Polity & Governance · GS - II

The stringent bail provisions under the UAPA raise concerns about balancing national security with the constitutional protection of personal liberty. Analyse.

EXAM YEAR	PAPER	SUBJECT
DAILY PRACTICE 28/11/2026	GS - II	Polity & Governance

MARKS	WORD LIMIT
15	~250 words

Answer Hint

UAPA, Section 43D(5), prima facie standard, Article 21, personal liberty, presumption of innocence, judicial scrutiny, speedy trial

Model Answer

The Unlawful Activities (Prevention) Act, 1967 (UAPA) provides a stringent legal framework to address terrorism and activities threatening India's sovereignty and security. However, its restrictive bail provisions raise important questions concerning individual liberty and due process.

Section 43D(5) restricts the grant of bail in cases involving offences under Chapters IV and VI when the court, after examining the case diary or prosecution report and hearing the Public Prosecutor, finds reasonable grounds for believing that the accusation is prima facie true.

This framework creates several challenges:

1. **Presumption of innocence:** Stringent bail restrictions may result in prolonged detention before guilt is established through trial.

2. **Personal liberty:** Extended pre-trial incarceration raises concerns under Article 21 of the Constitution.

3. **Delayed trials:** Complex investigations and lengthy judicial proceedings can increase the period of detention.

4. **Judicial responsibility:** Courts must carefully examine the available material while respecting the statutory restrictions and constitutional safeguards.

5. **National security:** At the same time, effective anti-terrorism laws are necessary to prevent serious threats to public order and national security.

The Supreme Court's jurisprudence, including *Union of India v. K.A. Najeeb* (2021), recognises that constitutional courts can grant bail where prolonged incarceration and an unlikely prospect of timely trial threaten fundamental rights.

Conclusion

National security and personal liberty must operate within the constitutional framework. Timely trials, reasoned judicial decisions and effective safeguards against arbitrary detention are essential to maintaining this balance.

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