11 October 2022) Available at: <<https://www.outlookindia.com/national/once-a-commercial-hub-how-Hubballi-became-the-epicentre-of-communal-politics-in-karnataka-magazine-224918>>

¹⁷ For further information on the Idgah issue read Sushma Varma, Sudha Sitaraman and Sudarshan, *The Flag Without Tears: A Report on the Hubballi Idgah Maidan Issue*, People's Democratic Forum Bangalore, (December 1994) Available at: <<http://www.unipune.ac.in/snc/cssh/humanrights/04%20COMMUNAL%20RIOTS/A%20-%20%20ANTI-MUSLIM%20RIOTS/05%20-%20KARNATAKA/05.pdf>>.

¹⁸Rishikesh Desai, 'Who painted communal colors on Hubballi?' (*The Times of India*, 4 May 2009) Available at: <<https://timesofindia.indiatimes.com/city/Hubballi/who-painted-communal-colours-on-Hubballi/articleshow/4483579.cms>>

and are in direct commutation against each other. Further, the surge in communal tensions has been linked to business decline in the city. Mayabhusan Nagvenkar notes:¹⁹ *Like Mumbai, Hubballi was a thriving centre for processing cotton, the main crop in the nearby districts. Traditional textile mills in both cities were phased out in the 1990s due to labour disputes, changing clothing trends, and the failure of their management to keep up with technological innovations. Until the formation of the Karnataka state, Hubballi was a part of the Bombay Presidency. To date, Hubballi, Dharwad, and other areas in north Karnataka are still referred to as Bombay-Karnataka. The decline of industry and businesses in Hubballi coincided with spurts of communal violence in the 1980s and 1990s.*

Tensions between different communities, often fuelled by political rhetoric, and business rivalries have created a climate of unease in Hubballi. The initial outbreak of communal violence in the city was when four persons died and 15 were injured in the year 1984 after a Patvegar boy was hurt when the stationery auto he was holding onto suddenly began moving. The Muslim driver was beaten and seriously injured leading to violence.²⁰ In the year 1998 during Holi celebrations, curfew was imposed in Hubballi City following large-scale violence. A holiday was declared for schools and colleges. Twelve platoons of the Karnataka State Reserve Police and six contingents of the District Armed Force were deployed. The police opened six rounds of fire when lathi charges and teargas shells failed to disperse the crowd belonging to two communities. More than 300 people, including 70 policemen, were injured in the incident.²¹ Similar riots broke out in 2001 during VHP leader Ashok Singhal's birthday celebrations which had led to communal tensions in the city.²² Also, a person was

¹⁹*Supra* note 16 (Mayabhusan Nagvenkar)

²⁰K Bhanumathi, 'Communal violence breaks out in Karnataka for the third time,' (*India Today*, 31 July 1984) Available at: <<https://www.indiatoday.in/magazine/indiascope/story/19840731-communal-violence-breaks-out-in-Hubballi-karnataka-for-the-third-time-803162-1984-07-30>>

²¹ *Rediff on NeT*, 'Curfew in Hubballi' (18 March 1998) Available at: <<https://m.rediff.com/news/1998/mar/18Hubballi.htm>>

²² *Times of India*, 'Violent Birthday for VHP chief: 1 killed,' (15 Sept. 2021) Available at: <<https://timesofindia.indiatimes.com/city/bengaluru/violent-birthday-for-vhp-chief-1-killed/articleshow/2135473034.cms>>

stabbed to death in Islampur and the situation remained tense for two days.²³ In the following year again, a curfew was imposed following clashes between two groups which led to tension in the area of Kasbapet and Kamaripet. Seventy-seven people were arrested on account of the same.²⁴ The rioting spree continued with another riot in the year 2010 in the Kamaripet area when a few miscreants sprayed objectionable graffiti on the walls of the graveyard. There was stone pelting and a curfew was imposed in sensitive parts of the area.²⁵ When the Muslim side protested against this act of desecration, even when Section 144 was clamped, around 200 Muslims were arrested as a result.

More recently in December 2022, a renowned *dargah* in Bhairidevarkoppa was razed for BRTS road widening and the situation had grown tense. It was alleged that the BJP MLA Arvind Bellad played a proactive role in getting the *dargah* razed.

The Eidgah Maidan controversy resurfaced again recently when the District Municipality allowed various right-wing organizations to keep the Ganesh idol for three days on account of Ganesh Chaturthi. Despite the land being leased by Anjuman for 999 years way back in 1921, the BJP-controlled Municipality allowed the celebrations to happen. The Karnataka High Court (Dharwad Bench) had said that the corporation had rights over the use of the land.²⁶ During the same event, Pramod Muthalik while speaking to media persons, threatened to install Ganesha idol in a mosque and perform puja.²⁷ It is to be also noted that, on the same day of the mob

²³ *Times of India*, 'Youth stabbed, shops burnt in Hubballi' (17 Sept. 2001) Available at: <<https://timesofindia.indiatimes.com/city/bengaluru/youth-stabbed-shops-burnt-in-Hubballi/articleshow/350720871.cms>>

²⁴ *Times of India*, 'Curfew continues in Hubballi' (9 October 2002) Available at: <<https://timesofindia.indiatimes.com/city/bengaluru/curfew-continues-in-Hubballi/articleshow/24695484.cms>>

²⁵ *The Hindu*, 'Night curfew extended in Hubballi' (7 March 2010) Available at: <<https://www.thehindu.com/news/national/Night-curfew-extended-in-Hubballi/article16531179.ece>>

²⁶ *The Indian Express*, 'Hubballi civic body allows to hold Ganesh festival at Idgah Maidan for 3 days, but with 18 conditions' (17 September 2023) Available at <[Hubballi civic body allows to hold Ganesh festival at Idgah Maidan for 3 days, but with 18 conditions | Bangalore News - The Indian Express](https://www.indianexpress.com/news/hubballi-civic-body-allows-to-hold-ganesh-festival-at-idgah-maidan-for-3-days-but-with-18-conditions-bangalore-news-the-indian-express/)>

²⁷ Mahesh Chitnis, 'Pramod Muthalik threatens to install Ganesh idol at masjid: Hubballi Muslim leaders demand his externment' (*News 9 Live*, 22 September 2023) Available at:

gathering in front of the police station to register a complaint on the blasphemous post, a procession by a Hindu organization on account of Hanuman Jayanti had put a laser light on the Pendar Galli mosque.²⁸ The *Mutwalli* speaking to us stated that indeed the light was put on the mosque and the community elders expressed concern over this to the police officers, but no formal complaint was lodged.

In this backdrop, the Hubballi incident on April 16, 2022 highlights the ongoing concern of an unconstitutional prejudice within the state apparatus against the minority community as evidenced by victim accounts.

<https://www.news9live.com/state/karnataka/pramod-muthalik-threatens-to-install-ganesh-idol-at-masjid-Hubballi-muslim-leaders-demand-his-externment-2295698>

²⁸ TV9 *Kannada*, 'Hubballi-Dharwad Congress President Altaf Hallur Reacts Over Jai Sri Ram Laser Light Display On Mosque,' (21 April 2022) Available at: <https://www.youtube.com/watch?v=g73qoEqRQpY>

5. VICTIM TESTIMONIES:

After understanding the chronology of the events and how the events transpired, we met the family members of the persons arrested²⁹. We wanted to understand how the arrests were made, if the due procedure was followed or if the arrests were arbitrary and the impact of the arrests on the families. The questionnaire is annexed at Annexure IV.

Family of Ibrahim s/o Abdul Ghani: Age: 35 years, Occupation: Fruit seller, Residing at: Sadar Sofa, Hubballi.

Ibrahim's wife and his brother-in-law met with us to share about the incident. His wife told us that Ibrahim is a resident of Shikaripura and is a fruit seller by profession. Ibrahim and his wife came to Hubballi, his wife's maternal home as his wife was due to deliver their child. Ibrahim went to the Old Hubballi Market which is near the Indi Pump police station, to sell his fruits on the morning of 17th April, 2022, the day after the incident. The police arrested him from the *mandi* (market) while he was selling his fruits.

We asked them what could be the possible reason for his arrest. They said that they cannot think of a possible reason for his arrest other than the fact that his fruit stall was near the police station. They also told us that Ibrahim was beaten in the police station before he was moved to the Gulbarga Jail. The police neither served them a notice for arrest nor did they give any reason for his arrest.

Ibrahim's wife told us that their family comprises her, Ibrahim and their child who passed away after being born. She told us with teary eyes that they only have each other and with him gone, she is left to fend for herself. They live in a rented house and now the landlord is urging her to vacate the premises as no rent has been paid for two months since he was the sole breadwinner.

²⁹ The delegations spoke to about 37 families. We have retained certain testimonies in the main part of the report to bring out the trend in the arrests due to their nature. Other similar testimonies can be seen at Annexure V

Family of Syed Shabbir Bangaloori s/o Syed Afroz: Age: 37 years, Occupation: Welding (Company), Residing at: Anand Nagar, Hubballi. Shabbir is also named in FIR No. 0063/2022 as Accused no. 04.

On the day of the incident, Shabbir was at an *Iftari dawat*, serving the food for the fast-breakers and at around 11 pm he came back home. He was picked-up from his home somewhere at around 1:30 am. Shabbir's detention was the first among the accused who we could confirm was named in the FIR, which was to be followed with en masse arrests and pickups by the Hubballi police, that hardly anyone could have imagined.

Shabbir is the sole bread earner, has four small children (School going kids aged between 4 & 10 yrs), he works for a company located in the Industrial Area of Hubballi as a welder, and has no past criminal background whatsoever. It was informed to us that a person named Tajuddin Ballari (accused no. 07) was the first to be picked in the Anand Nagar area and it was the police which pressurized Tajuddin into revealing 5-6 names in order to save himself. Among the others whose house Tajuddin showed to the police, Shabbir's was also one. Tajuddin and Shabbir were acquaintances. For 8 days the family of Shabbir knew nothing about his whereabouts after his pick-up by the police. Later they found out that he was housed at the Gulbarga Jail.

Family of Khaja Moinuddin s/o Syed Sab: Age: 39 years, Occupation: Fabrication work (Construction worker), Residing at: Sadar Sofa, Hubballi

We met Khaja's mother and his wife. He has three children between the ages of 13 – 17 years. At 11 AM on 17th April, 2022, the day after the incident, Khaja and his wife were shopping for clothes near their house for Ramazan. The police, about six of them, some dressed in uniform and some in civilian clothes, started questioning him and manhandled him on the street. He and his wife requested them to let him go and asked them why he was being arrested. Khaja resisted the arrest while constantly telling them that he had not done anything. He was beaten at the spot and was dragged into the police van after much resistance. He is now housed at the Gulbarga Jail.

Khaja's wife recalling the horrifying memory of his arrest told us that they pleaded with the police to let him go and even told them that he was fasting. But the police

paid no heed to him or her and mercilessly dragged him away. She apprised us that he is a dedicated family man and was home at the time of the incident.

Khaja was the sole earner of the family and without his earnings, the family is struggling to get through daily life. The education of his children is hampered and they have not been going to school because no fee has been paid.

Family of Sadiq Makaandaar s/o Ushersab Makaandaar: Age: about 32 years, Occupation: Construction worker, Residing at: slum near Sadar Sofa

We met Sadiq's wife at her mother's house where she was recovering after giving birth to her first child who is only a month old. Sadiq's wife also has cysts in her ovaries which has made her pregnancy and postpartum extremely difficult and financially taxing. She told us that Sadiq was arrested almost 10 days after the incident took place. On the day of his arrest, his wife was to be taken to the hospital for her check-up and had forgotten some documents. Sadiq went to their house to take the papers when the police apprehended him for alleged connection to the incident of 16th April.

Sadiq's wife told us that after she found out about his arrest, she went to the police station and begged them to release him as he was the only one taking care of her. Wiping her tears she told us that she even pleaded them to show the evidence and basis for arrest as she was confident that her husband could not have been part of the riot because he was at home with her. She was really upset about the way the police took him and even asked them to put her in the same jail along with Sadiq because she has no one else to call her own. She said that the police were not even sympathetic to her medical condition and they gave her false assurances that they will release him soon. Sadiq was housed in Dharwad Jail for a month before being shifted to Mysore Jail. Being far from Hubballi, it has been difficult to meet him as they don't have enough money to spend considering Sadiq's wife's medical expenses.

We then asked her why the police might have arrested him. She said that he worked near Old Hubballi *Pul* which is near the Police station. She then recalled that he received a call on the night of this incident from his friend who told him that a riot broke out near the police station and that could be a reason for the arrest.

Sadiq is the sole earner of the house and with a baby on the way, he was working very hard and took good care of his wife. The last time his wife spoke to him he told her that it pains him to have left her to fend for herself alone and that he hopes to see his child soon.

Family of Jakir Hussain Dharwad s/o Mohammed Saad: Age: 28 years, Occupation: Sheltering (Construction worker), Residing at: Anand Nagar, Hubballi

Jakir is the first of four children, as told by his mother who spoke to us. Among the victim families we spoke to, Jakir's case was the first of its kind where the police called the accused on the pretext of questioning and then arrested him at the police station. Jakir's mother told us that a few days after the incident, the police asked Jakir to come to the police station for standard enquiry. The family was confident that Jakir was not guilty of any offence, so they went to the police station like responsible and concerned citizens to answer the questions the police were going to ask. After going there, they were told that they had found Jakir in the CCTV footage from the day of the incident after which they arrested him.

Not being able to hold back her tears, Jakir's mother blamed herself for his arrest. She said it was like they themselves put him before the devil. Jakir is the sole earner of the family and now the family is left to tend to itself. They live in a rented house and Jakir's father is alcoholic. His mother has taken to domestic work to be able to make ends meet.

His mother also told us that before they went to the police station, their neighbours informed them that the police were looking for Jakir. In one instance they even barged into their house and searched the house in the absence of the family members. This is a clear violation of law as they had no search warrant and had not informed the family members. They had completely turned the place over hoping to find incriminating evidence against Jakir in connection with the riot. Jakir is now placed in Ballari Jail.

Family of Mohammed Jafar Sanshi s/o Shabbir Ahmed: Age: 27 years, Occupation: Construction worker, Residing at: New Anand Nagar, Hubballi

Jafar's mother spoke to us and she was inconsolable. She told us that Jafar works in Hassan and had come to Hubballi, his hometown to attend his father's funeral who had passed away just 18 days before the incident happened. The family was grieving the death and Jafar was affected the most after losing his father, he was depressed.

On Sunday, the day after the incident, Jafar stepped out of the house for some work at around 8 - 8:30 PM when the police nabbed him for allegedly being involved in the riot. Jafar was taking care of his mother, grandmother and three of his siblings. They live in a rented house and his mother is doing everything in her hands to ensure the running of the house.

Jafar is housed in the Gulbarga Jail. No reason for his arrest was given. His family has not seen him since his arrest as they do not have the money to travel to visit him.

Family of Hazrat Tajuddin Sheik and Mohammed Shafi Sheik: Age: 32 years and 30 years respectively, Occupation: Road Construction, Residing at: Anand Nagar, Hubballi

Tajuddin and Shafi are brothers who were arrested by the police a few days after the incident. Their mother who spoke to us was unable to even finish her sentences without breaking into tears. She told us that both her children were the most ideal and hard-working children anyone could have. She told us that she hasn't slept for many nights thinking about how both her children were taken away from her for a crime they did not commit.

Their mother has been pushed into a helpless situation. It has been nine years since her husband's death and she was entirely dependent on her two sons for survival. With no one to look after her, she has now been forced to wash dishes in houses as a maid. When she met her two sons in jail they assured her that they had done no crime and asked her to take care of her health.

She told us that both her sons went to collect their wages from their boss near the water tank which is a few meters away from their home. Both the brothers are housed in Gulbarga Jail. Shafi is married and has a son who is only a month old. With both her sons in custody, the family has lost the earning members. They live in a rented

house and now their mother has mortgaged all the gold articles in the house to be able to feed her daughter-in-law and tend to her grandson.

Family of Sikandar Makandar s/o Kasim Sab: Age: 34-35 years, Occupation: Painter, Residing at: Mayur Nagar, Anand Nagar, Hubballi.

Sikandar Makandar's arrest was among the initial arrests that were made in Anand Nagar area. 35-year-old Sikandar, a painter by profession, was sleeping at home and at around 2:30-2:40 am, 20-25 policemen, some of whom dressed in civil clothes and others in uniform came near his house, and took him away, as per his wife. On being asked why Sikandar could have been the target of police's action, his wife says that it was Tajuddin Ballari (Accused No. 07) (refer **Syed Shabbir Bangaloori** anecdote), whom the police had beaten up, was the one who showed Sikandar's home after being tortured by the police.



Picture 3 - Sikandar's mother with one of his child

Sikandar is a father of three and is solely responsible for his mother, wife and children. The police arrested him without any notice nor any evidence in regard to his connection to the riot. He is now in the Gulbarga Jail. Without any other resource of income, the family is struggling to make ends meet. Now his wife is making *beedis* to be able to ensure her children don't go hungry.

Family of Shamsuddin Jamadar s/o Modin Sab: Age: 25-26 years, Occupation: Setting tiles, Residing at: Anand Nagar, Hubballi

Shams' mother-in-law met with us and described the sad state of affairs of her daughter's house. Shams and his wife were expecting twins when he was arrested. Two days after the incident, Shams had come to his wife's maternal home to take his

wife for her routine check-up. At around 1 PM, the police came to his wife's house and arrested him for allegedly having received the WhatsApp message of the status.

Shams is in Gulbarga Jail right now, while his wife is waiting for him to return and see the birth of his children.

Family of Javed Bagalkot s/o Imam Sab: Age: 38 years, Occupation: Factory worker (Locker manufacture), Residing at: Anand Nagar, Hubballi.

He was employed with a locker manufacturer and worked at their factory to support his family. He was picked at 9 am the next day after the incident, when he had been to collect the due payments and was returning home. Javed went out telling his wife, 'I have two hours of work, will collect payment and come.' His friend had warned him that 'at night Hindu-Muslim fight has taken place at Indi Pump and police are picking up many people, hence returning back home.' Javed told him that since he is not involved in that incident, he has nothing to worry about. When he reached home and was about to alight from the vehicle, a policeman putting his arm around Javed's shoulder said, 'Sir is calling you and he will speak with you for a few minutes and leave you later.'" Javed was clueless as to what was happening around him. He kept on asking 'What have I done' two-three times.

"I felt that the police have caught him for not wearing a helmet and lack of vehicle documents. Hence I was getting the documents. By then he was made to board the police van," his wife says. It was only after Javed's arrest his family got to know that a 'Hindu-Muslim fight' had taken place and police were picking Muslim men, until then they knew nothing about what had happened the previous night. When his wife could not even pay Rs. 2500 for his son's school admission due to the deplorable situation, a non-Muslim teacher came forward to help him and paid the fees as he seemed to be a bright student.

"Our future is destroyed along with that our children's future has also been destroyed now," says his distraught wife. Javed has a wife and four children who are now being taken care of by Javed's sister as he was the sole earner of the family.

Family of Mabuli Madagavi s/o Salyada Sab: Age: 27 years, Occupation: Auto driver, Residing at: Anand Nagar, Hubballi.

Mabuli is an auto driver who had very recently taken his auto on a loan to earn a living. His wife told us that on Monday, two days after the incident, at around 5:30 PM, Mabuli and his family were going to the dargah in town in his auto when the police stopped them and arrested him. She told us that the entire family requested them to not arrest him as he had not done any wrong, but the police refused to pay heed to any of their pleas and arrested him.

His wife also told us that, prior to his arrest, the police contacted his brother and asked about his whereabouts and insisted that he disclose his location. They did not tell his brother what this was in regard to. Mabuli was earning for his wife, mother and his young daughter. With no earning member of the family and a loan to repay, the family is in a desperate situation.

Family of Mushtaq Ali s/o Shaukat Ali: Age: 25-26 years, Occupation: fixing tiles, Residing at: Anand Nagar, Hubballi.

Mushtaq's arrest was another pattern in which arrests were made. His father spoke about the manner in which his arbitrary arrest was made. He narrated that after the incident, the police were exasperated. On Sunday, the day after the incident, the police took Mushtaq's father, illegally confined him in the police station premises and told him that they will not release him until Mushtaq surrenders himself. They made his father sit in the police station from 1 PM in the afternoon till 7 PM in the night. At 7 PM Mushtaq, unable to bear the plight of his father and his duty towards his family, went to the police station to speak to them. Once he went to the station, the police arrested him immediately and let his father go. This is an example of the few cases where the police held a family member for ransom to arrest the alleged accused.

When we asked him what reason the police gave for the arrest, he was told that Mushtaq is seen in the CCTV footage from the date of the incident. Mushtaq is married and his wife just delivered a baby. Apart from his wife and child, Mushtaq was taking

care of his father and younger siblings also. Mushtaq is now in Ballari Jail and his family is awaiting his release.

Family of Sablu Salmani and Salman Khan: Age: 26 and 20 years respectively, Occupation: Barber, Residing at: Anand Nagar, Hubballi

Sablu is from a small village called Badgaon, Saharanpur District, Uttar Pradesh and Salman is from Badayun, Uttar Pradesh. Their cousin spoke to us and said that they had come to Hubballi to work with him in their saloon. Since both hailed from economically backward houses, they came down to Karnataka to earn a buck or two and to be able to support their families.

Sablu was looking after his aged and ailing parents and Salman was supporting his widowed ailing mother who is in hospital and four younger sisters. They both were sole earning members of their families and the house ran only with the meagre money they would earn by providing barber services. He also told us that Salman was working very hard to be able to arrange for the marriage of his sisters.

Their cousin told us that both the brothers went to open the shop at 8:30 AM on Sunday morning, as per their usual routine. The police came there and nabbed them alleging their involvement in the riot, however, no explanation was given. All the brothers were at home at the time of the incident.

Their cousin told us that he didn't accompany them that morning by chance, that usually all the three of them would go to the shop together. He told us that, if he was also there the police would have arrested him as well. The police were making arrests in a random fashion and picking up whoever they wanted without any proof.

Both the brothers are housed in Gulbarga Jail while their families are struggling to manage their households and console their aching hearts thinking about the arrest of their young and innocent sons.

Family of Sikandar Ron s/o Raje Sab: Age: 36 years, Occupation: fixing tiles, Residing at: Anand Nagar, Hubballi

Sikandar is also one of the accused named in FIR No. 0063/2022 as Accused No. 6³⁰. He was also arrested along with Shabbir who is named as Accused No. 4. Sikandar also was sleeping in his house when the police came at 2:30 AM and arrested him after Tajuddin Ballari, who is an acquaintance of both Sikandar and Shabbir, pointed to his house. Sikandar is now placed in Gulbarga Jail.

Sikandar was making a decent living and providing for his mother, wife and four children. As he was the sole earning member, his family is finding it difficult to make ends meet.

Family of Dadapeer Peerawala: Age: 37 years, Occupation: Paan Shop, Residing at: Anand Nagar, Hubballi.

The day of the incident he had come home after closing his shop. He had just gotten up for *Sehri* (pre-dawn meal) and had not even taken a bite when the police picked him up from the house at around 3:30 AM. Dadapeer was also one among the other few whose house was shown by Tajuddin Ballari. When his family went and enquired with the police, they were told that he will be released but the same has not happened.

“We were present that midnight when his husband was taken away. When we asked the police to leave him and not to beat, they said if you come our way, we will also beat you up.” said an elderly woman from the area, acquainted with the accused.

“I have never kept my feet outside the house before. We used to lead our life from what my husband earned” says his wife. But with the situation deteriorating day by day, she is forced to wash dishes in the nearby homes to manage the household and take care of her three small school going children. She also needs to repay a loan worth Rs. 12000 on her house.

When we were taking down the notes, Dadapeer’s wife with disdain in her eyes said, “You will take down the notes and later throw the paper somewhere but what will

³⁰ See Annexure - I

happen to our men. They will continue to be in the same situation, languishing in jail.” We could only sympathize with her. Dadapeer is now housed at Gulbarga Jail.

Family of Shahbaaz Lashkar s/o Anwar Lashkar: Age: 19 years, Occupation: Butcher, Residing at: Anand Nagar, Hubballi

Shahbaaz’s mother met with us and told us that he worked at a chicken shop and earned a living. He started working at a young age to support the family after his father passed away. He was earning for his mother and 15 year old sister who is going to school.

His mother told us that he was at a saloon getting a haircut on Sunday, a day after the incident at around 8 - 8:30 AM when the police came and arrested him. They first snatched Shahbaz’s phone and later took him to the station. She also told us that he was beaten by the police for resisting arrest. When the family members went to enquire to the Police Station, they were whisked away.

He was the only earning member of the family and now his mother has taken out a loan and borrowed money to be able to run the house.

Family of Sadiq Pathan: Age: 26 years, Occupation: Scrap worker, Residing at: Adhyapak Nagar

The story of Sadiq Pathan's arrest is no less than a filmy scene. He was arrested 10-15 days after the incident. After leaving his bike to repair at the garage in the morning, Sadiq called one of his friends to pick him back. When the two-wheeler was passing by the Old Hubballi Police station, the traffic inspector stopped and penalized them Rs. 5000 due to the problem with the silencer and name plate of the bike. As he and his other friends had planned for a trip after Eid, they required the vehicle. Hence, by evening they arranged the money and came to the police station hoping to get the confiscated vehicle back. But seldom did they know that the police had some other plans. The police first checked their phone to see whether they were present in the mob or not. Having found nothing, they were arrested on the pretext that their location matched at the time when the incident took place.

Sadiq, who is lodged in the Belgaum jail, was a scrap worker and had studied till 12th. His sister was set to marry and the engagement too had taken place, but the marriage broke after the news of his arrest. Presently, his elder brother is running the household and taking care of his ailing mother who is distraught after her son's arrest.

Family of Akbar Ali Yadwad: Age: 33 years, Occupation: Mobile repair shop, Residing at: Anand Nagar, near Madani Masjid, Hubbali

Akbar Ali was picked up from his mobile repair shop by six policemen dressed in plain clothes on 23rd April 2021, eight days after the Old Hubbali incident. First, his mobile phone was checked, the police got nothing from it. Later, Akbar was asked to come to the police station for a few minutes assuring that after talking with the higher officer, he will be sent back. The family tried contacting him until late night but his phone was on and off continuously. At 7 am on 24th April when his mother and wife went to the police station, the police asked them to go away and that he would be released if he was not there in the mobile. The next day again they met a senior official in the police station who said, "Your husband has whatsapped (video of the incident/mob)" but according to the family members the WhatsApp video was not sent but was received by Akbar from some other person. When the police constable said the same to the officer- that they have nothing against Akbar- he is said to have directed the constable to tear the FIR.

"My small children do not know about what happened to their father. Till now I tell them that he is repairing phones in jail," says his wife. Life has become miserable now for the Yadwad family. Akbar's wife has moved to her mother in laws' house after being unable to pay rent of the residence. He does not have a single petty case booked against him.

Akbar & his family did not know about the incident at first. That day they had been to a function at Mantoor road some 5 km from the place of incident to commemorate the first *roza* (fast) of Akbar's niece. They stayed there till 12:00-12:30 am. Once they reached Gurunath Nagar, seeing people running around they got to know that something of this sort had taken place. Akbar had only put a single lock to his shop,

hence for a brief amount of time he alighted from the vehicle to put the double lock. This may have been the basis for the police to arrest him eight days later.

“No hope left. If our men are not released we are only left with the option of drinking poison,” says her wife.

Family of Shah Nawaz: Age: 32 years, Occupation: Sales Manager, Residing at: Anand Nagar

Little did Shah Nawaz know about the unfortunate day he had woken up to. In the pre-dawn hours of 17th Apr, Shah Nawaz makes a phone call to his brother only to wake him up, to the *Sehri Daawat* (Pre-Dawn meal) arranged at Ishwar Nagar of Gousiya town, Islampur road. By the time his brother Azar was ready, Shah Nawaz had already left for the *Daawat*.

Azar claims that there were around 4 police vehicles, 3 Police Sub Inspectors and about 15 constables while Irfan Nalvatwad, a leader from AIMIM Party was arrested and taken to the police station. Meanwhile, a 19 year old boy named Shoaib Syed, who was carrying milk packets for *Sehri Daawat*, was also arrested during the same time on the pretext of casual questioning, and is in jail till date. Shah Nawaz too faced a similar fate. The police stopped Shah and questioned him as to where he was heading to. He informed them that he was going to the *Sehri Daawat*. Discovering that Shah was a Muslim, police took him to the station on the pretext of letting him free if he was not in the videos relating to the violence. Shah called his brother Azar and told that he was taken to the police station and that he would be back home within an hour. He was in touch with his brother through mobile for a few hours after his arrest. Later his mobile was switched off after 11 am.

He along with a few others who were arrested on the ‘basis of suspicion’ were placed separately in the station. Later, the police commissioner ordered the police officials not to keep them separate. “*Sab ko andar dal,*” told the commissioner, indicating to mix them with the ones who were alleged to be involved in the mob.

Having no criminal background, Shah was a simple living man according to his brother, who worked as a sales manager at Reliance Jio. On the night of riots, he was

at Maratha Galli shopping for the festival. Shah Nawaz's engagement which was planned to be held after Ramzan had to be cancelled due to his arrest. His family wakes up to these pathetic days with a ray of hope that Shah would be back home soon. Azar, with a broadened smile on his face told us that he has extreme faith in Judiciary.

Family of Rehman:

In the early hours of Sunday, Rehman unparked his bike and left home to buy chicken from a nearby meat shop in Anand Nagar. The police whisked him along with the meat shop owner, at around 7.30 am. Little did Rehman know that he was arrested in connection with the riots that happened the previous night. About two hours after his arrest, Rehman's wife called his mobile number several times, receiving no response. She began to worry. While his family started wondering as to why he is not home yet. TV9 news channel carried the news of Rehman's arrest which made them collapse in aghast. In the evening, his younger brother went to collect Rehman's bike back from the place of arrest only to find it in a bad condition. Rehman is an electrician working in an industry. He was at work during the night when riots took place, a fact which his employer testified to. He has no criminal record whatsoever. Innocent and quiet a person as he is, Rehman, never in the memory of his mother, raised his voice nor did he argue with his mother in any matter. "Most of Rehman's friends are Hindu, he is not a communally minded person," shares his wife.

Rehman's family neither has any resources nor means to survive for a year. To manage affairs, his mother works as a maid now. Oscillating between poor financial condition and helplessness, his family hopes for his return from jail. With deep faith in 'Allah and Indian judiciary,' Rehman and his family wait for better days. Rehman is currently lodged in Belgaum jail, leaving behind his mother, wife and two kids in miserable condition.

Family of Aasif Ahmed:

Aasif has an automobile shop set up in a rented space, in a lane adjacent to the police station and the Dargah where the riots happened. Aasif is the 4th son and is married,

with two kids. Two days after the riots, Aasif was tricked by police. A policeman who came near the shop told Aasif that he was required by *'his mamu'*³¹ (the senior police official). Aasif obliged and went, keeping the shop open, not knowing he was to be prosecuted for the violence. Later, Aasif's elder brother learnt about his pick up when he received a phone call from a person who witnessed the same. Aasif is presently lodged in Dharwad Central prison "If my son is really involved in the riot, I have no issues with his imprisonment. But why punish my son when he is not guilty at all," questions his mother.

Family of Md. Gouse Magami:

21 years old Md. Gouse Magami is into tile works. On Sunday morning Gouse took Rs. 100 from his father and went to a nearby barber shop for shaving. The police barging into the saloon arrested Gouse at around 9 a.m. His father alleges that by asking his name and concluding that he was Muslim, he was picked up. "There were two people in the saloon including him. The other was a non-Muslim. The police asked his name and picked him up saying 'get up, do the shaving there' (police station). He had not even completed his shaving on the other side," says his father who works as a carrier in APMC. When Gouse's father visited him in jail recently, he would only ask, when will he be released from jail for the crime he had not committed? After the arrest, when they went to the police to inquire about the arrest of their son, the police also threatened them with putting them in jail if they didn't go from there. His father believes that grave injustice has been meted out to them. The family got to know about Gouse's actual arrest after fifteen days. They knew nothing about the incident that had taken place the previous night. "If we had known about that, would not have sent our children outside the next day"

Md. Rafiq (not an accused):

Md. Rafiq also shared his near-arrest experience as police followed him in the street. Looking at the police's suspicious behaviour, he took a different route and escaped

³¹ Policemen are referred to as *maamu* in local parlance. It seems that to mock Aasif the policeman may have referred to the term.

from them. The police, having entered Anand Nagar in the early Sunday morning resorted to rampant picking up of people, a pattern which continued for the next two days and hence Rafiq kept his shop closed for those two days. That is perhaps the reason why he stands in front of his shop today living to tell us the tale. He states that many people who were not involved in the incident are unjustly arrested in the case for no role of theirs in the riot. Rafiq's two relatives were also arrested by the police. It is to be noted here that, due to the fact that the boy who posted the blasphemous post hailed from Anand Nagar, many arrests were made from the area as there seemed to be a political pressure on the police force from the erstwhile BJP Government to make 'large scale' arrests for the ensuing mob-incident.

A person who filed a complaint about the robbery in his bakery the previous day was also arrested by the police. On Sunday morning, as he came to open the bakery, the police showed up to him and said that they wanted his signature. Later, without hearing anything from him, he was arrested. Nearby shopkeepers have shared that they were scared of getting arrested. With that fear, they hid themselves inside their shops, as the police resorted to blind and indiscriminate arrests.

Family of Md. Iqbal:

Md. Ayub shares that his brother Md Iqbal, aged 39 was arrested by the police when he had been to the *Sehri* (pre-dawn meal) program in NA Nagar. Iqbal is a heart and diabetic patient and has suffered a paralysis stroke in the jail. Such was the impact of this on his family that his mother went into shock and her health got worse and was admitted to the ICU for eight days. Iqbal has four small children aged 14, 12, 8 and 6 years and the responsibility to look after them has fallen on Ayub's shoulder now. His brother states that Iqbal has not done anything to which his brother must be arrested. Based on his medical condition the application for bail was applied, but the same was rejected. His brother states that he has full hope in the judiciary that he will be relieved soon as he has neither done any crime nor been involved in any criminal activity.

[Note: The delegation from PUCL spoke to the families of the arrested when there was no progress in the case. After granting the bail initially on medical grounds and other grounds to 11 Accused, both trial court and High Court denied bail multiple times to

others. Subsequently, a chargesheet was filed by the police. Later, the delegation from NAJAR interacted with the families post the chargesheet. During the same time, the Supreme Court granted bail to 35 Accused on 15.12.2023.³² Further, the High Court of Karnataka granted bail to the remaining 106 Accused on 16.02.2024³³. As of November 2025, all the Accused are out on bail]

³² *Times of India*, 'Riots case: SC grants bail to 35 accused,' (16 December 2023) Available at: <https://timesofindia.indiatimes.com/city/Hubbali/supreme-court-grants-bail-to-35-accused-in-Hubbali-riots-case/articleshow/106037245.cms>

³³ *Vartha Bharathi*, 'ಹಳೆ ಹುಬ್ಬಳ್ಳಿ ಗಲಭೆ ಪ್ರಕರಣ : 106 ಮಂದಿಗೆ ಹೈಕೋರ್ಟ್ ಜಾಮೀನು' (16 February 2024) Available at <https://www.varthabharati.in/state/Hubbali-riots-case-106-people-granted-bail-by-the-high-court-1995343>

6. CIVIL SOCIETY RESPONSES :

After witnessing the predicament of the families of the arrested persons, we then spoke to various other people who have directly or indirectly played a role in ensuring justice to the arrested and that these innocent accused and their families are supported in every manner by the members of civil societies. Questionnaire used for members of civil society is at Annexure IV.

Advocate Babu Belagali: We first met Advocate Belagali who is one of the main advocates representing the accused persons. When we asked him about the circumstances that led to the incident, what happened after and what is the status of the 12 FIRs, he explained to us the struggle they have been experiencing since the night of the incident.

He said that during the month of Ramzan, on 16th April, 2022 at around 7 pm, a youngster named Abhishek Hiremath who has affiliations with the RSS and the right-wing, posted a status on WhatsApp which had the saffron flag on a dome which was an insult to the religious beliefs of Muslims. Agitated by this, a complaint was given by representatives belonging to the Muslim community but no FIR was registered. The police authorities gave false assurances that the said boy had been arrested. The crowd allegedly gathered there in large numbers demanding the arrest of Hiremath. At around 8:30 PM, 20 - 25 persons reached the police station to ensure the release of Hiremath. Subsequent to this, the mob allegedly started pelting stones at the police station and attacked the police out of rage. As a result, FIR No. 0062/2022³⁴ was registered against Hiremath and then FIR No. 63/2022³⁵ in which 158 accused persons were named and 156 were arrested for offences under Sections 143, 147, 148, 307, 353, 427, 504, 506, 149, 323, 324, 333 of the Indian Penal Code, 1860 and Section 3 of

³⁴ See Annexure - I

³⁵ Ibid.

Prevention of Damage to Public Property Act, 1984³⁶. More FIRs were registered after this with the accused being 150 – 200 unknown persons.

On being asked what the status of the Court case is, we were told that on 23rd April, 2022, a bail application was moved on behalf of the arrested persons. To their shock and surprise, the advocates were informed that a requisition was filed by the police stating that Sections 16, 18 and 20 of the Unlawful Activities Prevention Act, 1967³⁷ were also invoked in respect of the incident. As a result of which, the Judge hearing the bail applications did not grant bail. Advocate Belagali informed us that they had no idea UAPA was invoked and they found out only after they started arguing the bail applications. The State also appointed a private person as the Special Public Prosecutor for this case. But they managed to get bail for some accused persons on 14th May, 2022 out of which, one was a minor, one Corporator, seven of them were students and one was granted bail on medical grounds. The chargesheet has not been filed yet and it might take longer owing to the invocation of sections of the UAPA. Belagali also told us that 11 FIRs which were registered subsequent to the original FIR were stayed and that they had moved a petition before the High Court of Karnataka, Dharwad to quash the 11 FIRs. Unfortunately, the High Court dismissed the petition stating that the FIRs cannot be quashed at the stage where the chargesheet has not been filed and that the accused can move the petition after the filing of the chargesheet if need be.

When Belagali was asked who are the advocates representing the accused, he informed us that there is a secular advocates forum comprising 38 advocates from different religions and castes who are all representing the accused.

On being asked on what basis the arrests were made, we were told that the Police used GPS tracking/signal of the phones of the accused. He also adds that there are 15 cameras nearby but no footage can be seen in them. Belagali claims that he had filed an RTI application to the Commissioner of Police to provide the footage and to the

³⁶ See Annexure - II

³⁷ Ibid.

same, they have replied that the cameras were not in a working stage. The Police has also arrested the accused on the pretext of having shared or received the WhatsApp status on their mobile phones even if such message was received on WhatsApp groups.

The next question Belagali was asked was what he thought of the entire episode. He apprised us that 99% of the accused were innocent and had no part to play in the agitation. As we mentioned at the outset about the strategic location, Adv. Babu also reiterates the same point stating that the five roads that lead to the station are the roads that every resident has to cross to be able to move within the city. Now, for instance, if a person on his bike trying to go home or an auto-rickshaw driver is either ferrying a passenger or was filling fuel near the petrol bunk or anybody was just passing by this area around the time of the incident, their cell phone signals would have bounced off of the nearby telephone tower. Now if the accused were arrested on the basis of the cell tower locations, many innocent people are likely to have been arrested. At the time of the incident, many boys who were not Muslims were standing there and making videos. Why is it that they were not named in the FIRs and arrested is the question we all must ask. He also shared with us that the individuals who gave the complaint against Hiremath, who were mahazar witnesses etc. are also named in the 11 FIRs. He also told us that ten minutes before the stone pelting started, the power went off and it was dark. In such a situation how will the police identify who threw the stones? All these inconsistencies point towards possible foul play.

Raising further apprehensions, he states that after the boy's arrest, a few of his followers also came to the police station. Who has thrown the stones is unidentified to date. Arrests were not made on the spot at the time of the alleged crime but only after a day based on mobile tower video. "Through my reliable sources, I have come to know that a few Hindutva organizations had also come to the spot in support of the boy and it has come to my knowledge that they have thrown the stones. But there is nothing to authenticate this," he states.

When asked what the way forward is, Belagali was of the opinion that people are being instigated by individuals such as Pramod Mutalik who are very visible in the

public eye making hurtful statements against other communities and calling for communal disharmony. That people like Muthalik must be banned from giving speeches. He claimed that after Goa banned Muthalik, there had been no incidents of communal violence in Goa. He shared with us another instance of the impact of instigation of hate crimes. About 15 days after the incident, four youngsters affiliated to Hindu right-wing groups threw stones at a KSRTC bus hoping that the police will connect it to the 16th April incident and accuse the Muslims for it. But fortunately, the police were just around the corner and they apprehended them.

Belagali was of the opinion that the residents can live in harmony and have lived in harmony. It is unfortunate that so many innocent Muslims were arrested but he is hopeful that they will all be released soon since UAPA is not applicable in any way and that he and his team are working tirelessly to ensure that.

Babu Belagali also informs us about the constitution of the committee to consider the withdrawal of politically motivated cases under the previous regime. A 5-member cabinet sub-committee- G. Parameshwara (Chairman), Ramalinga Reddy, H.K Patil, H.C Mahadevappa, Cheluvayaswamy- has been constituted by the present Government to look into all the such previous cases of arbitrary arrest and consider their withdrawal.

Yusuf Savanur, Anjuman - e - Islam:

We met the head of Anjuman-E- Islam, Mr. Yusuf Savanur. When we asked him what he thought about the incident, he said that the right-wing organizations provoked Hiremath to post a picture against Islam. The provocation was especially made because it was Ramzan and they wanted to create mischief there. After the picture was posted, several demands were made to register an FIR against him. The people who gathered outside the police station thought that the FIR was not being registered and they gathered there to build some pressure for the registration of FIR. He said that there are seven roads that lead to the place of incident. After *tarawih*, a lot of people came out of the mosques and started gathering near the police station out of curiosity as to what was happening. He said that there was another group behind the police station who were not Muslims. There was one group protesting before the police

station, and there was another group behind the police station. He was of the opinion that the crowd behind the station were not Muslims as they are the ones who started throwing stones. He states the people are very emotive when it comes to the Prophet and as such people started gathering near the police station to register an FIR against the boy. He explained that apart from a mosque which is very near to the police station, there are around 20 more mosques surrounding the place of the incident. According to him, the growing mobility and footfall of the people at this location was enough for one to call it a 'mob.' The mob started raising slogans such as "*labiak ya labiak*", he states.

Delay in registering the FIR, provided an opportunity for the people to take the issue into their hands and this was the reason for the matter getting worse, according to him. The impatient crowd then started demanding the police to hand over the boy to them. There were also attempts being made to enter the police station to grab the boy. He says that it was at this time, that "the policemen urged us (Muslim leaders) to get atop a vehicle, to ease off the mob." tells the President. In these chaotic moments of anger, the power went off (for nearly half an hour as per him) which created an opportunity for a few fanatics to start pelting stones. All this happened in just a span of 30-45 mins, he says. The mob dispersed and vanished from there in half an hour after the incident and the 'riot' did not spread anywhere apart from the police station area.

A lot of people were put behind bars without any rhyme or reason. Giving an example, he said if somebody was walking past the police station and was taking a selfie near the spot, they would have also been arrested. He apprised us that all the accused persons arrested in this case are from low-income groups and live in slums. He also pointed out that as part of the investigation only stones and not weapons have been seized. He was of the opinion that UAPA cannot be applicable in this case. He said that the entire incident was part of the BJP government's plan to suppress the minorities. He also said that 99% of them are innocent and that this agenda is only to separate the communities and brew communal hatred.

Yusuf Savanur called on the government to set up an inquiry committee with a retired judge as the chairperson to look into the entire incident and to ascertain who the mastermind behind this incident was. He also said that in respect of the same, a letter has been given by Anjuman -E- Islam to the State Human Rights Commission. He also pointed out that for 20 years Hubbali has been a peaceful place. He also apprised us that Anjuman has been working tirelessly to ensure that all the innocent accused are out. As seen in the victim testimonies, he also pointed out that the police, in furtherance of their investigation arbitrarily arrested unconnected persons such as barbers, Pan *waalas*, cycle repairs, etc. People who went to pray in the morning prayers were also picked up. He told us that immediately after the incident, the Home Minister had said "put more of them in, fill them (jails) up".

He also said that the plight of people who were arrested was very bad. He said that in one jail there were 102 odd people who were stuffed without any place to breathe. They were vomiting and urinating in the same cell so they had to complain to the IG DGP, Jailor to ensure that the accused persons are kept in open and sanitized rooms. He also pointed out that Anjuman has been doing whatever it can in respect of ensuring that the families of these accused are not left out on their own. He said that they have been providing money and food kits. He also said that in case the children of these arrested persons require education, Anjuman is ready to provide for them and in case these families have any medical requirements, they are ready to help them.

He informs us about the formation of the relief committee by the Anjuman and through the same fifty-five thousand rupees were given to each family of 158 accused. Free legal aid and free medical operations to the affected families were also given through Anjuman, he states. He rhetorically concludes by asking, "If there were 158 terrorists in Hubbali, then how has it been that Hubbali has been peaceful since so long?"

Vijay Guntral, (then General Secretary MIM, later SDPI):

We spoke to Vijay Guntral, who was then the General Secretary of MIM party and is now part of SDPI. He said that in the case of Hubbali, it was accidental. Nobody wanted to resort to violence. Somebody criticized their religious head or their religion,

a pushback was to be expected. They felt a sudden urge that they had to react. The first thing that the community did was to file a complaint in the police station and register an FIR which shows that there was no plan in place to riot as alleged by the media. He also pointed out that it could have been anybody dressed as Muslims that rioted outside the police station. The fact that these people were sitting outside the police station in *dharna*, raising slogans that are of their religion, is not wrong. Speaking what the religion says does not amount to a war cry. He also questioned why the power went off at the time of the incident, the lights around the police station were luminous lights, and ideally, they shouldn't have gone off at that time of the night. He also mentioned that the police claimed that there was CCTV footage, but half of the CCTVs are not working.

He pointed out that incidents like these have become a political tool and a way to build a vote bank. It is unfortunate that the MLA who won twice because of these people living in the slums and small localities did not even stand up for the people who were targeted or arrested for allegedly being part of this riot. It was not a big issue and a simple way of resolving this issue could have been to bring the leaders of both the communities together sitting in front of the commissioner and talking and ensuring that provocation in the name of religion does not happen again. They could have released a press note the next day. It wouldn't have turned violent. The MLA from the area did not even come and visit the members of the victim families. He did not even step into the area to see what the condition of the area was like or if they were being treated well.

He stated that the sad part about this whole incident is that those arrested are from the working class and innocent. Only if they earn will the house run, the innocent have suffered. They do not know anything about the riot. Just because of one WhatsApp forward, they all ended up in jail. He pointed out that at the time of arrest, there were many political party leaders who were there at the time of protest. But none of their names are mentioned in the FIR. Some of them got on top of the vehicles, some of them started screaming. But none of their names are made out in the FIRs. It is only the weaker sections of the Muslim community who have been blamed. Today they are

roaming freely but these families are suffering. It is also unfortunate that no leader from the Hindu community has criticised Hiremath for posting an offensive image. Hiremath's family was protected and kept in a safe place. He has not had to face any adverse consequences and has been able to write his exams and get along with his life. He is not the one upon whose shoulders the responsibility of the entire family is. If he remains in jail, his family is not dependent on him. But what about the members of the Muslim community?

Guntral asked for a judicial investigation to ascertain who started this and who was behind it and find out details about who provoked the youngster to post such an atrocious picture. After the incident happened, nobody came to the rescue. Even bail applications were not presented for almost a week. He told us that he and his party members were there and the very next day after the incident they spoke to the media the entire day. They saw that the helpless family members and community members were near the police station for a week hoping that they would release the accused. That they even spoke to the police and requested them to release the innocent. He insisted on the importance of a judicial investigation because now this has been given a communal colour, after claims on TV have been made that this community has tried to destroy Hanuman temple. Because of this false claim, they are more vulnerable as members of other communities have a lot of anger towards the Muslim community. He was of the opinion that other communities must come to support the Muslims, but the Muslims must also do their bit by engaging more with the rest of the society.

Shoeb Mirza, *Ittehad News*

Shoeb Mirza is a local news reporter with *Ittehad News*. He was there at the incident spot that day. According to Mirza, the gathering of the mob was a spontaneous reaction to the inflammatory post and not a pre-planned act with ulterior motives as alleged. The stone pelting started only after the police resorted to the lathi charge. Before the mob went into a frenzy, the situation was no doubt tense with intense sloganeering, with the passionate mob demanding immediate action against the culprit, but there was no stone pelting until then. "Stone pelting was purely an act of self-defense," he states.

Mirza mentions that the gathering of the crowd against the post was a result of intense hate-mongering by the then BJP government - Hijab ban, Halal controversy, Boycott of Muslim vendors, etc. with which the Muslims felt a sense of insecurity as there was a continuous onslaught on their identity. He tried convincing the crowd to head back to their homes but was unsuccessful in doing so. "I could see the angst in the eyes of the youngsters that day. They were not ready to vacate the place. All attempts to placate them went in vain. The sky was reverberating with intense sloganeering and no one could hear anything," he says. The police resorted to a lathi charge to disperse the mob from the frontside, the crowd at the back seeing the police lathi charge at them, started pelting stones which added fury to the existing volatile situation leading to violence.

Were the Police equipped to handle the mob? : The city of Hubballi, primarily the old city, is a communally sensitive zone. There have been several incidents of skirmishes between groups and communities in the past (refer chapter II). Keeping in view all this, it should have been easier for the police to anticipate what could happen if the mob gathered. The police were unprepared to handle the mob. They had neither a loudspeaker nor a proper sound system to control and communicate with the crowd. Mirza states that the police had to use the loudspeaker of the Dargah.

"The Commissioner had said to me that he would have to fire at two people if the crowd continued to hold up in front of the police station. The police personnel feared stepping out of the police station, seeing such a huge crowd. They were a bit unnerved." Informing about an incident a few hours before the posting of the blasphemous picture, on the same day, Mirza states that a procession was carried out as part of Hanuman Jayanti by the Hindutva organizations and when it reached the Pendar Galli mosque laser lighting of *Jai Shri Ram* was put on the mosque. (The same was confirmed to us by the *Mutwalli* of the mosque but no formal complaint was lodged)

Nazeer Honnayaal, Corporator AIMIM: The MIM corporator was in Jail for 23 days and was one of the first to get bail in the case among 7 others on the ground that he was a public representative.

Mr. Nazeer was informed about the post on the 16th of the night itself and he went there in the capacity of a public representative. "When the people call me I have to go. But I did not stop anywhere amidst the crowd and went straight into the police station. The police informed me that they had arrested the culprit. No one came forward to register the FIR among the many stakeholders of the community present there. As none initiated the FIR registration, one of our party leaders Azhar Jileri lodged the FIR. The FIR registration took some time and after a few minutes there was a noise outside." he states. (Later, Azhar Jilleri was himself arrested)

Describing the situation inside the police station he recalls that the police started picking up helmets and lathi to disperse the crowd as he was inside the police station. During that time 2-3 stones also hit the glass of windows. He came out of the station after an hour and until then the crowd had dispersed and there was no one. "Everything is political in this case. I never stood anywhere, nor made a speech or interacted with the mob. I was inside the station and there is footage inside the station as proof," he says. On being asked how he was arrested Mr Nazeer states that the police took him to the station on the pretext of enquiry and he was made to wait. Later, the process of registering FIR was initiated.



Picture 4 - Nazeer Honnayal

An important angle to which Nazeer points out for the alleged targeting of MIM leaders in this incident was a few days before the incident three MIM corporators and other party workers had protested in front of the police station for illegally

arresting people and putting them in jail. After 1:30 hrs. everyone was released. "In this matter (blasphemous post) they knew (police) that we would question them

similarly and build up pressure again, hence they arrested us,” he states about the possible reason for the alleged targeting of MIM leaders.

Adv. Mulla, Practises at Hubballi Court: Our team also met Adv. Mulla, who was involved in the case at the initial stage and his office is a stone's throw away from the incident spot. Mulla spoke in detail on the incident and the case relating to it.



According to him, the police started arresting people in the early morning, just after the incident took place and the arrests were made purely on a random basis. On being asked why no progressive lawyers like him went to the police station and questioned these random

arrests then, Mulla says, "They did not allow us to interfere. At noon the next day, the local M.L.A. also came to the police station, the Sub Inspector refused to allow him inside stating 'No one will be allowed inside, there are instructions from higher-ups.' " As per his estimate, the initial crowd gathered was around 200-300 people at 9 p.m.

When the crowd started to gather, Mulla was apprehensive that something 'bad' would happen. He recalls an incident from the past. (not sure about the year, maybe 2007-08, he says) wherein at the *Qabristan Mazar's* compound during Holi, a few people had written something absurd on the walls of Dargah, and the Anjuman had to stop the aggressive mob from protesting since Section 144 was imposed. Even then the mob did a rally and around 200 people were arrested as a result. The police arrested people with the help of CCTV footage. It was visible in the CCTV footage that several other innocent people used the same path for various purposes, where the rally took place. The

Picture 5 - Adv. Mulla

police had arrested these innocent people too. "We knew this kind of act would be repeated. If there is a camera and anyone comes under it, they will arrest them, no matter whether they are involved or not," he says. By the time Mulla was home, he heard bullet shots fired by the police. Later his apprehensions came true when police started arresting people from his locality. "Hubbali had gone totally silent," he says. When he switched on the TV in the morning the first thing he saw was visuals of arrests taking place from Old Hubbali being flashed. It was at this moment Mulla understood something 'big' indeed had happened.

"When the police came to the first route i.e. Anand Nagar, whoever (Muslims) they saw, they picked them up. They were not asked whether they were there in the mob or not," he says. According to him, the police had no proof whatsoever by themselves. The recording, video, and images related to the incident shared among WhatsApp groups became the basis of their arrest.

Mulla like others too raised doubts over the outage of electricity all of a sudden, at the time of the incident. Power 'went off' or was 'turned off' is a question that needs answering. He further states that the mob started running randomly here and there and immediately after that, the police started to make the people passing through the roads of Vishal Nagar, Heggeri, and Anand Nagar get into the police van and caught as many people as they could.

He states that the police department, for two days, left no family members inside the police station to enquire about their male members. Later, a meeting was called by Anjuman in Dharwad IB where M.L.C Mohammed Saleem was also present to discuss the oppressive and false arrests being made by the police, which was attended by Mulla too. It was decided that the advocates who were part of the meeting would be working on the case without taking any fee. The 158 accused were represented by this group of lawyers at the initial stage.

Mulla pointed out that *inter alia* Section 307 of IPC (attempt to murder) was in the FIR against the accused as a C.P.I., Kaad Devarmath was injured resulting in stitches in his head. Therefore, six separate bail petitions were filed at the trial court. At this time, to their dismay and shock, the team of lawyers got to know that UAPA had been

inserted in the objections to their application for bail. However, when the order sheet was verified during the crime stage, filed at the trial court, there were no charges of UAPA mentioned. "It was only at the time of objection filing that UAPA was invoked," says Mulla. "If any new Section is to be inserted then the permission of the Magistrate of the Trial Court is mandatory. This approval was taken somehow," says Mulla casting doubt on the way in which the permission was taken.

As UAPA charges were applied, the case was supposed to be transferred to NIA court, but as the judgment was not passed by the Trial Court, the case was not transferred yet. "Without transferring the case to NIA court, one cannot be asked to apply for bail to the Special Court. The case is still in pendency in Sessions court and has not been transferred yet. On that basis, we approached the Trial Court for bail. The learned judge also noted that 158 being associated with terrorism is not possible at all," Mulla says. However, bail was granted to only seven members i.e. students, medical grounds, and one corporator. A juvenile was earlier granted bail.

"It was still FIR stage. The chargesheet was not filed yet by the police. In the chargesheet, there is the possibility that the present sections invoked in the FIR could be removed or also a new section could be inserted. We were waiting for that stage." Subsequently, the bail application was moved to the High Court. During the same time, an incident was reported in Rajasthan where a tailor was killed by two fanatics on the basis that he disrespected the Prophet. After two days of this incident, the bail was rejected. Mulla speculates that this incident has surely influenced the outcome of their bail application.

After the rejection of bail applications, Mulla said that they were waiting for 90 days to complete to apply for default bail since the charge sheet was not ready yet. The stipulated period to file a chargesheet in a case is 90 days in a trial court hence the idea was to wait for the time to lapse. But suddenly at the last moment, the case was transferred to NIA court 'illegally' without following proper procedure, adds Mulla.

Maruti Doddamani, DSS Hubballi President: Maruti Doddamani is a familiar face in Old Hubballi. As the city President of Dalit Sangharsh Samiti, he is actively involved in protests, peaceful bandhs, community service, etc. Maruti was also at the incident

spot that day. He received a call around 8 pm, while he was at home, and it was informed to him that a few people had gathered in front of the police station. By then, the person who posted the flag on the dome was brought to the police station. He was present on the spot along with other local Congress leaders. He was asked to come by ACP Vinod Mukkedar himself since that day during the protests, a few blue flags were also being waved in solidarity with the protest. Later, after 10-15 minutes he went inside the police station along with other INC leaders.

Speaking about his close relationship with the Muslim community he states that in Old Hubballi he is acquainted with most Muslims and his friendship is mostly with them. On the incident day, to pacify the crowd, he stood atop the vehicle, and requested peace through a mic but there was no sign of the mob moving an inch. "We tried to control the crowd for many minutes. Ayodhya Nagar, Navodhya Nagar,



Picture 6 - The Hanuman temple, behind the police station

Sadashiv Nagar, Birband Galli, and Bantikatta all these areas are densely Muslim dominated. People from all these areas came and stood near the temple on the left side of the police station," he states. He was asked by the department that if he

could control the crowd, then he should do it. "The people from these areas listen to my words hence I stood with them, trying to pacify them."

Later, the mob in front of the police station went awry. People started running all around and suddenly from nowhere, a lot of stones were thrown. Mr. Maruti wonders how and from where such a large number of stones came from since there were no stones anywhere nearby.

Sensing the gravity of the situation he thought if the riots started from there (temple side road) then all the ensuing areas would be engulfed in the riots as from there on

another colony starts, consisting of a sizable population of Dalits and as such there might be bigger repercussions. Therefore, he stood near the temple itself. "I succeeded in controlling the crowd. Within the people whom I controlled, not a single boy was arrested by the police, later." He laments that, in the lane at the temple side road, all vehicles are parked at night, but neither a single vehicle was touched there nor a stone was pelted.

"The police first lathi-charged, then the stone pelting started. The Commissioner's car was approaching, and the people started to tap it, then in the melee, a few police personnel were pushed and as the crowd seemed uncontrollable they started to lathi-charge. The moment lathi charge started, stone pelting too started. It was such a huge number of stones that you cannot imagine. It is impossible to get the stones from anywhere nearby" he states. Mr. Maruti also raised apprehension about a larger conspiracy after the high mast lights went off. "Who did this we don't know till now. Whether the Hindutva organizations did this is also to be found out. Since there was darkness there no one could see who did that. In the arrests that have been made, many innocents were taken away," he notes.



Picture 7 - Maruti Doddamani

He was present there until the morning. He estimates that there were more than 5000 people that day and it seemed like a 'big fare.' He alleges that there was definitely politics involved in this case. The actual culprits who did that were not known to date but mostly all who were never involved in this were arrested and as such severe injustice has been meted out to them.

Prof. Shafaqat Ali Badiger, Equal Rights Karnataka: Shafaqat Badiger, President of *Equal Rights Karnataka* based in Hubballi and a professor, stated that due to a delay of 6 to 7 hours in filing of FIR against the individual, a large crowd gathered at the police

station. He asserted that it was the duty of the department and the SHO to immediately register the complaint and disperse the assembled mob. He further alleged that the police inaction, by not filing the FIR promptly, allowed the crowd to grow, particularly during the holy month of Ramzan at a predominant Muslim locality. This, Badiger claimed, provided an opportunity for troublemakers to instigate violence, leading to stone-pelting.

He further raised questions about the non-functioning of a few CCTV cameras and doubted that the police might have intended to hide certain facts. He also acknowledged the possibility of involvement from other religious factions who may have used the situation to their advantage. Further questioning the police's efficiency and methods in apprehending individuals linked to the riots, he pointed out several discrepancies:

- i) Timeline discrepancy: With the mob dispersing at midnight and arrests starting 2-3 hours later, he questioned how police managed to obtain mobile tower location data and identify the perpetrators in such a short time.
- ii) CCTV evidence: In the initial stage, the number of arrests made based on the available CCTV footage and information as to how many individuals were identified was not properly verified by police. He emphasized the necessity of displaying and cross-examining the footage before identifying and arresting individuals, a process unlikely to be completed within 2 to 3 hours.
- iii) Electricity outage: Raising severe doubt on the power outage during the time of the incident he pressed for a judicial inquiry into the incident to ascertain the real reason for the same, including who authorized it, who was present at the electricity board office, and whether there was any technical explanation like a short circuit.

The police asked a few local Muslim leaders to stand atop a vehicle and request peace among those assembled near the police station. Later, the very same policemen alleged that those local leaders had provoked the mob to commit violence. To this, Prof. Shafaqat states that maintaining law and order is the duty of the police, not the duty

of community leaders. He is of the view that the police made the community leaders scapegoats to hide their inaction of not registering the FIR immediately when '15-20 people were protesting.' Badiger concluded by suggesting that the swiftness of the arrests, and failure to lodge F.I.R cast doubt on the police's actions and raised concerns about potential irregularities. "People were terrorized by the system, by the action of the police. Immediately hundreds of arrests were being made without following the due process of law, without prior notice, without intimating, and without making sure whether they were there or not" he says.

7. STATE RESPONSE

Lastly, after meeting the family members and members of the CSOs, we met the Inspector, who was at the spot when the incident happened. We asked him a few questions but he was reluctant to answer them. He was also very hostile to our presence and our questions. When we asked him about the incident, he refused to give any answers to us.

We then asked him about something that was not exactly about the incident itself to see if he was hostile to such questions as well.

We then asked him if the police had tried Shanti Sabhe to promote communal harmony. To this, the inspector answered, "Why would we be required to do a Shanti Sabhe when there are no clashes?"

We then asked him what is the status of Abhishek Hiremath's case and if he was in custody. He replied that he is in custody and the chargesheet is filed in this regard. The police inspector was not ready to answer any of our other questions in regard to this incident.

Days after the incident, the Home Minister of Karnataka, Araga Jnanendra stated that 'many unseen hands' were behind the riots and that had it not been for the police's swift action, the city would have burnt. He alleged it was a pre-planned conspiracy.³⁸

The M.P. of Dharwad, Prahlad Joshi was among the first to raise apprehension on the conspiracy to commit the acts being carried out in the places of worship. He made it clear that 'most harsh' action would be taken against the culprits.³⁹ Until then the charge sheet was not filed. Later, in the charge sheet, the same was contended by the police. Joshi has made various controversial remarks in the past. Joshi's prejudices

³⁸ Bharat Joshi, 'Many unseen hands behind Hubballi violence: Karnataka Home Minister,' (*Deccan Herald*, 22 April 2022) Available at: <https://www.deccanherald.com/india/karnataka/many-unseen-hands-behind-Hubballi-violence-karnataka-home-minister-1102960.html>

³⁹ TV9 Kannada, 'Union Minister Pralhad Joshi Reacts Over Hubballi Violence | ಹುಬ್ಬಳ್ಳಿ ಗಲಭೆಗೆ ಪ್ರಾರ್ಥನಾ ಮಂದಿರದಲ್ಲಿ ಸಂಚು' Available at: <https://www.youtube.com/watch?v=xsQJZzk2-1I>

about the old city of Hubballi also came to the fore when he compared 'Sadar Sofa' a predominantly Muslim locality in Old Hubballi to Pakistan⁴⁰ adding further that many mosques in Hubballi illegally store weapons.⁴¹

Not stopping there, he had alleged in 2019 that 'Pakistani terrorists' had addressed the 2-day Muslim congregation in Hubballi.⁴² The people with whom we interacted during our field visit believe there is supposed involvement of the local MP in falsely implicating the accused. Mr. Joshi is accused of using UAPA against Muslim men.

The Chief Minister of Uttar Pradesh, termed as the '*Bulldozer Baba*', instigated the 'bulldozer model of justice', where the houses of accused of heinous crimes are demolished through bulldozers to punish the criminals⁴³. The model was not only limited to U.P., but was spread to states like Madhya Pradesh, Gujarat and Delhi. Under this unjust system, distressed members of minority Muslim community were majorly targeted⁴⁴. Moreover, when the then BJP State President Nalin Kumar Kateel had asked the state government to implement the 'UP & MP type bulldozer model' against the rioters of Hubballi riot case, the former CM Bommai had replied that he would implement the 'Karnataka model' instead.⁴⁵ Days after this UAPA was invoked against the accused. It is manifestly visible from the approach and actions of the government that it was totally biased, prejudiced and one-sided.

⁴⁰ *Dajiworl*d, 'BJP MP Prahlad Joshi justifies comparing Hubballi with Pakistan,' (02 April 2018) Available at: <<https://www.dajiworl.com/news/newsDisplay?newsID=502849>>

⁴¹ *Times of India*, 'Group protests Joshi's remarks on mosques,' (31 March 2018) Available at: <<https://timesofindia.indiatimes.com/city/Hubballi/group-protests-joshis-remarks-on-mosques/articleshow/63550404.cms>>

⁴² *Times of India*, 'Pak group's meet in city comes under flak,' (21 January 2019) Available at: <<https://timesofindia.indiatimes.com/city/Hubballi/pak-groups-meet-in-city-comes-under-flak/articleshow/67630929.cms>>

⁴³ *India Today*, 'What's the 'Yogi Model' that Karnataka CM Basavaraj Bommai referred to?' (02 August 2022) Available at: <<https://www.indiatoday.in/amp/india-today-insight/story/what-s-the-yogi-model-that-karnataka-cm-basavaraj-bommai-referred-to-1982492-2022-08-01>>

⁴⁴ CJP, 2022: A year when Bulldozer became a 'lawful' means of punishment (10 December 2022) Available at: <<https://cjp.org.in/2022-a-year-when-bulldozer-became-a-lawful-means-of-punishment/>>

⁴⁵ *The Print*, 'Hubballi violence: No need of UP, MP model, Karnataka model will be implemented says CM Bommai' (24 April 2022) Available at: <<https://theprint.in/politics/Hubballi-violence-no-need-of-up-mp-model-karnataka-model-will-be-implemented-says-cm-bommai/928884/>>

The state government has acted in a manner which completely fails to take on board the constitutional requirement to apply the law fairly and without prejudice. All the actions of the state government indicate an instrumental and biased approach to policing and arrests. The degree of dangerous bias exhibited by the state government has found its expression in the arbitrary and unconstitutional invocation of the UAPA, for actions which cannot under any reasonable reading of the law come within the understanding of a 'terrorist act'.

Following the change in government on 24th May, 2023

In July 2023, Congress MLA from NR Nagar, Tanvir Sait had written to the State Home Ministry to 'review' the Hubballi riots cases along with DJ Halli-KG Halli, Bangalore, and Shivamogga cases. Based on the same, G. Parameshwara, the Home Minister, had in turn written to the Home Secretary to examine the request of Sait.⁴⁶ This had created an uproar, with the state BJP calling it a "clean chit to the communal criminals of 'one' community and playing to the tune of Jihadists and PFI terrorists."⁴⁷

Days after this, D.K Shivakumar also wrote a letter to the ADGP seeking withdrawal of the Hubballi riots case.⁴⁸ The ADGP acting on this letter had requested the Hubballi Police Commissioner to send the available information about the case.⁴⁹ It is also pertinent here to note the state government has formed a 5-member cabinet sub-committee to deal with the withdrawal of criminal cases. The committee has received

⁴⁶ *The Hindu*, Karnataka Home Minister's letter on reviewing riots cases creates a stir; BJP dubs it 'appeasement' (26 July 2023) Available at: <<https://www.thehindu.com/news/national/karnataka/karnataka-home-ministers-letter-on-reviewing-riots-cases-creates-a-stir-bjp-dubs-it-appeasement/article67123814.ece>>

⁴⁷ *Deccan Herald*, 'Bengaluru riots: Karnataka Home Minister instructs officials to examine request to withdraw false cases, BJP reacts sharply' (26 July 2023) Available at: <<https://www.deccanherald.com/india/karnataka/bengaluru-riots-karnataka-home-minister-instructs-officials-to-examine-request-to-withdraw-false-cases-bjp-reacts-sharply-1240845.html>>

⁴⁸ *The Print*, 'Shivakumar writes to Karnataka top cop, seeks withdrawal of Hubballi riot cases,' (3 October 2023) Available at: <<https://www.indiatoday.in/india/story/shivakumar-writes-to-karnataka-top-cop-seeking-withdrawal-of-2022-Hubballi-riot-cases-2443903-2023-10-03>>

⁴⁹ Annexure VI

300-400 applications to withdraw cases as per the Home Minister, which includes cases of activists and farmers.⁵⁰ The Hubballi violence case was also before the consideration of the committee.

Following the recommendations of the Committee to withdraw the cases among 60 others, and the consequent decision of the government (in GO No. HD 129 MHB 2024 dated 15.10.2024), the Prosecutor withdrew prosecution in the Hubballi cases. However the GO was challenged in the Karnataka High Court. The court struck down the GO observing that 'withdrawal of prosecution under Section 321 CrPC is a matter within the sole discretion of the Public Prosecutor', and must be done on a case to case basis⁵¹. The court also observed that the GO 'would smack political nature of exercise of powers' and that 'the executive government cannot issue a fiat' and 'cannot wield pressure on the Public Prosecutor's ...independent judgement about withdrawal of the cases from prosecution.'

⁵⁰ *The Hindu*, 'About 400 applications to withdraw cases are before government: Home Minister,' (02 January 2024) Available at: <<https://www.thehindu.com/news/national/karnataka/about-400-applications-to-withdraw-cases-are-before-government-home-minister/article67699168.ece>>

⁵¹ WRIT PETITION No. 3817 OF 2025 (GM-RES-PIL)

8. CHARGESHEET ANALYSIS AND LEGAL BATTLE

Our team deciphered the chargesheet⁵² filed by the police. According to the police, the riots on 16th April 2021 were a pre-planned conspiracy done with ulterior motives. It contains the following details:

I. Pre-Incident:

Motive: Create fear and unrest among the majority community through violent protests and avenging inhumane activities against Muslims by targeting the Police Stations and Government Office, pelting stones towards police officers, hurting them physically, demolishing the Police Stations and the police vehicles, and damaging the public property with terrorist activities.

Plan: Gathered in the premises of Fateh Shah Wali Dargah and the Millat Nagar Masjid, Mantur Road, Hubballi, and planned for retaliation against any perceived disrespect. Decided to spread hate messages through social media and try to create hatred among the majority community so that they would be in a mindset for a commotion against them.

II. The events on the Incident day:

Key Events:

April 16: Offensive photo posted by a Hindu boy. The accused gathered near the police station with the mob, demanding action against the boy. Police try to disperse the crowd, but they turn violent.

⁵² We have limited our analysis only to the charge sheet filed in Cr. No. 63/2022 as provisions of UAPA are invoked only in this FIR. Key observations can be found at Annexure VII

April 17: Mob pelts stones at police, damages station and vehicles. Police resort to lathi charge, tear gas, rubber bullets, and aerial firing. Riots spread to other areas, targeting police, Hindu temples, and government property.

Charges: Unlawful assembly, rioting, assaulting police, attempt to murder, damaging public property, inciting violence, spreading hate speech, and terrorism.

Outcome: The provisions of UAPA were invoked at the time of objection filing and the chargesheet was submitted before the NIA court on 24th September 2022

Additional Notes: The charge sheet focuses heavily on the accused's alleged plan and intent to spread fear and unrest. It provides detailed descriptions of the events and damage caused during the riots. From 9:30 p.m. to the next day 12:15 am of 17th April 2022 the accused are said to have participated in the riots.

The police charge sheet also states that Azhar Jilleri and others gave a written complaint against the offensive WhatsApp post at 10 pm. But as per the community leaders they had been trying to lodge the complaint since late evening but the police delayed the same. The charge sheet was framed in such a manner to implicate everyone by positioning two namely Maulana Waseem Pathan and Arif Rajavi as kingpins. It is through them the mob initiated the riots, the chargesheet states.

III. Legal Battle:

Trial Court, Hubballi:

Separate bail petitions were filed before the V Additional District and Sessions Judge Dharwad sitting at Hubballi on 16th May 2022 under Section 439 of Cr. P. C.⁵³ It was contended that the arrested accused are innocent of the offenses and they have been falsely implicated in the case. The prosecution opposed bail citing strong evidence like CCTV footage and mobile tower location data. It was argued the riots were

⁵³ *Anwar S/o.Imamsab Mogare v. The State of Karnataka*, CrI.Misc.Nos.5215/22, 5217/22, 5221/22, 5223/22, 5225/22, 5227/22, 5229/22, 5231/22, 5233/22, 5237/22

premeditated, threatened national security, and disrupted peace in Hubballi. Releasing the accused could endanger witnesses and hinder the investigation and hence continued judicial custody for the accused was requested. The learned judge Gangadhara K.N, rejecting the bail of other accused granted bail to only seven on medical and educational grounds. Adv. Babu Belagali who was involved in the case at this stage states, "This was the first time in India where under UAPA accused have got bail at the crime stage within 16 days." At a subsequent stage, a bail application was moved for the release of an accused who was suffering from paralysis. The bail was granted to him on medical grounds by the High Court.

High Court of Karnataka, Dharwad Bench:

As has been stated earlier apart from FIR in Cr. No 63/22, 11 other FIRs were filed i.e. Cr. No 64/22 to 74/22 on 17th April 2022. However, no charges of UAPA have been invoked in these subsequent F.I.Rs. To quash the same, separate petitions were filed in the High Court of Karnataka, Dharwad Bench which was however rejected on 13th June 2022 since no charge sheet was filed yet.⁵⁴

Transfer of case to Special NIA Court

Subsequently, the bail application of the 103 accused was moved before the High Court of Karnataka, Dharwad. The matter (Cr. No. 63/22) in the meantime was referred to the NIA court subsequent to the direction by Hon'ble Apex Court⁵⁵. The bail applications were moved before the special court seeking regular bail in this case of all accused.⁵⁶ The prosecution, citing strong evidence and the accused's alleged membership in terrorist groups, argued that granting bail would endanger witnesses

⁵⁴ Md. Arif Rajavi & Ors. v. The State of Karnataka, CP No 101469/2022 (482)

⁵⁵ Ashok Kini, 'All UAPA Offences Investigated By NIA Or State Police Are Exclusively Triable By 'Special Courts': SC' (*Live Law*, 12 October 2020) Available at: <<https://www.livelaw.in/top-stories/all-uapa-offences-are-exclusively-triable-by-special-courts-set-up-under-nia-act-164344#:~:text=The%20Supreme%20Court%20has%20observed,up%20under%20the%20NIA%20Act.>>>

⁵⁶ The State by Old Hubballi Police Station v. Mahammad Arif Rizvi & Ors. Spl. C.C.No.2263/2022.

and hinder the investigation. Highlighting the serious nature of the offenses, the Special judge rejected all bail applications on 26th December 2022⁵⁷.

It is worth mentioning the Public Prosecutor's allegation: 'the accused members are the active members of the terrorist gang viz, *Lion Lifter Fitness Gym, Islamic Sultan Group and Hubballi Goodshed King* which are WhatsApp groups for carrying on terrorist activities as defined under the provisions of Unlawful Activities Prevention Act.' The charge sheet also mentions the same. However, despite alleging that the members belong to a 'terrorist group,' and carried terrorist acts defined under the anti-terror law, section 15 (1) which talks about the 'terrorist act', interestingly has not been invoked. While the same was invoked in the DJ Halli and KG Halli case along with Section 16, 18, 20. Moreover, the WhatsApp groups mentioned above seem to be any normal WhatsApp groups.

⁵⁷ Spl. C.C.No.2263/2022

9. RATIONALE BEHIND THE GRANTING OF BAIL IN HUBBALI CASE:

After repeated bail rejections from the NIA trial court, the bail application was filed before Karnataka High Court, Bangalore for 41 accused under Section 21(4)⁵⁸ of the National Investigation Act. Rejecting the same, the High Court in its judgment on 20th April 2023 had directed the State Government to establish NIA courts in three regions of the state- Belgaum division, Mysore division, and Gulbarga division within a period of 6 months to ensure speedy trial in NIA cases and fulfil the object of the act.⁵⁹ However, there has been no progress on the part of the government on the same.

Meanwhile, of these 41 accused, two of them approached the Supreme Court and got relief from the apex court, considering the period of incarceration⁶⁰. After a favourable order, another 34 accused had also approached the apex Court recently and on similar lines were granted bail on December 15, 2023, by a bench led by Justice B.R Gavai and Justice Prashant Kumar⁶¹. More recently, the bail application of the remaining 107 accused was filed again in the NIA court after the Supreme Court's bail order of 36 accused on the grounds of parity. But Special Court Judge Gangadhara CM, rejecting the bail application, said the NIA court is not the mouthpiece of the prosecution and has to consider the application as per law.⁶² When options of approaching the S.C. were being weighed, the accused took another chance and approached the High Court for bail. The High Court bench consisting of Justice Sreenivasa Harish Kumar and

⁵⁸ An appeal shall lie to the High Court against an order of the Special Court granting or refusing bail.

⁵⁹ *Shoheb Ali and Ors v. The State By Karnataka*, CRL.A. No. 72/2023 C/W CRL.A. No. 183/2023, pg. 73

⁶⁰ SLP (Crl) Nos. 7388/2023, 8370/2023

⁶¹ SLP (Crl) Nos. 16014/2023, 16015/2023, 16017/2023, 16374/2023, 16375/2023

⁶² Yashiraju, 2022 Hubbali riot case: 'NIA court not voice of prosecution', rules special court (*The New Indian Express*, 07 Jan 2024) Available at <<https://www.newindianexpress.com/states/karnataka/2024/Jan/07/2022-Hubbali-riot-case-nia-court-not-voice-of-prosecution-rules-special-court-2648668.html>>

Justice Venkatesh Naik T, could not find any other criminal antecedents other than pelting of stones. It was stated that there was no use of any explosives and many of the accused gathered during the incident were just the spectators. The court was of the opinion that the Trial Court could have granted bail, but rather has given some strange reasons and granted bail to 106 accused on 16th February, 2024⁶³. As of today, all the accused are out on bail.

⁶³ CRL.A No. 92/2024 C/W CRL.A No. 93/2024

10. UAPA: WHAT IS DRACONIAN ABOUT IT?

The UAPA (Unlawful Activities Prevention Act) was enacted by the Indian Parliament and came into force on December 30, 1967, with the object of criminalizing unlawful activities and associations. It added terrorism related offences in 2004 and the 2008 amendments made bail all but impossible. Its legislative basis is derived from Article 246 of the Indian Constitution, read with Entry 1 of the Union List (List I) in the Seventh Schedule which allows the Parliament over matters related to the defence of India, including any arms or ammunition intended for war or national defence.

The legislation also derives its legitimacy from the United Nations Security Council Resolution 1373 (2001) to combat international terrorism, which mandates states to make laws to tackle terrorism.

Regardless of its objectives, this Act has been systematically used by consecutive governments, and especially by the present regime, to target intellectuals, human rights activists, Dalits, Muslims and Adivasis & thus has become one of the biggest threats to civil liberties and human rights. The stringent bail provisions of the Act effectively ensure that the accused languishes in jail for long years.

Apart from targeting the individual dissenter, the Act also ends up targeting the right to association. The broadly worded provisions targeting associating with 'terrorist organisation' and 'unlawful organisations' as well as broadly-worded provisions targeting any financial support to the organisation, hamper the right to association. Further according to Sec. 35 of the Act the Central government has vast powers to ban the operation of organisations it considers to be terrorist or unlawful.

Part of what makes the UAPA draconian is that Sec 43 (D) allows detention without a chargesheet for up to 180 days instead of usual 90 days and police custody can be up to 30 days instead of usual 15 days. It also creates a strong presumption against bail and anticipatory bail is out of the question. It creates a presumption of guilt for

terrorism offences merely based on the evidence allegedly seized.⁶⁴ The same allows room for the investigating agency to temper, create and plant evidence. In Bhima Koregaon case a reputed US based digital forensic firm revealed that the devices of the likes of Stan Swamy⁶⁵, Surendra Gadling, Rona Wilson who were accused under UAPA were hacked using malicious software and letters were planted in their devices. The chargesheet filed by the police considers these ‘planted’ letters as primary evidence.⁶⁶

In *National Investigation Agency v. Zahoor Ahmad Shah Watali*⁶⁷ (2019), the Supreme Court held that while adjudicating a bail plea under UAPA, courts should not go into question of the admissibility of the evidence produced by the investigation agencies. “The duty of the court at this stage is not to weigh the evidence meticulously but to arrive at a finding on the basis of broad probabilities,” the judgement observed. At the heart of this problematic interpretation of the court lays Section 43D (5) dealing with granting bail. The proviso mandates that if a court has reasonable grounds to believe that the accusation against someone charged under the Act is prima facie true, then the accused shall not be released on bail. The court is not bound to investigate the material and evidence deeply. The damaging implications of the *Watali* judgement is that, in effect, judicial review in UAPA cases is narrowed down with the courts not going into the merits of the case.⁶⁸

This goes away from the judiciary’s popular dicta: “The right not to be denied reasonable bail without just cause is an essential element of an enlightened criminal

⁶⁴ sec. 43 (E) of the Act

⁶⁵ *The Scroll*, ‘Bhima Koregaon Bhima Koregaon: Hacker planted evidence on Stan Swamy’s computer, says forensic report’, (13 December 2022) Available at: <<https://scroll.in/latest/1039689/bhima-koregaon-hacker-planted-evidence-on-stan-swamys-computer-says-forensic-report>>

⁶⁶ *The Scroll*, ‘Bhima Koregaon: Evidence was planted on a second detainee’s computer, says forensic report’, (06 July 2021) Available at: <<https://scroll.in/latest/999459/bhima-koregaon-evidence-was-planted-on-advocate-surendra-gadlings-computer-says-report>>

⁶⁷ (2019) 5 SCC 1

⁶⁸ Awastika Das, ‘Father Stan Swamy Died As A UAPA Martyr; But Political Prisoners Continue To Suffer Without Bail’ *The Live Law* (8 July 2023) Available at <<https://www.livelaw.in/articles/father-stan-swamy-uapa-martyr-but-political-prisoners-continue-to-suffer-without-bail-232260>>

justice system.”⁶⁹ The proviso is also violative of the accused person's fundamental right to life and liberty as guaranteed by the Constitution under Art 21. In *Narendra Singh & Anr. v. State of M.P* it has been well-settled that⁷⁰ ...benefit of doubt belonged to the accused. It is further trite that suspicion, however grave, may not take the place of a proof. It is equally well-settled that there is a long distance between 'may be' and 'must be'. It is also well-known that even in a case where a plea of alibi is raised, the burden of proof remains on prosecution. Presumption of innocence is a human right.

It has been recently observed by the apex court that “the over acting postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law maybe.”⁷¹ But the UAPA turns the clock back. The UAPA reverses the burden of proof on the accused, negating the foundational principle of criminal law, namely the presumption of innocence.⁷²

The stand of Prof. Manoj Kumar Jha (RJD MP) on the Unlawful Activities (Prevention) Amendment Bill, 2019 was one of strong opposition, viewing the legislation as "draconian" and a threat to democratic principles. He primarily argued that the Bill's provision to designate an individual as a terrorist (rather than just an organization) was prone to misuse and would lead to "large-scale harassment and injustice," drawing comparisons to the past misuse of anti-terror laws like POTA and TADA. He cautioned that the ideology behind the Bill conflates the government with the nation, suggesting it could be used to label individuals who merely criticize the ruling dispensation as "anti-national." He also expressed concern over the amendment's erosion of the federal structure, as it gives an "open license" to the National Investigation Agency (NIA) to operate across states without informing the state government, and highlighted the risk of injustice given that those wrongfully arrested

⁶⁹ *Her Majesty the Queen v. Kevin Antic and Ors.*, 2017 SCC 27

⁷⁰ AIR 2004 SC 3249

⁷¹ *Javed Gulam Nabi Shaikh v. The State of Maharashtra & Anr.* 2024 LiveLaw (SC) 347

⁷² Section 43 (E)

as terrorists are often acquitted only after many years, having lost a significant part of their lives⁷³.

Recognising some of these concerns, in the year 2022 law-maker Shashi Tharoor presented a private members bill named 'Unlawful Activities (Prevention) Repeal Bill, 2022.' The Statement & Objects of the Bill aptly notes:

The UAPA has been criticised for making the process itself a punishment. For example, according to the National Crime Records Bureau, between 2014 and 2016, over 75% of cases under the UAPA ended either in acquittal or discharge. Data also suggests that each year between 2014 and 2020, an average of 985 cases under UAPA were registered, of which the number of pending cases rose by 14.38% annually. Over the last 7 years, though around 10,552 Indians have been arrested under UAPA, only 253 have been convicted, making the conviction rate a meagre 2.4%. During the same period, merely 40.58% of the cases taken up for investigation were sent to trial, of which trial was completed in a scarce 4.5% of the cases. These statistics are representative of the grave miscarriages of justice that the UAPA enables and too often entails⁷⁴.

Unfortunately, the private members bill is not the law of the land and the UAPA continues to spread its long shadow across the length and breadth of the country, resulting in arbitrary arrests, long incarcerations and the failure of justice.

⁷³ Rajya Sabha Debates on 2nd August 2019 *available at* <https://cms.rajasabha.nic.in/UploadedFiles/Debates/OfficialDebatesDatewise/Floor/249/F02.08.2019.pdf>

⁷⁴ The Unlawful Activities (Prevention) Repeal Bill, 2022 (Bill No. 75 of 2022), Digital Sansad , *Available at:* [https://sansad.in/getFile/BillsTexts/LSBillTexts/Asintroduced/75%20of%202022%20as%20intro.pdf?source=legislation#:~:text=SHASHI%20THAROOR%2C%20M.P.&text=BILL%20to%20repeal%20the%20Unlawful%20Activities%20\(Prevention\)%20Act%2C%201967.&text=1.,Prevention\)%20Repeal%20Act%2C%202022.>](https://sansad.in/getFile/BillsTexts/LSBillTexts/Asintroduced/75%20of%202022%20as%20intro.pdf?source=legislation#:~:text=SHASHI%20THAROOR%2C%20M.P.&text=BILL%20to%20repeal%20the%20Unlawful%20Activities%20(Prevention)%20Act%2C%201967.&text=1.,Prevention)%20Repeal%20Act%2C%202022.>)

11. BAIL JURISPRUDENCE UNDER UAPA: SOME RECENT SETBACKS

The Unlawful Activities Prevention Act (UAPA) is a stringent law that often makes it difficult for individuals accused under it to secure bail. It renders the trial largely irrelevant by shifting the stage of guilt-determination to the stage of bail, eliminating fair trial guarantees by subterfuge.⁷⁵ This means that the trial may not be as important as it should be in deciding whether someone should be detained. In other words, even if the trial proves someone is innocent, they may already have spent a long time in jail. An exclusive focus on guilt at the stage of bail changes the character of these proceedings. It is argued that this approach fundamentally alters the nature of bail proceedings, which should primarily be concerned with securing the judicial process rather than determining guilt which is the function of the trial process.⁷⁶

Several cases have highlighted the challenges faced by those charged under the UAPA in obtaining release. Let's examine a few key cases to understand the patterns that have emerged.

The bail system under the Unlawful Activities (Prevention) Act (UAPA) was fundamentally altered by the Watali Case⁷⁷ (2019). Zahoor Watali was arrested by NIA in 2017 on the charges of terror funding. The NIA alleged that he acted as a conduit to funnel money from Pakistan to secessionist groups in Kashmir and also helped these groups in waging wars against the Government of India by repeated attacks on Government establishments and security forces, and by burning school. Watali was denied bail by the District and Sessions Judge, NIA Special Court, Delhi. However, the Delhi High Court overturned this decision and granted bail on the grounds that

⁷⁵ Radhika Chitkara, "The Trials of Bail: Pre-trial presumption of innocence under the Unlawful Activities (Prevention) Act and General Criminal Laws," *NLSIR*, 24 (2024). available at: <<https://www.nlsir.com/advance-articles>>

⁷⁶ *Ibid* at 29

⁷⁷ National Investigation Agency v. Zahoor Ahmad Shah Watali CRL.A No. 578/2019 @ SLP(Crl.) No. 7857/2018

there was not much evidence to indicate the accused's criminal involvement as asserted by NIA and his medical condition. The NIA appealed to the Supreme Court challenging the High Court's decision. The Supreme Court judgement clarified the interpretation of "prima facie true" under Section 43D(5) of UAPA and denied bail. The bench led by Justice J.M. Khanwikar and Justice Ajay Rastogi ruled that the evidence produced by the investigating agency is strong enough to believe that the accused is involved in unlawful activities, unless the accused provides counter evidence. Therefore the judgement in *Watali* expressly bars the court from a scrupulous examination of the materials presented by NIA. Accused at this stage also does not have the right to scrutinize the prosecutorial materials, or present its own evidence in defence. As a result of which, even if the evidence appears strong, the court considers other factors like the severity of the alleged offense and the accused's flight risk before denying bail. In regular cases, the court weighs evidence more carefully for bail applications. Here, the bar is lower. If the NIA's evidence suggests involvement, bail might be denied.

However, the rigours of *Watali* have been tempered by subsequent judgments of the Supreme Court itself. The *Union of India v. K.A. Najeeb case*⁷⁸ (2021) is a significant one because it represents a shift in how courts can approach bail in UAPA cases. The prosecution alleged that Najeeb, along with others from the Popular Front of India (PFI), attacked the professor T.J. Joseph, believing the question paper set by the professor was blasphemous. K.A. Najeeb, allegedly involved in a 2010 violent incident, was denied bail six times between 2016 and 2021. The extended detention potentially violated Najeeb's right to a fair trial, enshrined in the Indian Constitution. After four years in custody, the Kerala High Court granted him bail despite UAPA charges. The High Court pointed out the delayed trial. The National Investigation Agency Act mandates speedy trials, and this wasn't happening in Najeeb's case. The court expressed concern about keeping someone in custody for an extended period without a trial. It was noted that this extended detention potentially violates the right

⁷⁸ *Union of India v. K.A. Najeeb* Criminal Appeal No. 98/2021 @ SLP(Crl.) 11616/2019

to a fair trial. In 2021, the Supreme Court led by the three-judge bench- Justice N.V. Ramana, Justice Surya Kant and Justice Anirudh Bose, ultimately upheld the High Court's decision, acknowledging that prolonged detention without trial can be a reason to grant bail even under UAPA. It is to be understood that prolonged detention would mean a period of incarceration that is substantially longer than half the maximum sentence that is imposed for the alleged crime under the Act.

Despite the tempering, the Supreme Court's ruling on 7th February, 2024 in *Gurvinder Singh v. State of Punjab*⁷⁹ is deeply troubling as the Supreme Court seems to be setting the clock back on its own well-developed jurisprudence that "Bail is the rule and jail the exception" by holding that this principle will not apply to those charged under the UAPA. Gurvinder Singh was accused of being a member of 'Sikhs for Justice', allegedly a pro-Khalistani group banned by India, for being in possession of cloth banners with the terms, 'Khalistan Zindabad' and 'Khalistan Referendum 2020'. While dismissing Gurvinder Singh's UAPA bail application, the Court opined that UAPA was an exception to the ordinary criminal law and bail could only be considered if no prima facie case was made out based on records before the court.

The factual matrix did not indicate that the accused were involved in any violent act, but rather were charged under the draconian provisions of the UAPA for associated activities like raising funds for a terrorist act (sec 17), conspiracy to commit a terrorist act (Sec 18) and concealing a person knowing that such person is a terrorist (Sec 19)

The bail for the accused was denied following the precedent of the Supreme Court on bail under UAPA. Admittedly, the UAPA has a particularly draconian provision on bail under Section 43D (5), which states that the Court should not release the accused on bail, if there are 'reasonable grounds for believing that the accusation against such person is prima facie true.' This provision has been interpreted in a particularly harsh manner by the Supreme Court in *Zahoor Ahmad Shah Watali v. National Investigating*

⁷⁹ *Gurvinder Singh v. State of Punjab and Anr.* Criminal Appeal No. 704/2024 @ SLP(Crl.) No. 10047/2023

Agency,⁸⁰ (2019) due to which bail shall be denied if the accusation appears to be prima facie true based on materials on record.

However, the rigours of *Watali* have been tempered by subsequent judgments of the Supreme Court itself, which the Bench comprising Justices MM Sundaresh and Arvind Kumar appear to not have taken this into account. What is particularly troubling is that the present ruling goes out of its way to ringfence the UAPA from the jurisprudence of the Indian Supreme Court which has sought to dilute its harshness by applying constitutional principles to the UAPA. In *Union of India v. K.A. Najeeb* (2021), the Supreme Court granted bail under the UAPA, on the ground that the right to speedy trial is a constitutional right under Article 21. However, Justices Sundaresh and Kumar distinguish *Gurvinder*'s case from *Najeeb*'s case arguing that while in *Najeeb*'s case, trial was yet to begin, in *Gurvinder*'s case trial was underway with 22 witnesses being examined. However the Court misses the wood for the trees as the ratio in *Najeeb*'s case is that 'statutory restrictions like Section 43D(5)', do not per se oust the ability of Constitutional Courts to grant bail on grounds of violation of Part III of the Constitution.'

In the Supreme Court's opinion, '... the rigours of such provisions will melt down where there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence'.

In a final troubling conclusion, the Supreme Court privileges the UAPA over the Constitution, when it holds that 'jail is the rule, bail is the exception...while dealing with bail applications under UAP Act.' By so stating the Court reverses a core principle of constitutional justice articulated by the very same Court under the leadership of Justice Krishna Iyer. The *Gurvinder Singh* judgment joins the sad list of precedents which besmirch the reputation of what has been called the world's most powerful constitutional court. The Supreme Court has given in to the state's blackmail

⁸⁰ CRL.A No. 578/2019 @ SLP(Crl.) No. 7857/2018

that when it comes to any allegation related to the support for terrorism, the Constitution ceases to exist. One might indeed be forgiven for thinking that as far as the Supreme Court is concerned, it has sworn to 'bear true faith and allegiance' to the executives charter, namely the UAPA and not the Constitution. This judgment weakens the democratic justice system and people's faith in justice.

This strict approach was reinforced in the recent PFI case⁸¹, where nine accused belonging to the banned outfit PFI were arrested, *inter alia* under Secs 38 and 39 of the Unlawful Activities (Prevention) Act in September 2022 for allegedly spreading extremist ideology across Tamil Nadu. A bail application was filed in the NIA court by the accused which was rejected. The accused then approached the High Court. The High Court having found no evidence for a terror act under Sec 15 granted them bail. The NIA appealed the granting of bail in the apex court. The Supreme Court holding the evidences prima facie true rejected the bail application and held that, the alleged offences were under Secs 18, 18A, 18B (punishment for conspiracy, organizing terror camps) and for the purpose of considering the same, the commission of 'terrorist act' as contemplated in Section 15 of UAPA is not required to be made out. The Supreme Court called the High Court's reading of section 18 read with sec 15 as "patent and manifest error." Moreover, as the accused were in custody for just 1.5 years and there were reasonable grounds for believing that the accusations were prima facie true, the court held that the mandate contained under 43(D)(5) would be applicable for not releasing the accused on bail. The Supreme Court relied heavily on the contents of the charge sheet submitted by the NIA and abdicated its constitutional responsibility to analyse the foundational relationship between Section 15 and the subsidiary offences. In a legally untenable conclusion, the Supreme Court indicated that section 15 is a complementary provision and it is not to be considered as the precondition for an accused to be booked under UAPA cases.

⁸¹ *Union of India v. Barakathullah and ors.* CRIMINAL APPEAL NOS. 2715 - 2719 OF 2024 (Arising out of SLP (Crl.) Nos. 14036-14040 of 2023)

To gain a deeper understanding of the factors influencing bail decisions in UAPA cases, it is essential to analyze prominent instances where bail has been granted. *Varavara Rao v. State of Maharashtra*⁸²(2018) provides one such example. Varavara Rao, an 82-year-old Telugu poet and activist, was arrested on August 28, 2018, in connection with the Bhima Koregaon violence and was charged under the Unlawful Activities (Prevention) Act (UAPA). Rao's health deteriorated significantly during his incarceration. He suffered from various medical issues, including neurological problems, and tested positive for COVID-19 while in jail. In February 2021, the Bombay High Court granted him conditional bail for six months on medical grounds, considering his age and health issues. Later on August 10, 2022, the Supreme Court of India granted regular bail to Varavara Rao on medical grounds. The court emphasized that the bail was granted solely due to his deteriorating health and not on the merits of the case.

Similarly in *Sharjeel Imam v. State of NCT of Delhi*⁸³(2020), a statutory provision was utilized. Sharjeel Imam, a student activist, was arrested on January 28, 2020, for allegedly inciting communal violence through inflammatory speeches made during protests against the Citizenship Amendment Act (CAA) at Aligarh Muslim University (AMU) and Jamia Millia Islamia. On May 29, 2024, the Delhi High Court granted statutory bail to Sharjeel Imam in connection with the sedition & UAPA case,⁸⁴ acknowledging that he had already served over half of the maximum seven-year sentence for the offenses charged. The court noted that the provisions of the sedition law had been effectively stayed by the Supreme Court, and since the UAPA charges also did not carry a sentence exceeding seven years, Imam was eligible for bail under Section 436A of the Code of Criminal Procedure (CrPC).

⁸² CRL.A No.52 of 2021 (CRL.A LDVC No.143 of 2020)

⁸³ CRL.A. 215/2024

⁸⁴ It is to be noted that Sharjeel Imam continues to remain in jail as his bail plea in the police's larger conspiracy case in the 2020 Delhi riots is still pending.

In the recent landmark decision, *Jalaluddin Khan v. Union of India*⁸⁵(2024), the court took a different approach. Jalaluddin Khan, a retired police constable accused under various sections of the Unlawful Activities (Prevention) Act (UAPA) and the Indian Penal Code (IPC). Khan was alleged to have rented part of his house to members of the banned organization Popular Front of India (PFI) and was accused of being involved in a conspiracy to commit acts of terror. The Supreme Court, while reviewing the case, noted that there was insufficient evidence to establish Khan's direct involvement in unlawful activities as defined under the UAPA. The court emphasized the principle that "bail is the rule, jail is the exception," highlighting that the prosecution had not provided compelling evidence to justify his continued detention. Consequently, the court ordered Khan's release, underscoring the importance of protecting individual rights while balancing public safety concerns.

This case stands out as a rare instance where the bench led by Justices Abhay Oka and Masih upheld the foundational principle of 'justice' since a strained and anxious attempt and exercise to ascertain the guilt at pretrial proceedings- as has been the practice in UAPA bail applications- was done away with by granting bail to the accused, recognizing the importance of art. 21 of the Constitution. (para 21 of the judgement is worth reading). The judgment also criticizes the Special Court and the High Court for not *objectively* considering the evidence in the charge sheet.

The Indian Supreme Court has witnessed a notable shift in its approach towards bail in terrorism in the past ten months. A series of recent rulings like *Sheikh Javed Iqbal v. State of Uttar Pradesh*⁸⁶, *Jalaluddin Khan v. Union of India*⁸⁷, *Javed Gulam Nabi Shaikh v. State of Maharashtra*⁸⁸ have introduced a more favorable climate for securing bail,

⁸⁵ CRL.A No. 3173 of 2024

⁸⁶ CRL.A No. 2787 of 2024 (Arising out of SLP (Crl) No. 3809 of 2024)

In this case the Supreme Court widened the principle laid down in the Javed Gulam Nabi Shaikh. The Court, in granting bail to UAPA accused Iqbal, noted that despite the seriousness of the charges, the slow progress of the trial, with only two witnesses examined over nine years of detention, weighed heavily in favour of bail.

⁸⁷ CRL.A No. 3173 of 2024

⁸⁸ CRL.A No. 2787 of 2024 (Arising out of SLP (Crl) No 3809 of 204)

emphasizing the constitutional right to liberty and setting new standards for granting bail. While these rulings have undoubtedly made it easier for individuals accused of terrorism and money laundering to secure bail, the landscape remains somewhat inconsistent. In certain high-profile cases, the Supreme Court has been reluctant to grant bail, even when its own precedents seem to support such a decision. This inconsistency has raised concerns about the fairness and impartiality of the bail system in India. In the case of Umar Khalid, the court had adjourned his bail hearing 13 times. The court had denied Sharjeel Imam bail four times. The court had not even heard Mahesh Raut bail plea for a year, in Fatima's case, bail has been listed at least 64 times. In Khalid Saifi's case, no charges had been framed even after four years.⁸⁹ In contrast to its own judgments mentioned above the Supreme Court has denied/delayed in bail many cases as many prominent activists continue to languish in jail. The Supreme Court has ignored its own rulings in these cases by deferring bail hearings.

Few legal experts are of the belief that bail decisions are heavily influenced by the unique circumstances of each case, such as the nature of the alleged offense, the accused's background, and the specific evidence presented. This fact-specific approach makes it difficult to formulate universal guidelines for granting bail. In the absence of rigid rules, judges are left with significant discretion in interpreting the law and deciding on bail applications. This discretionary power can lead to varying outcomes even in similar cases, as individual judges may prioritize different factors or interpret legal provisions differently. The lack of clear guidelines and the variability in judicial interpretations make it challenging to establish a coherent framework for granting bail.⁹⁰

⁸⁹ Areeb Uddin Ahmed, "The Supreme Court Is Making Bail Easier In Terrorism, Money Laundering Cases – Except When It Ignores Itself", *article-14.com* (5 September 2024) Available at: <<https://article-14.com/post/the-supreme-court-is-making-bail-easier-in-terrorism-money-laundering-cases-except-when-it-ignores-itself-66d922cb6e221>>

⁹⁰ Vineet Bhalla, "'Jail is rule': Why did a recent Supreme Court order break the liberal trend in UAPA bail cases?", *scroll.in* (01 March 2024) Available at: <<https://scroll.in/article/1064243/jail-is-rule-why-did-a-recent-supreme-court-order-break-the-liberal-trend-in-uapa-bail-case>>

While it is generally challenging to obtain bail under the UAPA, there are limited circumstances where it might be possible. Medical complications are one of the few minute possibilities of getting bail subject to strict scrutiny.

This bar is relatively high as the Courts have adopted a case-by-case approach to evaluate the severity of medical conditions. While Varava Rao was granted bail on the health conditions, but late Fr. Stan Swamy- who was suffering from Parkinson’s disease and Prof. Sai Baba-⁹¹ who faced 90 pc disablement were not fortunate enough. In fact, when Saibaba applied for parole to visit his ailing mother, it was rejected. Thus, UAPA poses complexities of obtaining bail even on medical grounds.

Secondly, prolonged detention without trial may be another factor. And by prolonged detention, it must mean a period that significantly exceeds half the term of imprisonment for the alleged offense under the Act, as seen in the case of *Najeeb and Sharjeel Imam*. This raises concerns about the potential for violations of human rights, such as the right to a speedy trial and the presumption of innocence. Moreover, judgements like *Watali*, instead of eliminating guilt determination at the bail proceedings, eliminates fair trial guarantees.

Evaluation by Judges:

Case Name	Year	Judges' Main Idea	Judges	Final Rule
NIA v. Zahoor	2019	Strict Law (Said courts must follow the UAPA law exactly).	Justices Khanwilkar & Rastogi	Made Bail impossible: Courts must accept the police’s evidence as true right away, making it nearly impossible to get bail.

⁹¹ After spending 7 years in Jail, Prof Saibaba was finally acquitted in 2024.

Ahmad Shah Watali ⁹²				
Union of India v. K.A. Najeeb ⁹³	2021	Basic Rights (Said the right to a quick trial is more important than the UAPA law).	Justices Ramana, Kant & Bose	Ruled Long Jail Time is unfair: If the trial takes too long (prolonged custody), judges must grant bail to protect the person's rights (Article 21).
State of NCT of Delhi v. Devangana Kalita ⁹⁴	2021	Check the Details (Judges who refused to believe the police story without proof).	Justices Mridul & Bhambhani (Delhi HC)	Demanded real proof: Judges must look past the police's 'guesses' and separate them from the actual evidence shown in court.

⁹² National Investigation Agency v. Zahoor Ahmad Shah Watali CRLA No. 578/2019 @ SLP(Crl.) No. 7857/2018

⁹³ *Union of India v. K.A. Najeeb* Criminal Appeal No. 98/2021 @ SLP(Crl.) 11616/2019

⁹⁴ SLP(Crl) No. 004289 / 2021

Thwaha Fasal v. Union of India ⁹⁵	2021	Criminal Intent (Said that mere association is not enough; there must be clear intent to commit terror).	Justices Rastogi & Oka	'Mere Association' is not enough: Association or support of a terror group must be done with the <i>intention</i> to further their activities to constitute a crime.
Vernon Gonsalves v. State of Maharashtra ⁹⁶	2023	Be Fair (Said courts cannot just be a rubber stamp for the police/governmen t).	Justices Bose & Dhulia	Courts must Check Evidence: Judges must do "some basic checking" of the evidence and not just agree with the police's claims.
Gurwinder Singh v. State of Punjab ⁹⁷	2024	Re-emphasized Strict Law (Re- stated that long delay alone is not enough to grant bail for very serious crimes).	Justices Sundresh & Kumar	Delay Not Enough: For very grave offences, simply saying the trial is delayed is not enough reason to get bail; they rejected the request.

⁹⁵ CRL.A. NO. 5387 OF 2024 [ARISING OUT OF SLP (CRL) NO. 9209 OF 2024]

⁹⁶ CRL.A. NO. 639 OF 2023

⁹⁷ *Gurwinder Singh v. State of Punjab and Anr.* Criminal Appeal No. 704/2024 @ SLP(Cr.) No. 10047/2023

Prabir Purkayastha v. State (NCT of Delhi) ⁹⁸	2024	Protecting Process (Focused on the crucial right to know why you are being arrested).	Justices Gavai & Mehta	Arrest Was illegal: The entire arrest and remand was thrown out because the police did not give the accused a <i>written copy</i> of the grounds for arrest.
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The Supreme Court's judicial behaviour regarding bail under UAPA is currently defined by a fundamental conflict. On one side, judges are guided by the initial strict legal mandate (*Watali*⁹⁹ precedent), which requires accepting police accusations as true, thereby making bail nearly impossible. On the other side, they are bound by the constitutional right to liberty and a speedy trial (*K.A. Najeeb*¹⁰⁰ precedent), which demands bail be granted if pre-trial detention becomes unreasonably long. Justice Oka's judgments on UAPA bail prioritize Article 21 (Right to Life) over statutory restrictions. Ruling in cases like *Thwaha Fasal v. Union of India*¹⁰¹ that *prima facie* evidence requires intention to further terrorism, not mere association. He established that stringent bail restrictions melt away when pre-trial detention is prolonged (*V. Senthil Balaji v. Deputy Director*¹⁰² and *Athar Parwez v. Union of India*¹⁰³), and affirmed that bail is the rule when *prima facie* innocence is established (*Jalaluddin Khan v. Union of India*¹⁰⁴). This tension means that judges frequently struggle to balance the strict

⁹⁸ CRL.A. NO.(S). OF 2024 (Arising out of SLP(CrL.) NO(S). OF 2024)

⁹⁹ National Investigation Agency v. Zahoor Ahmad Shah Watali CRL.A No. 578/2019 @ SLP(CrL.) No. 7857/2018

¹⁰⁰ *Union of India v. K.A. Najeeb* Criminal Appeal No. 98/2021 @ SLP(CrL.) 11616/2019

¹⁰¹ CRL.A. NO. 5387 OF 2024 [ARISING OUT OF SLP (CRL) NO. 9209 OF 2024]

¹⁰² CRL.A. NO. 4011 OF 2024 (Arising out of SLP (CrL.) No. 3986 of 2024)

¹⁰³ CRL.A. NO. 5387 OF 2024 [ARISING OUT OF SLP (CRL) NO. 9209 OF 2024]

¹⁰⁴ CRL.A. NO. 3173 OF 2024

requirements of the law against fundamental human rights, resulting in an inconsistent application of the rules where the outcome of a bail plea often depends on whether the specific judicial bench prioritizes statutory stringency or constitutional freedom.

12. ANALYSIS OF UAPA ACQUITTAL DATA

A study by the People's Union for Civil Liberties (PUCL) reveals an alarming core finding: an estimated 97.2% of people charged under UAPA are eventually found innocent after spending long periods—sometimes years—in prison¹⁰⁵. This means almost everyone who is locked up under this law ends up being cleared, resulting in an overall conviction rate (based on arrests from 2015 to 2020) of just 2.8%.

Official government data further supports this trend: between 2018 and 2022, a staggering 8,947 people were arrested, but only 252 people were convicted (found guilty)¹⁰⁶. This massive difference indicates that while thousands are arrested and detained, successful prosecution is achieved in a very limited number of cases.

Official crime data from the National Crime Records Bureau (NCRB) confirms that acquittals are consistently higher than convictions across a wider timeframe. From 2014 to 2022, a total of 567 people were found innocent versus 222 people found guilty¹⁰⁷. This difference intensified recently, as 2022 saw the most acquittals since 2014, with 153 people found innocent compared to only 36 found guilty in that same year¹⁰⁸. In contrast to these post-trial acquittals, challenging UAPA cases early remains very difficult. Government statements indicate that only two UAPA cases were officially stopped or "quashed" by courts across the entire country between 2018 and

¹⁰⁵ Jahnavi, "97.2% of UAPA accused jailed for long periods and eventually acquitted, study finds" *thenewsminute.com* (02 October 2022) Available at: <https://www.thenewsminute.com/news/972-uapa-accused-jailed-long-periods-and-eventually-acquitted-study-finds-168494>

¹⁰⁶ The Hindu, "Only 2 UAPA cases filed between 2018 and 2022 quashed: Govt" *thehindu.com* (30 July 2025) Available at: <https://www.thehindu.com/news/national/only-2-uapa-cases-filed-between-2018-and-2022-quashed-govt/article69873709.ece>

¹⁰⁷ Ministry of Home Affairs, "Lok Sabha Unstarred Question No. 2376" *sansad.in* (06 August 2024) Available at: https://sansad.in/getFile/loksabhaquestions/annex/182/AU2376_DGpAbo.pdf?source=pqals

¹⁰⁸ Mukesh Ranjan, "UAPA cases: Highest acquittals at 153 in 2022" *thenewindianexpress.com* (08 September 2024) Available at: <https://www.newindianexpress.com/thesundaystandard/2024/Sep/08/uapa-cases-highest-acquittals-at-153-in-2022>

2022 (both in Kerala in 2022)¹⁰⁹. This low number suggests that securing a dismissal when a UAPA case is first filed is rarely achieved. The main reasons for acquittal are the state's failure to prove charges beyond a reasonable doubt due to a shoddy police investigation. Cases suffer from a lack of evidence establishing a clear link to terrorist acts and frequent procedural lapses, such as incorrect legal sanctions. This allows the accused to be discharged or acquitted despite the law's strictness¹¹⁰.

The overall situation strongly suggests a significant problem: the UAPA law is frequently used for arrests and prolonged detention. The primary reason for acquittal, according to Prof. Haragopal, is the prosecution's systemic failure to prove the accused's guilt in court. He notes that nearly 97% of those arrested under UAPA are eventually acquitted. He also highlights that arrests are often made without any evidence, leading to people suffering for years in jail only to be released when the state is unable to establish the charges¹¹¹.

The figures clearly show a massive gap between the number of people arrested and the number of convictions secured, suggesting that accused individuals are detained for long periods only to be acquitted later by the courts.

¹⁰⁹ *Supra* note 106

¹¹⁰ Sanjeev Varma, "Why State Fails to Prove Charges Under UAPA" *indiatimes.com* (27 July 2020) Available at: <https://timesofindia.indiatimes.com/city/chandigarh/why-state-fails-to-prove-charges-under-uapa/articleshow/77196228.cms>

¹¹¹ Rajulpadi Sreenivas, "UAPA should be scrapped as 97 percent accused are acquitted, says Prof. Haragopal" *thehindu.com* (28 January 2024) Available at: <https://www.thehindu.com/news/national/andhra-pradesh/uapa-should-be-scrapped-as-97-percent-accused-are-proven-innocent-says-prof-haragopal/article67786071.ece>

13. UAPA IN KARNATAKA: ARBITRARY INVOCATION AND WRONGFUL PROSECUTIONS

Arvind Narrain while drawing analogy between the mechanism used to crack down dissent in 'Indira's declared emergency' and 'Modi's Undeclared emergency' observes that while it was the Police and the MISA which acted as a tool to curtail dissent then, it is the UAPA today.¹¹²

The observation holds true when we see how the draconian 'anti-terror' law is being inappropriately invoked by governments to brand any person / organization who challenges the establishment as a 'terrorist' or 'anti-national,' even if they have been working in a democratic, lawful manner or even acts which do not come under the scope of 'terrorism' are being brought into its ambit. Available data suggests that among 8,371 persons suspected of 'terror activities' and arrested under the Unlawful Activities Prevention Act (UAPA), only 3% have resulted in a conviction.¹¹³ The provisions of UAPA make it harder for the accused to get bail. That is why the process itself becomes the punishment.

In Karnataka, until the DJ Halli and KG Halli riots, between 2015-2020, UAPA was not invoked in any incident of rioting. Prior to 2015 the anti-terror law was invoked in

¹¹² Arvind Narrain, *India's Undeclared Emergency: Constitutionalism and the Politics of Resistance* (Westland Books, Chennai, 2022) xiv

¹¹³ #RepealUAPA Maktoob, "UAPA: 3% got convicted in 6 years, 94% still in jail without bail, shows report," *maktoobmedia.com*, (16 April 2022) Available at: <<https://maktoobmedia.com/india/uapa-3-got-convicted-in-6-years-94-still-in-jail-without-bail-shows-report/>> See also V. Suresh et. Al, *UAPA: CRIMINALISING DISSENT AND STATE TERROR Study of UAPA Abuse in India, 2009 – 2022*, <https://pucl.org/reports/>

'One of the key indicators of the extent of abuse by the Indian state is the low conviction rate in UAPA cases. The conviction rate of UAPA cases based on number of cases is 27.5%, according to NCRB's calculation method. While the former figure by itself is considerably low, the real implication of poor conviction rate becomes evident when the conviction rate is calculated based on the number of persons arrested. Thus, when calculated based on the number of persons arrested and convicted, the conviction rate of UAPA cases is an abysmal 2.8%. Such a poor conviction rate is in conformity with the trend of its preceding anti-terror laws such as TADA and POTA that were repealed, which too were characterised by very poor conviction rates.'

'Belgaum Conspiracy', 'Hubbali Conspiracy' cases. The cases in Karnataka bear out the larger national narrative of arbitrary invocation of the law which has resulted in wrongful prosecutions leading to a miscarriage of justice.

'Belgaum Conspiracy, Hubbali Conspiracy'

More than thirty educated Muslim youths were arrested in 2008 just before the assembly elections from various districts of Karnataka on the allegations that they were planning a series of terror activities across Karnataka particularly Hubbali and Belgaum. UAPA was invoked against them apart from invoking other sections of IPC.¹¹⁴ The arrests were carried out at different points of time (every 10 days). The first to be arrested were four doctors of Hubbali KIMS. The observance of prayers and fasting in the month of Ramzan was enough for them to be arrested since it created a 'suspicion' among non-Muslim students. They were charged of possessing 'Jehadi' literature.¹¹⁵

The arrests were the result of a bomb blast occurring in Hubbali court on May 10, 2008 which also led to the arrest of Jakati Shaukat Ali Ahmed, a citizen of Belgaum.¹¹⁶ Seven months later, in January it was found that Nagaraj Jambagi associated with Muthalik's Sri Ram Sene was behind the blast along with 8 others.¹¹⁷ Similarly, the allegations of a conspiracy to produce a bomb blast in Tilakwadi, Belgaum, where Jakati along with other accused were jailed under UAPA (Unlawful Activities Prevention Act) for three years, were found to be baseless and dismissed by the court.¹¹⁸ Jakati was also framed

¹¹⁴ Sharib Ali, "The real story behind the fake Hubbali terror conspiracy," *Scroll.in*, (13 May 2015)

Available at <https://scroll.in/article/725035/the-real-story-behind-the-fake-Hubbali-terror-conspiracy>

¹¹⁵ Ibid

¹¹⁶ Ramdas Rao et al., 'Report on Framing of Muslim Youth in Karnataka,' *PUCL*, 4 (2012) Available at <<http://puclkarnataka.org/wp-content/uploads/2015/10/Terrorism-and-Muslim-Youth.pdf>>

¹¹⁷ Johnson T.A, 'Dacoit with Hindu outfit links behind Hubbali blast' *The Indian Express* (13 January 2009) Available at <<https://indianexpress.com/article/news-archive/web/dacoit-with-hindu-outfit-links-behind-Hubbali-blast/>>

¹¹⁸ Ramdas Rao et al., 'Report on Framing of Muslim Youth in Karnataka,' *PUCL*, 4 (2012) Available at <<http://puclkarnataka.org/wp-content/uploads/2015/10/Terrorism-and-Muslim-Youth.pdf>>

under UAPA in a 2007 incident where a few Muslims youths resorted to the burning of saffron flag in a protest against the role of BJP in Gujarat carnage 2002 following *Tehelka's* disclosure. It took seven years for the accused to prove their innocence. The case was termed as the 'Hubbali conspiracy' and 'Belgaum conspiracy,' and both the cases were proved false having no merit and evidence.

Shivamogga:

Mazin Abdul Rahman along with 8 other students was arrested by the Shivamogga Rural Police for their alleged link with ISIS. Since five of these arrested youths had tech backgrounds, the NIA alleged that they had been tasked by the foreign-based ISIS handler to pursue courses in robotics to pick up skills for carrying out terror attacks in the country.¹¹⁹ A person named Prem Singh was alleged to be stabbed by these '8-10 Muslim youths' as per the FIR.¹²⁰ The police's primary investigation reveals terrorist activities by a banned organization. Sensing the gravity of the case, it was transferred to the NIA. When the bail applications were moved the High Court rejecting the same took a view that, 'Article 21 cannot be stretched too long to afford protection to persons who have least concern for the rule of law and pose threat to sovereignty and integrity of the nation'¹²¹ Further the court noted 'it is the duty of the Constitutional Courts to protect the nation and its society from such people who indulge in anti-national and anti-societal activities. Without the nation there is no Constitution.'¹²²

The responsibility of the Constitutional court was to ensure that regardless of the nature of the offence, the mandate of Article 21 was fulfilled. It bears noting that the Preamble to the Indian Constitution has the phrasing, ' assuring the dignity of the

¹¹⁹ PTI, "NIA files supplementary charge sheet against 9 in Karnataka ISIS conspiracy case", *The Economic Times*, (01 July 2023) Available at: < <https://economictimes.indiatimes.com/news/india/nia-files-supplementary-charge-sheet-against-9-in-karnataka-isis-conspiracy-case/articleshow/101415602.cms?from=mdr> >

¹²⁰ FIR Cr. No. 334/2022, Doddapete Police Station

¹²¹ Mr. Mazin Abdul Rahman and Mazin v. National Investigation Agency, CRL.A No. 2248 of 2023, para 24

¹²² CRL.A No. 2248 of 2023, Para 25

individual and the unity and integrity of the nation'. The lexical priority of the 'dignity of the individual', before the 'unity and integrity of the nation', indicates that as far as the framers were concerned, the only way of safeguarding the 'unity of the nation', was if the dignity of the individual was safeguarded. Is it this core responsibility of ensuring 'dignity', which this judgment foregoes when the judges are of the opinion that, 'Article 21 cannot be stretched too long to afford protection to persons who have least concern for the rule of law and pose threat to sovereignty and integrity of the nation'. This judgment does grave injustice to a constitutional vision in which Article 21 is sacrosanct and the unity of the nation is safeguarded by ensuring that the constitutional protections under Article 21 apply to all persons.

DJ Halli and KG Halli:

UAPA was charged against 163 people after a mob resorted to violence following a blasphemous post injuring 50 police men and attacking MLAs house.¹²³ The police invoked UAPA in two of the sixty-eight FIRs.¹²⁴ It was the largest number of people ever charged en masse under UAPA in Karnataka. While moving the bail applications, when the defendant advocate cited Justice Krishan Iyer's famous dicta- "Bail is the rule, Jail is an exception," the High Court through Justice Krishna Dixit noted that "such a dicta has to remain miles away when the class of offences which the accused is ascribed of, arise under a special statute of great significance. Secondly, the Parliament in its accumulated wisdom has enacted the clauses in the 1967 Act that severely restrict the claim for grant of bail; thirdly, the statute also enacts a 'negative burden' clause, which places the onus on the shoulders of accused."¹²⁵

DG Halli and KG Halli saw a bad precedent being set with the insertion of UAPA since the same was later used in the Hubbali violence. It is however to be noted that

¹²³ Arun Dev, "Karnataka Saw 971 Riots in 5 Years, But Invoked UAPA in Just One", *The Quint*, (21 November 2020) Available at <<https://www.thequint.com/news/india/dj-halli-bengaluru-violence-karnataka-saw-971-riots-in-5-years-termed-just-one-act-of-terror>>

¹²⁴ Ibid

¹²⁵ *Imran Ahmad v. NIA*, 2023 SCC OnLine Kar 27

from 2015-2020, as per a report by *The Quint*,¹²⁶ 971 riots, both communal and political, were recorded in Karnataka out of which in only one case i.e. DJ Halli and KG Halli used the anti-terror law.

Speaking to Leaflet on DJ Halli violence, Adv Maitreyee Krishnan observed that, “A law and order issue was converted into a communal incident and the people were given a terrorist profile under UAPA. For the first time in the country 180 people were arrested with no history of terrorism whatsoever and were termed terrorist,”¹²⁷

It is worth noting that in all the above cases including the Hubballi incident there has been no evidence to suggest that the accused had prior terror links and they have carried out organized terror acts. They could have been prosecuted under any ordinary law but the state chose to use the draconian anti-terror law. In *Asif Iqbal Tanha v. State of Delhi NCT*¹²⁸ the court noted, “A terrorist activity does not merely arise by causing disturbance of law and order or of public order. The fall out of the intended activity must be such that it travels beyond the capacity of the ordinary law enforcement agencies to tackle under the ordinary penal law.” When tested through the above anvil, it is evident that UAPA has been wrongly used to target members from the minority community both in Hubballi as well as in DJ Halli.

¹²⁶ Arun Dev, ‘Karnataka Saw 971 Riots in 5 Years, But Invoked UAPA in Just One’ *The Quint* (21 November 2020) Available at <<https://www.thequint.com/news/india/dj-halli-bengaluru-violence-karnataka-saw-971-riots-in-5-years-termed-just-one-act-of-terror#read-more>>

¹²⁷ Megha Katheria, ‘Under UAPA, anything can be an offence based on flimsy evidence’, *The Leaflet*, (22 January 2021) Available at <<https://theleaflet.in/under-uapa-anything-can-be-an-offence-based-on-flimsy-evidence/>>

¹²⁸ *Asif Iqbal Tanah v. State of Delhi NCT*, CRL.A. 39/2021

14. WHY THE UAPA IS UNCONSTITUTIONAL AND MUST BE REPEALED

The major drawbacks of the statute which makes it draconian and undemocratic are dealt below:

1. Violation of fundamental rights: It is argued that this statute is essential to safeguard the national security of the country. But what remains unnoticed is that the fundamental rights laid down in Articles 14, 19 and 21 of an individual are violated. The Act criminalizes dissents and protests in the name of the law and many instances can be found where activists, journalists, students and minorities were targeted for raising their voice against the Government. For instance, Journalist Siddique Kappan was arrested by Uttar Pradesh police, & they prepared a 5000-page chargesheet against him, framing Kappan inter alia u/s 17 (raising funds for terrorist acts) when he was actually reporting the Hathras rape case.

The constitutional position is that regardless of the nature of the offence, the mandate of Article 21 has to be fulfilled. It bears noting that the Preamble to the Indian Constitution has the phrasing, 'assuring the dignity of the individual and the unity and integrity of the nation'. The lexical priority of the 'dignity of the individual', before the 'unity and integrity of the nation', indicates that as far as the framers were concerned, the only way of safeguarding the 'unity of the nation', was if the dignity of the individual was safeguarded. The constitutional vision is that Article 21 is sacrosanct and the unity of the nation is safeguarded by ensuring that the constitutional protections under Article 21 apply to all persons.

2. Vague definitions: The definitions of the terms unlawful activities and terrorist acts are very broad which makes it difficult to interpret the statute. There is a wide difference between the definitions of the terms unlawful activities and terrorist acts. As per Section 2(o) of the Act, unlawful activity can be summarized as an activity

which intends or supports cession or secession of any part of the country whereas, on the other hand, as per Section 15 of the Act, terrorist act can be summarized as an activity done with an intent to threaten the unity, integrity, security or sovereignty of the country. Both are vague terms, incapable of precision of use. This vagueness in the law had deadly implications for human rights as a senior advocate rightly noted, 'the law defines the offence and the state defines the offender'. The UAPA, enables the state to have even greater leeway to define who the offender is, allowing for an arbitrary deployment of the law.

Though the definitions of unlawful activity and unlawful association have found a place in the statute under the provisions Section 2(o) and 2(p), what remains hazy is the grounds that constitute an unlawful activity or association. The law fails to precisely mention the grounds which may lead to cession or secession of any part of the territory of the country or the acts of an individual or an association which has a threat to the sovereignty and integrity of the country.

Unfortunately the UAPA through regressive amendments is getting broader in its scope and consequently impacting on human rights.

In view of the 2019 UAPA amendment eight UN special rapporteurs found that: "The broader definition of terrorism, introduced to encompass acts that threaten the economic security of the country, allows authorities to target individuals collecting funds for perceived terrorist acts, irrespective of the specific use of these funds. This broad definition, while aiming to strengthen counter-terrorism efforts, has raised concerns about potential human rights abuses"¹²⁹

3. Presumption of innocence: In the Indian criminal jurisprudence, the accused is placed in a somewhat advantageous position than under different jurisprudence of some of the countries in the world.¹³⁰ It considers an accused is presumed to be

¹²⁹ United Nations, <https://documents.un.org/doc/undoc/gen/g24/033/44/pdf/g2403344.pdf?token=hTIGJ30ORBef0lcbXo&fe=true>

¹³⁰ Manu Sharma v. State (NCT of Delhi) AIR 2010 SC 2352

innocent till proven guilty. The Supreme Court in a recent case held that the postulate of presumption of innocence shouldn't be disregarded, howsoever stringent the penal law may be¹³¹. However, this theoretical position is given the go by in the UAPA. As it can be observed in the light of Section 3 of UAPA that the Central Government can declare any association to be unlawful if the circumstances permit and Section 43E states that the court can presume the accused to have committed the offence under Section 15, if the conditions mentioned in section 43E are met. On contrary to the presumption of offence, here the accused are presumed to be guilty and the onus lies on the accused to prove themselves to be innocent.

4. Burden of proof or onus probandi: The principle of presumption of innocence and burden of proof go hand in hand. Section 101 of Indian Evidence Act, 1872, deals with burden of proof stating that the 'burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side'.¹³² In a criminal case, the burden of proof lies on the prosecution to prove that the accused has committed the crime.¹³³ Section 43E of UAPA provides for reversal of burden, where the burden of proof is shifted upon the accused, which is against the tenet of the 'presumption of innocence' of the accused. This shifting of the burden of proof also leads to the infringement of fundamental rights guaranteed to a person undergoing trial by the Constitution of India.

5. Limited judicial review: Judicial review is an essential mechanism that upholds the Rule of Law and protects the civil liberties of a citizen of the country. It plays an important role in safeguarding an individual's rights and ensures the government is accountable for its actions. The Unlawful Activities (Prevention) Amendment Act, 2019, provides the government with the power to designate a person as 'terrorist', without any judicial review. The fact that a decision of such momentous consequences

¹³¹ *Javed Gulam Shaikh v. State of Maharashtra* SLP(Crl.) No. 3809/2024 @ CRLA No. 1060/2023

¹³² Indian Evidence Act, 1872.

¹³³ *K.Veerawamy v. Union of India and others*, AIR ONLINE 1991 SC 184.

can be made by the executive without any judicial oversight increases the power of the police state.

6. Impossibility of bail: In Gurvinder Singh's case the apex court suggested that the UAPA restricted the power of the Courts when it came to bail:

The oft-quoted phrase - 'bail is the rule, jail is the exception' - unless circumstances justify otherwise - does not find any place while dealing with bail applications under UAPA Act. The 'exercise' of the general power to grant bail under the UAPA Act is severely restrictive in scope. The form of the words used in proviso to Section 43D (5)- 'shall not be released' in contrast with the form of the words as found in Section 437(1) CrPC - 'may be released' - suggests the intention of the Legislature to make bail, the exception and jail, the rule...The legislature has prescribed a low, '*prima facie*' standard, as a measure of the degree of satisfaction, to be recorded by Court when scrutinising the justifications [materials on record].

7. Prolonged detention: The PUCL in a study of UAPA prosecutions found that the UAPA is a law under which there is a low conviction rate. The report observed:

One of the key indicators of the extent of abuse by the Indian state is the low conviction rate in UAPA cases. The conviction rate of UAPA cases based on the number of cases is 27.5%, according to NCRB's calculation method. While the former figure by itself is considerably low, the real implication of poor conviction rate becomes evident when the conviction rate is calculated based on the number of persons arrested. Thus, when calculated based on the number of persons arrested and convicted, the conviction rate of UAPA cases is an abysmal 2.8%. Such a poor conviction rate is in conformity with the trend of its preceding anti-terror laws such as TADA and POTA that were repealed, which too were characterised by very poor conviction rates.¹³⁴

¹³⁴ V. Suresh et. Al, UAPA: CRIMINALISING DISSENT AND STATE TERROR Study of UAPA Abuse in India, 2009 - 2022, <https://pucl.org/reports/>

In the year 2022 the Ministry of Home Affairs released the data on the rise of arrest under UAPA charges in the year 2019. The data reveals that there was a 72% rise in UAPA cases in comparison to 2015.¹³⁵ This also invites us to look at why the conviction rate has been 2% between 2016- 2019 when the cases are plummeting.¹³⁶ Available data suggests that among 8731 persons suspected of 'terror activities' and arrested under UAPA, only 3% have resulted in conviction.¹³⁷

8. Law has become a tool to stereotype and target a class of people: Apart from the above, the law has been systematically used to target persons on grounds of religion. Srinagar resident Bashir Ahmed Baba was accused of recruiting Muslim youths for terrorism. He was later acquitted after spending 11 years in jail.¹³⁸ This is one among the many wrongful incarcerations. In Chhattisgarh, 121 Adivasis who were arrested under UAPA and jailed for 5 years for an alleged crime of being part of an attack against CRPF personnel, were acquitted¹³⁹ by an NIA court in July 2022 and held to be fully innocent. Not only selectively targeting the people under the draconian law is problematic, also the state's response in challenging the acquittal or bail of an accused who has been discharged by the High Court or trial court is selective. For instance, in Prof. Saibaba's case, who was acquitted after 10 long years for want of evidence by the High Court, was immediately challenged within hours by the NIA in the Supreme Court. But in the Samjhauta blast case no appeal was filed before the apex court against the acquittal. Amit Shah defended the decision of the government

¹³⁵ *The Wire*, 'UAPA: 72% Rise in Arrests Between 2015 and 2019,' (10 March 2021) Available at: <<https://thewire.in/government/uapa-72-rise-in-arrests-between-2015-and-2019>>

¹³⁶ *The Hindu*, 'Parliament proceedings | 2.2 % of cases registered under the UAPA from 2016-2019 ended in court conviction' (10 February 2021) Available at: <<https://www.thehindu.com/news/national/22-of-cases-registered-under-the-uapa-from-2016-2019-ended-in-court-conviction/article61752993.ece>>

¹³⁷ *Maktoob*, 'UAPA: 3% got convicted in 6 years, 94% still in jail without bail, shows report' (16 September 2022) Available at: <<https://maktoobmedia.com/india/uapa-3-got-convicted-in-6-years-94-still-in-jail-without-bail-shows-report/>>

¹³⁸ Aditi Raja and Bashaarat, '11 yrs after his arrest in Gujarat on UAPA, Srinagar resident returns home acquitted' *The India Express*, (1 July 2021) Available at: <<https://indianexpress.com/article/cities/ahmedabad/11-yrs-after-his-arrest-in-gujarat-on-uapa-srinagar-resident-returns-home-acquitted-7383512/#:~:text=The%20Gujarat%20ATS%20had%20arrested,riots%20for%20the%20Hizbul%20Mujahideen>>

¹³⁹ *The Quint*, 'Chhattisgarh Court Acquits 121 Adivasis After 5 Years in a Maoist case' (17 July 2022) Available at: <<https://www.thequint.com/news/india/chhattisgarh-court-acquitted-121-advasis-after-spending-five-years-in-jail-uapa-case>>

in Parliament stating the charge sheets filed under the previous regime had no substantial proof, and the case was instituted with 'political motive.'¹⁴⁰ As Arvind Narrain writes, 'for a government which prides itself on being tough on terror, the decision not to appeal, marks an abdication of the constitutional responsibility to protect the life of all person without discrimination'¹⁴¹

¹⁴⁰*The Hindu*, 'Samjhauta Express blast case case lacked proof, says Amit Shah,' (17 July 2019) Available at: <<https://www.thehindu.com/news/national/samjhauta-express-blast-case-case-lacked-proof-says-amit-shah/article28524850.ece>>

¹⁴¹ Arvind Narrain, *India's Undeclared Emergency: Constitutionalism and the Politics of Resistance* <page> (Westland, New Delhi, 2022)

15. OBSERVATIONS AND ANALYSIS:

Understanding the actual chronology of events:

The first and foremost important observation from our fact-finding exercise is that the events in Hubballi , began as a peaceful protest against inaction of the police and eventually turned into a massive altercation, which was given a communal colour. An altercation that the city of Hubballi had not seen in a very long time. Its impact shook the residents and created fear in the minds of the people to the extent that the very streets of the once bustling city of Hubballi were forlorn. The reverberations from this incident are still imprinted on the mind of the city and its residents have not yet completely recovered from the trauma the incident of 16.04.2022 caused.

As mentioned in many testimonies, it is pertinent to understand the geographic location of the place of the incident (Page 14) to be able to understand how and what happened on the fateful night. The Old Hubballi Police station is surrounded by five mosques and a Dargah. There are five roads that lead to the police station which are important roads that connect the city with itself and other towns. Indi pump Petrol bunk, market, and many small localities surround the Old Hubballi Police station. The area is always crowded more so at the time of the incident because it was during the month of Ramadan due to the presence of many mosques.

Because of the unique geographic location of the place of incident, most of the crowd gathered there out of curiosity and not with the intention to riot as alleged. It was wrongly and maliciously painted as a pre-planned attempt to disrupt harmony.

Criteria applied by the police for arrest:

As seen in the testimonies given by the family members of the arrested and activists, the police justified the arrest on three grounds. One, if the signal of the cell phone bounced off of the phone tower near the place of the incident, it was a ground for arrest. Second, if there was any presence of the WhatsApp post on the phone, even if it was a forward received in one of the many dysfunctional WhatsApp groups, it was

grounds for arrest. Third, if the accused were found in the CCTV footage near the place and around the time of the incident, even if they were just a passer-by, it was a good enough ground for arrest.

The grounds for arrest may sound like the obvious grounds on which arrests should have been made. But these grounds are at best, over broad and misleading conjectures of actual guilt. At best it is indicative of the persons in the area and further investigation should have been conducted and there should have been more specific evidence for implicating each of the the arrested in the incident, before the serious step of deprivation of liberty was taken. What if someone was just filling petrol near the petrol bunk? What if someone was heading out of town taking these roads? What if someone received the WhatsApp post as a forward they never even opened? What if someone was accessing the hospital or police station in question itself? What if it was someone who was only praying in one of those mosques near the place of the incident? What if someone was buying fruits from the street vendors near the police station in preparation for next day's iftaar? What if someone was working very hard to earn money near the place of the incident? What if someone was just a curious bystander who was trying to understand the commotion? What if someone was trying to disperse the crowd so that the issue does not escalate? What we saw was that unfortunately, most of the arrested accused were victims of the logically unsound and arbitrary criteria applied by the police. Some of them were not even residents of Hubballi City as seen in the testimonies.

The fact that even with this over broad criterion, there were no Hindus among the arrested only indicates that these criterion were mapped onto to Muslims in the area who were arrested. Thus a Muslim in that area in that particular period of time was presumed to be an offender and he was charged under this case. The bias and prejudice which the police manifested against the minority community is seen in the over broad criterion of arrests used only against Muslims

Procedural impropriety and Biased approach:

It is observed that the police arbitrarily started to arrest Muslim men, just a few hours after the incident took place. Most of the arrests were made on a whim and it is also certain that the police arrested the people after confirming the fact that they belonged to the Muslim community. Within a day, after the happening of the riot, 89 people were picked up by the police and were later framed to be a part of the riots. As the political pressure built up on them in the ensuing days, the arrests continued. No serious effort was made to find out who the real culprits were. Through the fact-finding, it came to our notice that, initially, among the people who were arrested, the police identified and bifurcated them into two sets, one as 'obvious culprits involved in the act' and others as 'doubtful culprits.' Later, both groups were mixed. Due to the failure of the police to maintain law & order, and to cover up their flaws, rampant arrests were made. The mass arrest of innocent people raises several doubts about the police's line of investigation. Many people were pushed into police vans randomly and taken to the police station. The police used CCTV footage, videos, and mobile tower locations as their basis of arrest. Identifying individuals in the video and matching their location during the incident is a time consuming process unlikely to be completed in a day or two.

Demographic of the arrested

We saw some patterns which were common to most of the arrested accused. For instance, all the arrested accused were residents of slums or areas where economically backward families lived. The literacy level was very low with the main occupations being construction work, auto-driving and small businesses. The average age group of the arrested is between 20 years to 35 years. Every single accused either has very young children or elderly parents and some have a mentally or physically challenged family member. Most of them were sole breadwinners of their families and their arrest has meant that the women and children have been left to fend for themselves without any sustenance or security as if they were prisoners of war. For an act of public arson and violence perpetrated by unknown people, it almost seems as if there is a form of

collective punishment of the entire community with many innocents suffering. (Table reflecting the demographic of the arrested is at Annexure VIII.)

Tyranny of the police

The response of the police was twofold and at extremes, amounting to failure on their part in ensuring that matters didn't go out of hand. In some instances there was complete inaction while in other instances there was arbitrary and over use of power.

Inaction:

The police at the first instance hesitated to file a complaint against Hiremath which was the foundation of unrest. The Police did not fulfil a very basic expectation the public had. Even after demands to register the FIR were made widely, there was a delay and casual approach towards addressing the concerns. After the arrests were made arbitrarily, when the affected family members approached the officials, they were shooed away and were not given any information.

Abuse of power:

Now, even if police were to be given the benefit of doubt and we acknowledge that they had to work with whatever little they had, the next question that arises is whether these arrests were made following due process of law. The answer is no.

In their attempts to diffuse the situation, news reports stated and testimonies confirmed that the police resorted to lathi charge and even fired in the air. Apex Court in the case of *Ramleela Maidan*¹⁴² discussed at length the threshold after which police force can be resorted to and the steps that have to be taken before such force is applied. In the present case, the police opted to use force without fulfilling the guidelines prescribed under the Police Manual and affirmed in the *Ramleela Maidan* case.

Every single family we spoke to shared similar details about how inhuman the police were when they made arrests, how they resorted to using physical force to ensure

¹⁴² (2012) 5 SCC 1

submission, how they came to certain areas and arrested people from their homes arbitrarily. None of the arrests were made in compliance of the Supreme Court judgment in *Arnesh Kumar*¹⁴³. Initially, the offences captured in the FIRs were bailable and would fall within the rule laid down in *Arnesh Kumar* judgment. No reason or notice was given to the accused or their family members, in some instances the police even held a family member, mostly an elderly or vulnerable member ransom and ensured surrender¹⁴⁴.

Pickups or Arrests?

Immediately the police arrested around 40-50 people. These 40-50 arrests were made within a span of 4 to 5 hours. The pickups were started immediately after the mob dispersed from the place of the incident. The majority of those who were arrested were picked up first and charges were framed against them later. It is also pertinent to note here that the accused arrested were actually 'picked up' on the pretext that they would be left after an inquiry. The police in doing so have made illegal detentions and flouted the DK Basu's guidelines where *inter alia* it is stated

1. When someone is arrested, the police officer must write down a record of the arrest right away. This record should have a witness (someone from the arrested person's family or a local respected person) and be signed by both the officer and the arrested person. It should also say when and where the arrest happened.
2. If someone is arrested and held in custody, they have the right to have a friend, family member, or someone else they know informed about their arrest and where they are being held.

In this case, the families did not know about the whereabouts of the person arrested until news channels flashed about the same. (Refer anecdotes)

¹⁴³ (2014) 8 SCC 273, See Annexure - III

¹⁴⁴ See testimony of Mushtaq Ali's family at Page 26

Deceptive Tactics, Fabricated Reasons and False Pretences

The arrests were made by deceiving innocent individuals into coming to the police station under the pretext of 'getting a signature,' casual calling, etc. According to the charge sheet, the arrests were made based on CCTV footage, video footage recorded by the policemen on duty, and the mobile tower location. The police claim that all those arrested had attended prior meetings to which they don't have any sort of bona fide proof. Most of the people who were arrested were menial laborers who didn't even know what the incident was about and were unjustly arrested. They didn't even know the reason for their arrest, and it was only later they found out they had been charged under the UAPA.

Political Pressure:

As there was pressure on the police to act immediately, they made indiscriminate arrests starting at midnight. The police initially struggled to implicate people hence they barged into the houses, and picked up ones who were preparing for the pre-dawn meals (sehri).

Multiple FIRs

Multiple FIRs were registered for the same crime with different complainants. The police have not made any headway in the remaining FIRs. Even if the arrested men manage to secure bail in this case (in which they are arrested), the police might arrest them in the other pending FIRs. It seems the multiple FIRs were registered to cover all the accused and make a strong case of rioting. Now these FIRs have been clubbed.

At every step, the police conducted itself in an arbitrary manner. Many families did not even know of the arrest of their loved ones because the police did not provide the accused any avenue or relief that an accused person is entitled to. Some were so helpless that they ran from pillar to post to ascertain if their sons were even alive.

Media coverage:

This incident was not reported by many news portals. Whatever was reported, was not enough to showcase the depth of damage that came as a result of this alleged riot.

The live reporting of this incident by news channels painted a picture of this being communal violence. Kannada media portrayed the riot as the result of ‘a pre-planned agenda’. Their coverage was most insensitive as their cameras zoomed in on the faces of heartbroken women whose sons, brothers, husbands, and fathers were arrested and the footage was aired as ‘raw’ and ‘live’ footage. In many clippings, the women can be seen struck with so much grief that they are beating their chests with no sense of what is happening around them, not even noticing that their clothes were falling off.

The media did not follow the guidelines around sensitive coverage and was not even sensitive enough to blur the faces of these women and aired the footage as ‘exclusive’ repeatedly violating their right to privacy. Some of the headlines read as: *“ನಾನವನಲ್ಲ ನಾನವನಲ್ಲ ಎನ್ನುತ್ತಲೇ ಸತ್ಯ ಕಕ್ಕಿದ ಮೌಲ್ವಿ!”*; *“Old Hubballi Police ಠಾಣೆ ಮುಂದೆ ಮುಂದುವರೆದ ಪಾಲಕರ ಹೈಡ್ರಾಮಾ!”*; *“Accused AIMIM leader attempts suicide inside police station, now out of danger”*; *“ಗಲಭೆಯ ಮತ್ತೊಂದು Viral Video; ಹುಬ್ಬಳ್ಳಿ Police Station ಮುಂದೆ ಪುಂಡರ ಅಟ್ಟಹಾಸ”*; *“Hubballi violence: Details reveal rioters tried to lynch cops; attempted to hit with boulders (Online news)”*.

The media also gave it a communal colour when the actual case might have not been so. They reported that the Muslim community pelted stones at the nearby Hanuman Temple on purpose to cause disturbance to the Hindus on the event of Hanuman Jayanthi¹⁴⁵. This led to further incarceration and fed into the already existing islamophobia.

It was observed that after the incident, the entire media setup tried to distort the view of the event as an act of terror and a rebellious mob. They falsely broadcasted that the MIM leader had accepted responsibility and blamed himself for the incident.¹⁴⁶ The

¹⁴⁵<https://www.timesnownews.com/videos/mirror-now/society/hanuman-jayanti-violence-why-jahangirpuri-hubbali-communal-violence-unfolded-mirror-now-video-90916292>

¹⁴⁶ Republic TV, ‘Hubballi Riots: AIMIM’s District Chief Nazeer Honnyal Makes Shocking Admission | Super Investigation’ 25 April 2022, Available at < https://youtu.be/OzCJZYcQrUU?si=_XIQm6lIQHkJSCzI>

media created confusion by suggesting that the incident had links to a terror organization.

It is observed that Print media restricted themselves to write the report only on the basis of information provided by the police and the politicians. The analytical observations or media investigation or assessment is found missing. The reporting was one sided which goes against the media ethics. The statements made by Sangh parivar leaders were covered and highlighted but the views, statements and reactions of the family members of victims, civil society organizations, intellectuals, and secular forces have not been covered and were deliberately ignored.

Application of UAPA provisions:

It is also pertinent to note that initially the offences in the FIRs were bailable ones. But as told by Advocate Belagali, at the time of hearing bail applications, the State through Police filed a requisition informing the Court that provisions under Sections 16, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967 (UAPA) have been invoked¹⁴⁷. On analysis of the complaints made and the description of offences in the FIR, there are no ingredients that attract offences under UAPA. The activists who spoke to us were also of the opinion that the invocation of UAPA has become a trend or norm and has become a tool to target the Muslim community. This kind of trend has been observed in various parts of the country, where the Muslim community is kept in a state of fear by using the arrest of its young and working members as a tactic of intimidation.

None of the FIRs claim that the alleged accused were holding weapons or that the alleged riot was in furtherance of a pre-planned conspiracy. Especially, Section 20 of the Act deals with punishment for being a member of a terrorist gang or organisation. Even the 'weapons' recovered from the site of the incident are not weapons but just stones that were allegedly used. There is no ground or basis according to which the police decided that these ordinary, economically backward slum dwellers are terrorists. UAPA is a stringent law wherein bail is close to impossible to get and the

¹⁴⁷ See Annexure - I

Investigating Officer gets 180 days to file the chargesheet instead of 90 days in regular cases. Without any ingredients of an offence under the UAPA, the arbitrary invoking of the UAPA has cost these accused persons and their families their lives.

All the people who were arrested in connection with the riots that happened on that fateful day are charged with the 'DRACONIAN LAW' - UAPA. But there were no such acts that were committed by the protestors that would come within the scope and meaning of UAPA. Through our fact-finding, it is clear that there are no substantial pieces of evidence that attract the charges of the UAPA, nor are there any independent witnesses. All complainants/witnesses are different police officers themselves in the other 11 FIRs. What's even worse is that, right from registering the FIR to arresting the people, the legal procedure as prescribed by the DK Basu guidelines has not been properly followed by the concerned authorities.

What also came to our notice is that due to the casual approach of invoking UAPA, many activists also hesitated in providing community support. They feared that if they came to the aid of this community, they would be sent behind the bars under the same provisions of law for aiding, abetting or even being part of the plan. A certain amount of solidarity can be seen in the area of Hubballi but it is very faint and could eventually disappear if widespread incarceration continues to happen by conflating those raising voices against mass incarceration with attacking the sovereignty of the country. Civil society activists are angry about the police handling of the protest and subsequent incarceration. But that anger is dying out in the apprehension of 'what if I'm next'.

Unexplained gaps in the police narrative

Delay in registering FIR:

From the testimonies of the civil society members and activists, it can be seen that there is a common understanding that Hiremath was instigated by the right wing members to post that morphed picture on his status. That it was in furtherance of a bigger conspiracy and a deliberate attempt to disturb the Muslims during the month of Ramazan.

There is no clarity as to why there was a delay in registering the FIR against Hiremath. The police received information by 8:00 – 8:30 pm but did not register any FIR against him until 12:30 AM.

The question of power cut:

From the testimonies we also found out that there was a power cut just before the lathi charge, pelting of stones and everything that followed after. In a city as busy as Hubballi and the Indi pump junction being the heart of the city, there was no possibility of the entire area experiencing a power cut. We were told that even the street lights went off and that an issue as such was never experienced. The power cut just before the pelting of stones is more than just a coincidence and smells of foul play which has to be further investigated.

The police claimed that the arrests were made on the basis of CCTV footage captured near the place of incident. This raises questions as to how they could identify anybody in the CCTV footage if there was a black out near the police station. Even if a little was visible, there is also the question of how they ended up arresting only Muslims. The place of incident had a crowd owing to its busy location. Further, from the testimonies of members of CSOs its evident that all/most of the CCTVs were not functional at the time of the incident. This creates further doubt in the prosecution's case.

Initiation of stone pelting:

From the testimonies of the eyewitness and other activists, there is no clarity as to who started pelting the stones. As per the eyewitness, there was a crowd in front of the police station and a mob behind the police station who started pelting stones. This also happens to be the place where the Hanuman temple is, which gives rise to a possibility that the stones were pelted from the Hanuman temple and not by Muslims. There is obscurity in the aspect of who pelted stones and if the Muslims even initiated it. One of the activists also shared with us that there is a possibility of someone dressing up as Muslims to ensure they are falsely implicated, especially due to the power cut it would've been easy to pose as someone else and that this has happened at earlier instances. Some testimonies also suggest that stone pelting started in response to the

arbitrary lathi charge initiated by the police. Even if for argument's sake it is to be believed that the mob allegedly started stone pelting, it's surprising how there were so many stones when there was no availability of stones anywhere near the place of incident.

Not a pre-planned act

The crowd had gathered outside the police station spontaneously to protest against the blasphemous post, not otherwise as alleged by the police. The holy sites of Mecca and Medina are spiritual and revered by Muslims, and hence people are very passionate about them. However, the objectionable post deliberately and maliciously intended to outrage the religious feelings of the minority community by insulting their beliefs. The crowd gathered as an outcome of this. Since the demographics of the area are such that there is a continuous movement of people and it also counts as one of the busiest routes of Hubbali, people instantly started to gather there. Moreover, as it was the time when *Tarawih* (a special prayer in the holy month of Ramzan) was over, people from the surrounding mosques also started to gather, as the Old Hubbali Police Station is surrounded by many mosques. It is pertinent to note here that the crowd started gathering in front of the station only after the special prayers and not before that. The continuous influx of messages on WhatsApp about the post went viral, and the word had spread by then. Many had also gathered as spectators, onlookers, and curious bystanders.

Current position of the affected families

The affected families are all from the working class, mainly involved in artisan work. With the arrest of the main breadwinner of the family in many cases, the situation of the family has been rendered precarious.

Most of the accused lived in small tenements and were the one's on whom the family was financially dependent. Only a few of them had their own shops. As many were sole earners of their families, after the arrests their family members neither had money to pay for their house rents nor the school fees of their children. It is miserable that they didn't even have money to purchase medicines. Few of them were forced to live

in their relatives' houses. It is painful to look at the pathetic condition of the victims' families and the horrific fate of the innocents who are wrongly charged under the UAPA. Nearly 30-40 families (who were in jail for almost two years), whom we have visited as a part of our fact-finding, are neither financially well-off, nor do they have any free and trustworthy legal aid. The families also have to suffer socially due to the stigma of being the family of the accused under an anti-terror law. This has implications for the mental health of family members of those arrested.

The originator of the post: Unequal treatment by the police

It is also worth mentioning that it was not Abhishek Hiremath alone who was involved in this act, but also another student named Veerbhadrappa Patil played a role in the conspiracy. According to one news report, Patil was a co-conspirator and is alleged to have created the offensive post,¹⁴⁸ while another report carries that he had also posted the morphed video along with Hiremath¹⁴⁹. It is also important to note how the limelight has shifted entirely from the initiators of the incident. . Abhishek's family has vacated their Anand Nagar house and is said to reside in a different district. As one resident of the locality quipped, 'he (Abhishek) is getting all VIP treatment and support from Hindutva organizations.' While Abhishek was allowed to write his P.U Examinations under police protection, young Muslim youth were ferried to jail in vans under police protection and charged with the UAPA.

An Unconstitutional Prejudice

Though an FIR was registered against Hiremath for hurting religious sentiments, no action was taken against the people who lauded Hiremath for making such an inflammatory and disrespectful post. There was also no action against the people who shared the post in praise and affirmation of what Hiremath intended to do. Many

¹⁴⁸ *Deccan Herald*, II PUC student Abhishek Hiremath, linked to Hubballi violence, attends exam, 23 April, 2022 Available at: <<https://www.deccanherald.com/india/karnataka/ii-puc-student-abhishek-hiremath-linked-to-Hubballi-violence-attends-exam-1103138.html>>

¹⁴⁹ Mayabhushan Nagvenkar, 'Once A Commercial Hub, How Hubballi Became The Epicentre Of Communal Politics In Karnataka,' (*Outlook*, 11 October 2022) Available at: <[Once A Commercial Hub, How Hubballi Became The Epicentre Of Communal Politics In Karnataka \(outlookindia.com\)](https://www.outlookindia.com/Once-A-Commercial-Hub-How-Hubballi-Became-The-Epicentre-Of-Communal-Politics-In-Karnataka)>

prominent members of the Sangh parivar congratulated this as a positive step towards Hindu Rashtra and indulged in hate speech against Muslim community¹⁵⁰. Some were also seen stating that the only way to teach the accused a lesson is to implement the 'Uttar Pradesh' model¹⁵¹.

We also were told that Hiremath and his family were given protection and safety and Hiremath was also able to write his exams¹⁵². One would hope and expect that the same level of concern will be shown to the persons arrested for allegedly participating in the riot. Unfortunately, that was not the case. The same kind of support was not extended towards the Muslim community. The arrests were made arbitrarily and without any basis. They were manhandled, blackmailed, beaten and were not even informed why they have been arrested, UAPA also has been invoked. There is a clear bias.

There is a pattern that we have seen with instances where religious feelings of a minority community have been hurt. A push back from the community has always met with silencing of voices, large scale incarceration of innocents and invocation of UAPA instead of action against the perpetrators. The same happened with DJ Halli, the same has happened in this instance. There is a constant comparison of the Muslim community with extremist organisations like Taliban, hate speech, calls for mass killing, bulldozing their houses. This has also led to civil society members taking a

¹⁵⁰ Govindaraj, 'Pramod Muthalik: ಹುಬ್ಬಳ್ಳಿಯಲ್ಲಿ ಗಲಾಟೆ ಮಾಡಿದವರು ಯಾರು ಅಮಾಯಕರಲ್ಲ: ಇದು ಪ್ರೀ ಪ್ಲಾನ್ ಗಲಾಟೆ' *Asianet News* (18 April 2022) Available at: <<https://kannada.asianetnews.com/karnataka-districts/sri-ram-sene-chief-pramod-muthalik-slams-on-congress-and-jds-leaders-over-Hubbali-riots-gvd-raj2vr>>

¹⁵¹ Times Now 'Hubbali violence: AIMIM corporator held; BJP's R Ashok says accused would be taught with 'UP model' (24 April 2022) Available at: <<https://economictimes.indiatimes.com/news/politics-and-nation/Hubbali-violence-aimim-corporator-held-bjps-r-ashok-says-accused-would-be-taught-with-up-model/videoshow/91045580.cms?from=mdr>>

The Hindu, 'Mutalik demands demolition of houses belonging to rioters in Hubbali,' (18 April 2022)

Available at: <<https://www.thehindu.com/news/national/karnataka/mutalik-demands-demolition-of-houses-belonging-to-rioters-in-Hubbali/article65331563.ece>>

¹⁵² ETV Bharat, 'ಹುಬ್ಬಳ್ಳಿ ಗಲಭೆ ಪ್ರಕರಣ: ಆರೋಪಿ ಜಾಮೀನು ಅರ್ಜಿ ವಜಾ, ಪರೀಕ್ಷೆ ಬರೆಯಲು ಅನುಮತಿ' (21 April 2022) Available at: <<https://www.etvbharat.com/kannada/karnataka/city/Hubbali-dharwad/Hubbali-riot-case-main-accused-and-pu-student-bail-plea-rejected-by-court/ka20220421092543746746623>>

step back from extending any kind of support in fear of being associated with such 'criminals'. It has resulted in isolation of an entire community. As citizens of this country, they have been denied basic rights envisioned under the supreme law of the land, the Constitution.

15. CONCLUSION:

This fact-finding report shows that the UAPA is routinely misused, causes long and unjust detention, and harms democratic rights. It fails to protect citizens and instead creates fear and mistrust among communities. We therefore strongly call for the repeal of the UAPA and the development of laws that respect constitutional freedoms and due process.

At the same time, lasting peace and safety cannot come from harsh laws alone. There is an urgent need to establish community-based engagement mechanisms during times of tension, violence, or riots so that local leaders, civil society groups, and residents can prevent escalation and build trust.

Finally, sensitising and positively engaging youth is essential. Young people must be supported to reject misinformation, resist hate, and uphold values of harmony and equality.

Together, these steps offer a humane and effective path towards justice, peace, and social cohesion. Further, the civil society has to work towards building stronger unity and support systems for the victims & build a campaign against the use of the UAPA.

ANNEXURE - I

ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪೊಲೀಸ್

ಪ್ರಥಮ ವರ್ತಮಾನ ವರದಿ
(ದಂಡಪ್ರಕ್ರಿಯೆ ಸಂಹಿತೆ ಕಲಂ 154 ರ ಕೆಳಗೆ)

ಘನ ಸ್ವಾಯಾಂಯ : IV ADDL. CIVIL JUDGE & JMFC HUBLI,Hubli Dharwad City

1. ಜಿಲ್ಲೆ : Hubballi Dharwa ವ್ಯಕ್ತ/ಉಪ ವಿಭಾಗ : Hubli South Sub-Division ಪೊಲೀಸ್ ಠಾಣೆ : Old Hubballi PS
ಆಪರಾಧ ಸಂಖ್ಯೆ : 0062/2022 ಪ್ರ.ವ.ವ.ದಿನಾಂಕ : 16/04/2022

2. ಕಾಯ್ದೆ ಮತ್ತು ಕಲಂಗಳು : IPC 1880 (U/s-153A,295A)

3. (a) ಕೃತ್ಯ ನಡೆದ ದಿನ : Saturday ದಿನಾಂಕ ದಿಂದ : 16/04/2022 ದಿನಾಂಕ ವರೆಗೆ : 16/04/2022
ವೇಳೆಯಿಂದ : 19:00:00 ವೇಳೆಯವರೆಗೆ : 19:01:00
(b) ಠಾಣೆಯಲ್ಲಿ ವರ್ತಮಾನ ಸ್ವೀಕೃತಿಸಿದ ದಿನಾಂಕ : 16/04/2022 22:30:00 ಬರವಣಿಗೆಯಲ್ಲಿ / ಹೇಳಿಕೆ : Written
(c) ಪಿಯೋದುದಾರ / ಬಾಕ್ಟೀದಾರ ವದವಾಗಿ ವರದಿ ಮಾಡಿದಕ್ಕೆ ಕಾರಣಗಳು :

(d) ಜವರಲೆ ದೈರಿ ಉಲ್ಲೇಖ ಸಂಖ್ಯೆ ಮತ್ತು ಸಮಯ : 5 , 22:30:00

4. (a) ಕೃತ್ಯ ನಡೆದ ಸ್ಥಳ :
ANANDNAGAR GHODAKE PLOT, OLD HUBBALLI, Hubballi Dharwad City,
Karnataka, 580024

(b) ಪೊಲೀಸ್ ಠಾಣೆ ಯಿಂದ ಇರುವ ದಿಕ್ಕು ಮತ್ತು ದೂರ : 1.5 KM TOWARDS NORTH FROM

(c) ಗ್ರಾಮ : ANAND NAGAR ಗಸ್ತಿನ ಹೆಸರು : BEAT54

(d) ಸ್ಥಳವು ಬೀದಿ ಪೊಲೀಸ್ ಠಾಣೆ ವ್ಯಾಪ್ತಿಗೆ ಬರುವಂತಹದ್ದು ಆದರೆ ಆ ಪೊಲೀಸ್ ಠಾಣೆಯ ಹೆಸರು :
ಜಿಲ್ಲೆ :

5. ಪಿಯೋದುದಾರ/ಬಾಕ್ಟೀದಾರ :

(a) ಹೆಸರು : MAHAMMAD BELERI ತಂದೆ / ಗಂಡನ ಹೆಸರು : AZHAR

(b) ವಯಸ್ಸು : 37 (c) ವೃತ್ತಿ : Businessman

(d) ಧರ್ಮ : Muslim (e) ಜಾತಿ : MUSLIM

(f) ಫ್ಯಾನ್ : (g) ಇ-ಮೀಲೆ : :

(h) ದೂರವಾಣಿ : 7760931439 (i) ರಾಷ್ಟ್ರೀಯತೆ : India

(j) ಪಾಸ್ ಪೋರ್ಟ್ ಸಂಖ್ಯೆ : ನೀಡಿದ ದಿನಾಂಕ :

ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪೊಲೀಸ್

ಪ್ರಥಮ ವರ್ತಮಾನ ವರದಿ
(ದಂಡಪ್ರಕ್ರಿಯೆ ಸಂಹಿತೆ ಕಲಂ 154 ರ ಕೆಳಗೆ)

ಘನ ಸ್ವಾಯಂಲಯ : IV ADDL. CIVIL JUDGE & JMFC HUBLI,Hubli Dharwad City

1. ಜಿಲ್ಲೆ : Hubballi Dharwa ವ್ಯಕ್ತ/ಉಪ ವಿಭಾಗ : Hubli South Sub-Division ಪೊಲೀಸ್ ಠಾಣೆ : Old Hubballi PS
ಅಪರಾಧ ಸಂಖ್ಯೆ : 0062/2022 ಪ್ರ.ವ.ವ.ದಿನಾಂಕ : 16/04/2022

2. ಕಾಯ್ದೆ ಮತ್ತು ಕಲಂಗಳು : IPC 1880 (U/s-153A,295A)

3. (a) ಕೃತ್ಯ ನಡೆದ ದಿನ : Saturday ದಿನಾಂಕ ದಿನ : 16/04/2022 ದಿನಾಂಕ ವರೆಗೆ : 16/04/2022
ವೇಳೆಯಿಂದ : 19:00:00 ವೇಳೆಯವರೆಗೆ : 19:01:00

(b) ಠಾಣೆಯಲ್ಲಿ ವರ್ತಮಾನ ಸ್ವೀಕರಿಸಿದ ದಿನಾಂಕ : 16/04/2022 22:30:00 ಬರವಣಿಗೆಯಲ್ಲಿ / ಔದ್ದೇಶ : Written

(c) ಪಿಯೋದುದಾರ / ಬಾಕ್ಟೀದಾರ ತಡವಾಗಿ ವರದಿ ಮಾಡಿದಕ್ಕೆ ಕಾರಣಗಳು :

-

(d) ಜನರಲ್ ಡೈರಿ ಉಲ್ಲೇಖ ಸಂಖ್ಯೆ ಮತ್ತು ಸಮಯ : 5 , 22:30:00

4. (a) ಕೃತ್ಯ ನಡೆದ ಸ್ಥಳ :

ANANDNAGAR GHODAKE PLOT, OLD HUBBALLI, Hubballi Dharwad City,
Karnataka, 580024

(b) ಪೊಲೀಸ್ ಠಾಣೆ ಯಿಂದ ಇರುವ ದಿಕ್ಕು ಮತ್ತು ದೂರ : 1.5 KM TOWARDS NORTH FROM

(c) ಗ್ರಾಮ : ANAND NAGAR ಗ್ರಾಮ ಹೆಸರು : BEAT54

(d) ಸ್ಥಳವು ಬೀದಿ ಪೊಲೀಸ್ ಠಾಣೆ ವ್ಯಾಪ್ತಿಗೆ ಬರುವಂತಹದ್ದು ಆದರೆ ಆ ಪೊಲೀಸ್ ಠಾಣೆಯ ಹೆಸರು :

ಜಿಲ್ಲೆ :

5. ಪಿಯೋದುದಾರ/ಬಾಕ್ಟೀದಾರ :

(a) ಹೆಸರು : MAHAMMAD BELERI ತಂದೆ / ಗಂಡನ ಹೆಸರು : AZHAR

(b) ವಯಸ್ಸು : 37 (c) ವೃತ್ತಿ : Businessman

(d) ಧರ್ಮ : Muslim (e) ಜಾತಿ : MUSLIM

(f) ಫ್ಯಾನ್ : (g) ಇ-ಮೀಲ್ : :

(h) ದೂರವಾಣಿ : 7760931439 (i) ರಾಷ್ಟ್ರೀಯತೆ : India

(j) ಪಾಸ್ ಪೋರ್ಟ್ ಸಂಖ್ಯೆ : ನಿರೀಕ್ಷಿತ ದಿನಾಂಕ :

ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪೊಲೀಸ್

ಪ್ರಥಮ ವರ್ತಮಾನ ವರದಿ
(ದಂಡಪ್ರಕ್ರಿಯೆ ಸಂಹಿತೆ ಕಲಂ 154 ರ ಕೆಳಗೆ)

ಭವ ನ್ಯಾಯಾಲಯ : IV ADDL. CIVIL JUDGE & JMFC HUBLI,Hubli Dharwad City

1. ಜಿಲ್ಲೆ : Hubballi Dharwa ವ್ಯಕ್ತ/ಉಪ ವಿಭಾಗ : Hubli South Sub-Division ಪೊಲೀಸ್ ಠಾಣೆ : Old Hubballi PS
ಅಪರಾಧ ಸಂಖ್ಯೆ : 0064/2022 ಪ್ರ.ವ.ವ.ದಿನಾಂಕ : 17/04/2022
2. ನಾಯಕ ಮತ್ತು ಕಲಂಗಳು : IPC 1880 (U/s-427,506,504,148,149,307,332,353); PREV. OF DAMAGE TO PUBLIC PROPERTY ACT, 1984 (U/s-3); IPC 1880 (U/s-143,147)
3. (a) ಸೃಷ್ಟಿ ನಡವೆ ದಿನ : Saturday ದಿನಾಂಕ ದಿಂದ : 16/04/2022 ದಿನಾಂಕ ವರೆಗೆ : 16/04/2022
ವೇಳೆಯಿಂದ : 22:50:00 ವೇಳೆಯವರೆಗೆ : 23:30:00
(b) ಠಾಣೆಯಲ್ಲಿ ವರ್ತಮಾನ ಸ್ವೀಕರಿಸಿದ ದಿನಾಂಕ : 17/04/2022 00:30:00 ಬರವಣಿಗೆಯಲ್ಲಿ / ಹೇಳಿಕೆ : Written
(c) ಪಿಯೋದುದಾರ / ಬಾಕ್ಟೀದಾರ ವದವಾಗಿ ವರದಿ ಮಾಡಿದಕ್ಕೆ ಕಾರಣಗಳು :
NIL
(d) ಜನರಲ್ ಡೈರಿ ಉಲ್ಲೇಖ ಸಂಖ್ಯೆ ಮತ್ತು ಸಮಯ : 1 , 00:30:00
4. (a) ಸೃಷ್ಟಿ ನಡವೆ ಸ್ಥಳ :
NEAR INDI PUMP CIRCLE, OLD HUBBALLI, Hubballi Dharwad City, Karnataka,
580024
(b) ಪೊಲೀಸ್ ಠಾಣೆ ಯಿಂದ ಇರುವ ದಿಕ್ಕು ಮತ್ತು ದೂರ : NORTH 20 MTR FROM PS
(c) ಗ್ರಾಮ : INDI PUMP CRICLE ಗ್ರಾಮ ಹೆಸರು : BEAT15
(d) ಸ್ಥಳವು ಬೇರೆ ಪೊಲೀಸ್ ಠಾಣೆ ವ್ಯಾಪ್ತಿಗೆ ಬರುವಂವಹದ್ದು ಆದರೆ ಆ ಪೊಲೀಸ್ ಠಾಣೆಯ ಹೆಸರು :
ಜಿಲ್ಲೆ :
5. ಪಿಯೋದುದಾರ/ಬಾಕ್ಟೀದಾರ :
(a) ಹೆಸರು : LAXMAN TALAWAR ತಂದೆ / ಗಂಡನ ಹೆಸರು : HANAMAPPA TALAWAR
(b) ವಯಸ್ಸು : 32 (c) ವೃತ್ತಿ : Police officer
(d) ಧರ್ಮ : Hindu (e) ಜಾತಿ :
(f) ಫ್ಯಾನ್ : (g) ಇ-ಮೇಲ್ :
(h) ದೂರವಾಣಿ : 8970273382 (i) ರಾಷ್ಟ್ರೀಯತೆ : India
(j) ಪಾಸ್ ಪೋರ್ಟ್ ಸಂಖ್ಯೆ : ನಿರೀಕ್ಷಿತ ದಿನಾಂಕ :

ANNEXURE – II

Provisions invoked in the FIRs:

- I. Indian Penal Code, 1860
 1. **Section 143- Punishment.** –Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both (bailable)
 2. **Section 147- Punishment for rioting.** –Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. (bailable)
 3. **Section 148- Rioting, armed with deadly weapon.** –Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. (bailable)
 4. **Section 149- Every member of unlawful assembly guilty of offence committed in prosecution of common object.** –If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence (bailable or non-bailable)
 5. **Section 307- Attempt to murder.** –Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused

death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to 1[imprisonment for life] or to such punishment as is hereinbefore mentioned (Non-bailable)

6. **Section 323- Punishment for voluntarily causing hurt.** – Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both. (bailable)

7. **Section 324- Voluntarily causing hurt by dangerous weapons or means.** – Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. (Non-bailable)

8. **Section 333- Voluntarily causing grievous hurt to deter public servant from his duty.** – Whoever voluntarily caused grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as

such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine (Non-bailable)

9. Section 341- Punishment for wrongful restraint.—Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both (Bailable)

10. Section 353- Assault or criminal force to deter public servant from discharge of his duty.—Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person to the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.(Non-bailable)

11. Section 427- Mischief causing damage to the amount of fifty rupees.—Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. (bailable)

12. Section 504- Intentional insult with intent to provoke breach of the peace.—Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with

imprisonment of either description for a term which may extend to two years, or with fine, or with both. (bailable)

13. Section 506- Punishment for criminal intimidation.—Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc. — and if the threat be to cause death or grievous hurt, and if cause the destruction of any property by fire, or to cause an offence punishable with death or 8[imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both. (bailable)

II. Prevention of Damage to Public Property Act, 1984

Section 3 - Mischief causing damage to public property. --(1) Whoever commits mischief by doing any act in respect of any public property, other than public property of the nature referred to in sub-section (2) shall be punished with imprisonment for a term which may extend to five years and with fine.

(2) Whoever commits mischief by doing any act in respect of any public property being-

(a) any building, installation or other property used in connection with the production, distribution or supply of water, light, power, or energy ;

(b) any oil installation ;

(c) any sewage works ;

(d) any mine or factory ;

(e) any means of public transportation or of tele-communications, or any building, installation or other property used in connection therewith ;

shall be punished with rigorous imprisonment for a term which shall not be less than six months, but which may extend to five years and with fine:

Provided that the court may, for reasons to be recorded in its judgment, award a sentence of imprisonment for a term of less than six months. (non-bailable)

III. The Unlawful Activities (Prevention) Act, 1967

1. Section 16 - Punishment for terrorist act. —

(1) Whoever commits a terrorist act shall, — (a) if such act has resulted in the death of any person, be punishable with death or imprisonment for life, and shall also be liable to fine; (b) in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

2. Section 18 - Punishment for conspiracy, etc. —

Whoever conspires or attempts to commit, or advocates, abets, advises or 3 [incites, directly or knowingly facilitates] the commission of, a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

3. Section 20 - Punishment for being member of terrorist gang or organisation. —

Any person who is a member of a terrorist gang or a terrorist organisation, which is involved in a terrorist act, shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.

ANNEXURE - III

Arnesh Kumar vs State of Bihar, (2014) 8 SCC 273

The Supreme Court in this case highlighted that arrests curtail freedom, brings humiliation and casts scars forever, and therefore no arrest should be made only because the offence is non-bailable and cognizable. Just because it is legal to make an arrest in a particular case, does not mean that there is justification to arrest as well. The Court also observed that detentions are being authorized in a routine, casual and cavalier manner by the Magistrates. This judgement, while highlighting the misuse of power of arrest by the police and detention by the Magistrate, gave crucial guidelines which applies to cases where the offence is punishable with imprisonment for a term of less than seven years or which may extend to seven years, with or without fine. The guidelines so as to ensure that the police do not arrest unnecessarily, and the Magistrate do not authorize detention casually are as follows:

- i) Police officers do not have to automatically arrest the accused when a case is registered, but they have to first satisfy themselves about the necessity for arrest under Section 41 of the Code of Criminal Procedure, and all police officers are to be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);
- ii) The police officers must forward the checklist duly filled and furnish reasons and materials which made the arrest necessary while producing the accused before the Magistrate for further detention. The Magistrate must

also peruse this report and after recording its satisfaction to authorize detention of the accused;

- iii) a decision to not arrest must be forwarded to the Magistrate within two weeks of date of institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;
- iv) notice of appearance under Section 41A of the CrPC must be served to the accused within two weeks from date of institution of the case, which may be extended by the Superintendent of police of the District for the reasons to be recorded in writing;
- v) failure to comply with these directions will render the police officers concerned liable for departmental action, and they may also be punished for contempt of court before the High Court having territorial jurisdiction;
- vi) authorising detention without recording reasons by the judicial Magistrate concern shall be liable for departmental action by the appropriate High Court.

ANNEXURE – IV

We asked following questions to the family members of the accused:

1. Name, age, and occupation of the arrested person
2. When did the arrest take place?
3. Where were they arrested from?
4. Whether they knew the reason for the arrest?
5. Whether the arrested person is the sole earner for the family? If so, how are they sustaining?
6. How many members are in the family? Whether there is a disabled person in the family?
7. Whether their place of dwelling is their own or rented?

We asked the Civil Society members the following questions:

1. What do you think of the incident?
2. What efforts have you and/or your party/organization made to provide support to the affected persons?
3. What is the way forward from here?
4. What do you think of the role of the State?

ANNEXURE-V

VICTIM TESTIMONIES:

Najeer Ahmed (Age: 26 years, Occupation: Grounding/sheltering (Construction worker), Residing at: Sadar Sofa, Hubballi) & **Mahboob Sab Bankapur** (Age: 24-25 years, Occupation: Construction worker, Residing at: Sadar Sofa, Hubballi) :

We met Najeer's mother who is now bedridden due to a bad fall and injury to the hip. Najeer has three brothers and two sisters. He is the second son. His mother gave us the account of how he was arrested. She said that on 17th April 2022, the day after the incident, Najeer along with two labourers, Mahboob Sab Bankapur and Kareem Baig who work with him, was at the Indi Pump petrol bank filling fuel after which they were to head to work. At around 7:30 AM, the police arrested him and the two laborers who were accompanying him for allegedly being part of the mob that attacked the police station the previous night. But he was at home resting since it was Ramzan and he had an early shift for work. No intimation was given to his family, no notice was served for arrest. His family found out about the arrest at 11:30 AM after which they approached the police station seeking an explanation as to why he was arrested. The police assured them that they would release him after a basic inquiry. He was the one on whose earnings the house would run. With him arrested, everyday living has become difficult, his mother said while sobbing, remembering her son. She also told us that the last time they spoke to him, he complained that the food being served to him in the jail was not edible and that the conditions in the jail were not good. When asked what could be the possible reason for the police to apprehend him, his mother and brother told us that a lot of his work happens near Indi Pump and that could be the possible reason why he was apprehended as some of the arrests were made based on mobile phone signals.

We met Mahboob's mother and his wife. They told us that he worked with Najeer as a construction worker. His family did not know that he had been arrested and they found out late in the night after others called and informed them. When asked where he was at the time of the incident, they told us that he was home after a long day of

work. Their household has Mahboob, his wife, his mother, and his 9-month-old child. He is the sole earner of the family and now they are struggling to even eat. His wife told us that they live in a rented house and the rent for three months has not been paid. The last time his family saw him, they noticed that he had been beaten by the police and his legs were swollen because of it.

Najeer Ahmned and Mahboob Sab Bankapur were both placed at Gulbarga Jail.

Sarfaraz Bairakadar s/o Mohammed Rafiq: Age: 26 years, Occupation: Setting tiles/coolie, Residing at: Anand Nagar, Hubballi

Sarfaraz's mother spoke to us and told us that her husband is an alcoholic and her younger son has mental disabilities. On 19th April, 2022, two days after the incident, the police arrested Sarfaraz from his place of work. The family didn't know of his whereabouts until Wednesday. They later found out that he was sent to Ballari Jail.

His mother told us that they visited him at the Ballari Jail and he looked weak and tired. The family ate and could afford his younger brother's medical care when Sarfaraz would bring his earnings to the house. Having no other recourse, his mother has taken to domestic work to feed her family.

Irfan Abbigere s/o Saleem: Age: 22 years, Occupation: Auto Rickshaw driver, Residing at: Anand Nagar, Hubballi

Irfan's mother spoke to us and told us that he is the eldest son and has three younger siblings. Holding a photograph of her son in her hand, she told us that he was recently engaged and was to be married soon. He drove an auto rickshaw for a living and had to give a percentage of the earnings to the owner of the auto. On Sunday morning, a day after the incident, Irfan went to a shop after which he was heading to work. He was in the lane behind his house when many police personnel surrounded him and arrested him. She also shared with us that on that fateful day, there were many policemen who came in a big police 'tempo' and several police vans. The police were haphazardly filling the tempos and vans with people from the locality for allegedly taking part in the riot. She told us that she knows four other people from four lanes next to hers who were arrested that day. Irfan is placed in the Gulbarga Jail.

Irfan's mother told us that being the eldest of the family, he is the only earning member of the family and was saving money for his sisters' wedding. To be able to feed her children and run the house, his mother is making *beedis*.

Salauddin Karnul s/o Dadapeer: Age: 20 years, Occupation: Construction worker, Residing at: Arjun Nagar, near Anand Nagar, Hubbali

Salauddin is the youngest of the three sons born to his parents. His mother told us that his earnings were what sustained the house. On Tuesday, three days after the incident occurred, the police came to their house and arrested Salauddin while his ailing father watched them take his son away. On that fateful day, Salauddin was with his father in the house and they could not do anything to stop them.

His mother also told us that they went to the police station requesting his release and the police shushed them and told them to go back home and assured them that they will release him. But to their despair, he was never released. Now his mother is earning meager money by doing domestic work.

Iqbal Tadapatri s/o Mohammed Ghouse: Age: 28 years, Occupation: Pulls cart and construction work, Residing at: Anand Nagar, Hubbali

Iqbal was taking care of his mother, his wife and four year old child by doing more than one job. His mother told us that at 9 AM on Sunday, the morning after the incident, Iqbal was at home, about to leave for work when the police arrested him. He was later sent to Gulbarga Jail. The family has not visited him since his arrest as they have no money to make the trip to Gulbarga.

The family lives in a rented house and now his mother is working as a domestic help to take care of his wife and child.

Waseem Gastiwale s/o Hajare Sab: Age: 21 years, Occupation: Construction worker, Residing at: Anand Nagar, Hubbali

Waseem's maternal grandmother and mother spoke to us of the injustice done by the police. They told us that Waseem was sitting at home on Monday morning, two days after the incident, when the police came into the house at 10 AM and arrested him

stating that he was the recipient of the WhatsApp message. He was later taken to Gulbarga Jail.

Waseem is the eldest of three siblings. His younger brother and sister are only 18 and 17 years respectively. Now his younger brother has also started doing construction work. The women of the family are working as domestic help to be able to sustain the family of four.

Sadiq Bangdiwale s/o Lal Sab: Age: 32 years, Occupation: Auto driver, Residing at: Anand Nagar, Hubballi

Sadiq drives an auto for a living to be able to take care of his mother, wife, child and his mentally ill brother. Sadiq's mother told us that on Tuesday, two days after the incident, Sadiq was out to get medicines from a pharmacy in Gurunath Nagar (a kilometer from his house) at around 12 PM. The police nabbed him while he was trying to buy medicines without any intimation or explanation.

His mother told us that the family was not aware of his arrest. Someone known to them later informed them about his arrest. He is now placed at Ballari Jail. Sadiq is the sole earner of the house and now the family is struggling to keep the house running and they have no idea when he will be released.

Adil Shah Sheik s/o Mukhtiyar: Age: 23 years, Occupation: Auto Rickshaw driver, Residing at: Anand Nagar, Hubballi

Adil's mother inconsolably narrated the events of her young son's arrest. Adil drove an auto to earn livelihood and he had to pay some percentage of the earnings to the owner of the auto.

Adil was arrested at 12 PM on Monday, two days after the incident from near Indi Pump petrol bunk where the designated auto stand is. His family didn't know of his arrest until later in the afternoon. His mother told us that her husband, Adil's father is mentally ill and Adil took the entire house's responsibility and ensured that five members of the family were fed. There is no one else to take care of Adil's wife and his son. Adil is now in Gulbarga Jail.

Imtiyaz Bangaloori s/o Late Sadiq: Age: 20 years, Occupation: Construction worker, Residing at: Anand Nagar, Hubballi

Imtiyaz's friend spoke to us and told us that he was picked from near Hubballi Hall where he was sitting with a few friends on Sunday at around 12 - 12:30 PM.

Imtiyaz lives with his aunt and mother and takes care of them after the death of his father. They live in a rented house and he is the sole earning member of the family. His friend also told us that his family did not know of his arrest. When their neighbours told them that the police had been rounding up several people, they went to the police station to enquire. That is when they found out he was arrested. He is now at Gulbarga Jail.

Riyaz s/o Fakrusab Khansab: Age: 24 years, Occupation: Mechanic mestri, Residing at: Anand Nagar, Madani Mosque

Riyaz was arrested at around 10 pm two days after the incident on the grounds that he was seen in the CCTV footage / Phone signal. The police came to his house and arrested him. When his father went to the police station to enquire, he was told that his son was moved to Gulbarga Jail.

His father visited him in the jail and found out that his son was not even provided clothes or blankets. So, his father gave him some clothes and a blanket.

Mohammed Asif Yalival s/o Hussain Sab: Age: About 39 years, Occupation: Mason/Construction worker, Residing at: Anand Nagar, Hubballi

Asif's mother told us that he was drinking tea at home on Sunday, the day after the incident when the police came to their house and arrested him at 8 PM without giving any rhyme or reason. They came in civilian clothes and abruptly dragged him. He was the sole earner of the family. He has four young children and is also taking care of two of his brother's children after their mother passed away. He is responsible for six children, his wife and his mother since father's death.

His mother also told us that they requested the police to release him but the police gave them false assurances of releasing him soon. The family kept hoping that he

would come back home but then they found out that he was first sent to Dharwad Jail and then subsequently moved to Gulbarga Jail. When his family went to visit him in the jail, they noticed that he had gotten very weak.

Now his aged grandfather is doing scrap business and ensuring that the children in the house don't go to sleep hungry.

Gouse Soudagar:

Gouse Soudagar is a truck driver. That night of 15th April, as usual, Gouse parked the truck at APMC for dust and returned back home on his two-wheeler. So as to reach his home at Anand Nagar he has to pass from Indi-Pump (the incident spot), which he did so that day. 'That is how the location matches' says her wife. He was picked on the basis that his mobile location matched to the incident spot that day. He was arrested 7 days later in the morning around 8:00 am when he was watching T.V. at home.

Mehboob Ali:

Another target of the police's discriminatory and arbitrary pickups was Mehboob Ali, an auto driver from Anand Nagar. On 16th April, when Ali was driving his auto with passengers in it, the police arrested him near the Karwar Road bridge. The police are said to have asked his name and after confirming that he was a Muslim, took him away. It had been one and half years to Ali's marriage and all economic burden and maintenance of his family has now fallen on his elder brother, Saleem.

Md. Sameer, accused no. 46:

Just beside the bakery, in a dilapidated shed covered by tarpaulin sheets, 25-year-old Mohammed Sameer runs a small canteen. Sameer who got bail in the case along with seven others initially, also spoke about how he was nabbed by the police in the morning while he was returning after filling water. "I had to fill the water cans as the drinking water was over in the canteen. I was slowly following the police vehicle (not noticing or suspecting anything). As I stopped in front of my canteen, the police picked me up"

Such is the tragedy that Sameer did not even know about the previous night's incident until he was taken for signature in the control room. "No one in this line (pointing towards the shops) knew anything about the incident. I also did not know, even about the (WhatsApp) status. I only got to know that such an incident had taken place only when the PSI said to me in the control room," says Sameer with a smile on his face. When it was asked whether he had any criminal background in the past, Sameer and few other shopkeepers who had joined in, burst into impromptu laughter.

He believes that total injustice has been meted out to him by the police. Further when asked about what would compensate him for the trauma he had endured, he says, "First remove the UAPA. This itself is the biggest (allegation)." Sameer got to know about the inclusion of UAPA charges against him only after a month when he was released on bail.

ANNEXURE VII.

CHARGESHEET

(Relevant portions from the chargesheet extracted which is originally in Kannada)

It can be observed from the charge sheet that many meetings were held in the premises of Fateh Shah Wali Dargah and in the premises of Millatnagar Masjid, Mantur Road, Hubballi. In one of the meetings it was decided that if any kind of inhumane activities take place against Muslims, more number of people should support in taking revenge against them in the future protests by targeting the Police Stations and Government Office, pelting stones towards police officers, hurting them physically, demolishing the Police Stations and police vehicles, and damaging the public property by carrying out terrorist activities and spread fear among the majority community. Because of the same, the majority community will be left with a fear that the people who didn't spare the police, will leave common citizens? Then all the restraints and inhumane activities against the Muslims might be reduced. This was the secret plan made.

On the day of the incident, Gous Soudhaghar who had joined the other accused near Old Hubballi Police Station and Indi Pump Circle circulated a voice message saying "*Humaare huzur ki gustaki karya. Indi Pump Dargah paas eklaa dhagdaanka Anandnagar vale kathe. Huzur ki shaan mein gustaki karya raandaka Indi Pump Station mein hai. Poore Musalman jama yaha*" among the whatsapp groups namely Lion Lifter Fitness Gym, Islamic Sultan Group and Hubballi Goodshed King, and many other members who belonged to the community and asked them to gather near the Police Station.

All the accused as a part of their secret plan, with a main intention to create a rumpus, assembled unlawfully with around thousand people. When instigated, a few members of the illegal association rushed towards the police and started to push the police officers who tried to stop them. At that point of time, the police officers started a lathi charge in order to stop the aggressive group. P.I. Bandigeri warned them and in order to scatter them ordered to burst the tear gas. The gathered accused moved backward, took stones and bricks and started to throw them towards the police station

and the officers. At the same time, one accused took a hand-sized stone and threw it towards a police officer with an intention to kill him, which fell on the foot of another police officer. Once again, the police through the Police Address System warned them to leave the place, but the pelting and the rumpus shouting became more intense and aggressive. In order to control the mob, the S.P. again ordered for a lati charge. Despite many warnings, they continued to pelt the stones from afar, as a result of which, six fiber cane shields were damaged. So, the police fired sixteen rubber bullets towards them. Because of the aggressive activities of the mob, the police felt a threat to their lives and hence fired four bullets from a 4 mm. rifle in the air. The mob feared for their life and scattered here and there.

Many chaotic activities and commotion took place in many areas of the city namely, Anandnagar Cross, Indi Pump Circle, Gokul Road, near Nagashanti Service Center, Heggeri Lokur Dyammava's Padagatli, the premises of S.P. South Sub-Division Office, where the police vehicles were blocked and the accused attacked the police officers who were on protection duty by pelting stones towards them and threatening their lives, and also caused heavy damage to the government vehicles. In order to hurt the religious sentiments of the majority community, they pelted stones towards Hanuman Temple. They also threw stones and bricks towards people's residence and a local government light pole in Asara Street, and have broken a window glass of a Post Office in Ahimsa Circle.

All the accused unlawfully made an association, attacked the police station and police officers, pelted stones, broke the doors and window glass of the Police Station, and carried out terrorist activities. They disturbed the religious sentiments of majority people, created an environment of violence, and interfered with the work of on-duty officers. They abused the officers with unpleasant words, and threatened their lives by attacking them with stones. A police inspector and other officer were hurt so badly that their lives were put in danger. Around twenty officers were injured with small wounds and received first-aid. One Innova Crysta and six police jeeps were damaged very badly. They created fear among the public and the majority community and made their normal life an anxious and a difficult one.

ANNEXURE-VIII

<u>Sl. No.</u>	<u>Name</u>	<u>Age</u>	<u>Occupation</u>	<u>Date & time of arrest</u>	<u>Place of arrest</u>	<u>Prison</u>	<u>Dependents</u>
1	Nazeer Ahmad	26	Construction worker	17 Apr 7.30 am	Indi pump petrol Bunk	Gulbarga prison	3
2	Ibrahim	35	Fruit vender	17 Apr early morning	Mandi	Gulbarga prison	4
3	Mehaboob sab Bankapur	25	Construction worker	17 Apr early morning	Indi pump petrol Bunk	Gulbarga prison	3
4	Mohammad Jafar	27	Construction worker	17 Apr 8.30 pm	Near residence	Gulbarga	5
5	Salauddin Karnul s/o Dadapeer	20	Construction worker		From home	Don't know	2
6	Hazrat Tajuddin Sheik	32	Road construction worker	17 Apr morning	Near home	Gulbarga jail	2
7	Mohammed Shafi Sheik	30	Road construction worker	17 Apr morning	Near home	Don't know	2

8	Akbar Ali Yadawa s/o Dastagir Sab	32	Mobile shop	19 Apr morning	At mobile shop	Ballary jail	3
9	Sikandar Makaandar s/o Kasim Sab	35	Painter	17 Apr 2 am	At home	Gulbarga jail	3
10	Shamsuddin Jamadar s/o Modin Sab	26	Tiles setter	17 Apr 1pm	At home	Gulbarga jail	2
11	Iqbal Tadapatri s/o Md Ghouse	28	Push cart & construction worker	17 Apr 9 am	At home	Gulbarga jail	5
12	Waseem Gastiwale s/o Hajare Sab	21	Construction worker	18 Apr	At home	Gulbarga Jail	3
13	Javed Bagalkot s/o Imam Sab	38	Factory worker	18 Apr 10 am		Gulbarga jail	5
14	Adil Shah Sheik s/o Mukhtiyar	23	Auto driver	18 Apr 12 pm	At home	Gulbarga	2
15	Sadiq Bangdiwale s/o Lal Sab	32	Auto diver	19 Apr 12 pm	outside	Ballari jail	3

16	Syed Shabbir Bangaloori s/o Syed Afroz	37	Work in Welding shop	16 Apr 1.30 am	From home	Gulbarga jail	4
17	Mabuli Madagavi s/o Salyada Sab	27	Auto driver	18 Apr 5.30	From the road	Unaware	3
18	Mushtaq Ali s/o Shaukat Ali	27	Tiles fixer	18 Apr 7 pm	Father released	Ballari jail	3
19	Sablu Salmani	26	Hair dresser from UP	18 Apr 8.30 am	Saloon	Gulbarga	3
20	Salman Khan	20	Hair dresser from UP	18 Apr 8.30 am	Saloon	Gulbarga jail	4
21	Sikandar Ron s/o Raje Sab	36	Tiles fixer	16 Apr 2.20 am	Incident spot	Gulbarga jail	4
22	Imtiyaz Bangaloori s/o Late Sadiq	20	Construction worker	16 Apr 12.30 am	unaware	Gulbarga jail	3
23	Dadapeer Peerawala	37	Paan shop	16 Apr 3.30 am	From home	Gulbarga jail	4

24	Shahbaaz Lashkar s/o Anwar Lashkar	19	Mutton shop	18 Apr 8.30 pm	On his way home	Gulbarga jail	2
25	Riyaz s/o Fakrusab Khansab	24	Mechanic	17 Apr 10 pm		Gulbarga jail	-

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NAJAR:

The *National Alliance for Justice Accountability and Rights (NAJAR)* would like to acknowledge the contribution of all most sincerely those who led to the successful completion of this Fact -Finding visit to ascertain the unfolding of events in the Hubballi incident. The report has been made possible by the efforts of a vast number of people.

We acknowledge the women, wives, mothers living especially in Anand Nagar who came forward to speak and shared their experience on the arrests of their male family members. We were treated as their near- dear ones.

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ABOUT THE ORGANIZATIONS

PUCL: The People's Union for Civil Liberties (PUCL) is a civil liberties and human rights body formed in 1976 whose membership has included eminent judges like Justice Rajendra Sachar and well known lawyers such as K.G. Kannabiran and Tarkunde as well as well known academics like Rajni Kothari. PUCL is a non-funded, autonomous organisation which runs on the voluntary efforts of its members. The PUCL has been working for over forty years with the aim of fulfilling the promise of the constitution. A number of judgments of the Supreme Court which ensure basic rights for citizens including the right to food [2007 1SCC 728], freedom from bonded labour[(2005) 2SCC 436 and liberation of persons in manual scavenging have had the PUCL as the petitioner. PUCL has also conducted fact findings on a number of human rights issues. The PUCL- Karnataka was established as a state unit, in the late 1980's and has conducted a number of fact-findings on human rights violations on the basis of caste, religion, sexuality as well as a range of other issues. PUCL- K has also been a petitioner in the Karnataka High Court as well as appeared before the SHRC on human rights issues.

NAJAR: The National Alliance for Justice, Accountability and Rights (NAJAR) is an initiative of National Alliance of People's Movements (NAPM - a 3 decades old platform of movements), collectivizing progressive legal professionals for democratic causes and solidarity with people's movements across the country.

NAJAR has been conceptualized as a united and vital platform of a) Practicing Lawyers b) Law Researchers c) Law Faculty d) Law Students e) Law graduates involved in socio-legal activism, in the face of organized assaults on constitutional ideals and rights, the escalation of divisive forces and erosion of democratic and human rights of working class and marginalized groups and those working with them.

NAJAR seeks to pursue causes of social & ecological equity, justice and safeguarding of constitutional rights, and to provide critical legal support and solidarity to people's movements across India.