Polity & Governance · GS - II

Critically examine the constitutional tension between stringent anti-terrorism laws and the fundamental rights of accused persons, particularly the right to personal liberty and speedy trial.

EXAM YEAR	PAPER	SUBJECT
DAILY PRACTICE 25/11/2026	GS - II	Polity & Governance

MARKS	WORD LIMIT
15	~250 words

Answer Hint

Article 21, UAPA, Section 43D(5), presumption of innocence, prolonged incarceration, judicial review

Model Answer

India requires effective anti-terrorism legislation to address threats to national security. However, extraordinary investigative and bail provisions must operate within constitutional guarantees of fairness, liberty and judicial accountability.

Security imperatives and statutory framework

1. **UAPA:** The Unlawful Activities (Prevention) Act, 1967 provides mechanisms to investigate and prosecute activities threatening India's sovereignty, integrity and security.
2. **Restrictive bail provisions:** Section 43D(5) imposes a stringent threshold where the court considers whether accusations are prima facie true.
3. **Investigative requirements:** Complex conspiracy and terrorism cases may require extensive evidence collection, financial investigation and inter-agency coordination.

Constitutional concerns

Article 21 protects life and personal liberty and requires fair, just and reasonable procedure. Prolonged pre-trial detention can undermine this guarantee, particularly when trials remain pending for years.

The presumption of innocence and the right to a speedy trial are essential components of criminal justice. In *Union of India v. K.A. Najeeb* (2021), the Supreme Court recognised that constitutional courts may grant bail where prolonged incarceration and delay in trial raise serious liberty concerns, notwithstanding statutory restrictions.

Balancing security and liberty

1. Investigations should be time-bound and supported by credible evidence.
2. Courts must independently assess prolonged detention and trial delays.
3. Special legislation should not become a justification for indefinite incarceration without trial.
4. Adequate judicial capacity and case management are necessary for timely adjudication.

National security and constitutional liberty are not mutually exclusive. A legitimate anti-terrorism framework must protect society while preserving the constitutional principles governing criminal justice.

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