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GAUTAM NAVLAKHA VS. NATIONAL INVESTIGATION AGENCY, CRIMINAL APPEAL NO. 510 OF 2021

Tharun R¹

I. INTRODUCTION

A prominent case that has drawn a lot of attention and stirred a lot of controversy in India is Gautam Navlakha v. NIA. It centres on the National Investigation Agency's (NIA) detention of journalist and human rights activist Gautam Navlakha on suspicion of taking part in the Bhima Koregaon violence case. Questions about human rights, free expression, and the ability of the state to muzzle dissident voices have all been raised by this case. Concerns have also been expressed concerning the growing practise of designating activists as "urban naxals" and putting them at risk of prosecution under harsh laws like the Unlawful Activities (Prevention) Act (UAPA). The matter made it to the Supreme Court, which had to determine whether the petitioner's 34 days of house arrest could be added to the 90 days needed to request default bail under Section 167 of the Code of Criminal Procedure (CrPC). The ruling established multiple precedents, including a new level of police and court custody, and offered instructions for making Section 167 home arrest orders.

A. CORAM

The coram in the current case comprised the 2-judge bench of Hon'ble Justice Uday Umesh Lalit and Hon'ble Justice K.M. Joseph.

II. FACTS

Journalist and human rights activist Gautam Navlakha was taken into custody in connection with the clashes between Elgar Parishad and Bhima Koregaon in India. On December 31, 2017, a celebration commemorating the 200th anniversary of the Mahar

¹ Advocate (Criminal Law Practitioner) (India). Email: tharun8r@gmail.com

Dalits' triumph over the Marathas took place. On January 1, 2018, rioting between the Maratha and Dalit populations broke out. For their suspected involvement in the violence, activists, attorneys, professors, and journalists were detained and charged with violating the criminal code, national security legislation, and terrorist laws. On January 8, 2018, an FIR was lodged, and further FIRs containing charges under the Unlawful Activities Prevention Act of 1967 (UAPA) were filed on March 6 and May 17, respectively. Based on letters and emails discovered on electronic devices taken from the defendants, the authorities claimed that the violence was part of a bigger Maoist plot to kill Prime Minister Narendra Modi and topple the Indian government. According to reports from Arsenal Consulting, this evidence was inserted into the accused's computers.

On August 28, 2018, Navlakha was taken into custody at his Delhi home. The Delhi High Court delayed the Magistrate's decision and ordered that he be placed under house arrest until further orders. Although the accused were given permission to remain under house arrest for another four weeks and to seek any legal remedy, the Supreme Court denied a request for an independent inquiry. On October 1, 2018, the Delhi High Court ruled that Navlakha's home detention was illegal and ordered that it be lifted. Then, Navlakha went to the Bombay High Court to ask for the FIR to be dismissed.

The Bombay High Court determined that the letters presented to them were not damning. In September 2019, the court denied Navlakha's plea when the state delivered sealed papers holding evidence against him. The Supreme Court and the Sessions Court both rejected Navlakha's request for anticipatory bail, and the Bombay High Court and the Supreme Court both rejected his request for bail, claiming that the evidence against him was sufficient to show that he was involved in the Elgar Parishad-Bhima Koregaon violence. After the Supreme Court refused him justice, Navlakha turned himself in to the National Investigation Agency (NIA) on April 14, 2020. Since then, he has been in judicial detention.

The accused made a default bail plea before the NIA Special Court on July 12 after being detained in jail for a total of 90 days during which the NIA failed to submit an accusation

or request an extension. However, when his motion was turned down, he appealed to the Bombay High Court. The NIA eventually submitted a charge sheet against him on October 9, 2020. His appeal under Section 21 of the NIA Act was denied by the Bombay High Court. The defendant had previously served 90 days in jail in total, which comprised 34 days under house arrest, 11 days of NIA detention in April 2020, and a term of judicial detention from April 25 to June 28, 2020. The accused went to the Supreme Court to ask for default bail and to include the 34 days of house arrest in the calculation of the time period for submitting the charge sheet under the Unlawful Activities Prevention Act after the NIA applied to the NIA Special Court to extend the deadline for filing the charge sheet.

III. ARGUMENTS

A. APPELLANT

- Navlakha argued that the statutory period of 90 days required for submitting the chargesheet had expired. It comprised 34 days of home arrest, 11 days of NIA custody in April 2020, and a period of judicial detention from April 25, 2020, to June 28, 2020. He was, therefore, entitled to a default bail in accordance with CrPC Section 167(2).
- The NIA had requested an extension of the deadline for submitting the charge sheet before the NIA Special Court. However, since the application was not submitted within the required 90 days, it was unlawful and void.
- The unlawful imprisonment of Navlakha throughout his time under house arrest was a breach of his basic rights as guaranteed by Article 21 of the Constitution.
- The NIA was unable to establish any solid or credible evidence against Navlakha; his continuous arrest was not warranted.

B. RESPONDENT

- Due to the substantial interruptions in the investigative process brought on by the COVID-19 outbreak, the 90-day statutory deadline for submitting the charge sheet was extended.
- According to the guidelines of the Unlawful Activities Prevention Act (UAPA), Navlakha's imprisonment was legitimate and legal since there was enough proof of his participation in illegal activities.
- Navlakha's engagement in Maoist operations went beyond simple expressions of disapproval or support for human rights; it also included taking part actively in plots against the government.
- Release of Navlakha on default bail will compromise the current investigation and endanger the security of the country.

IV. REASONING AND RATIO

In the case of Gautam Navlakha, the Supreme Court had to decide whether the 34 days he spent under house arrest qualified as police custody under Section 167 of the Code of Criminal Procedure (CrPC) in order to determine the default bail time frame. An accused person may be held in police custody for a maximum of 15 days under Section 167 of the Criminal Procedure Code; however, this duration may occasionally be increased to 90 days. After this time, the defendant must be brought before a magistrate who may approve further detention. The defendant is eligible for default bail if he is not freed on bail within this time or is found not guilty.

The Delhi High Court had put Navlakha under house arrest, and his attorneys contended that this amounted to a modification of his police custody and should be taken into account while determining the duration of default bail. However, the Supreme Court ruled that the Delhi High Court's decision for house arrest could not be read narrowly to fall within Section 167 of the CrPC. This is due to Section 167's requirement that the

Magistrate with the appropriate authority grant an order of detention. In this instance, the Delhi High Court, and not a Magistrate, imposed house arrest.

Subsequently, the Court rejected Navlakha's claim that the 34 days of home detention should be added to the 90-day default bail term. The Court determined that in order for a person to be eligible for default bail, Section 167 requirements must be met and that house arrest is not police custody for the purposes of the computation. The court ruled that extending the police custody remand beyond the first 30-day window would be inconsistent. The Court also discussed the question of whether house arrest qualified as legal custody in India. The court ruled that, although home arrest is not a common form of imprisonment in India, there doesn't seem to be any legal reason why it shouldn't be treated as such if an authorised magistrate issues the appropriate order.

However, the Court made clear that such a choice would depend on the gravity of the offence, the accused's age, and his or her health, and would be made on a case-by-case basis. The Court also reasoned that the detention beyond 24 hours might be regarded as unconstitutional if the duration of house arrest is seen as an order that must be issued in accordance with Section 167 of the Criminal Procedure Code. The court ruled that the accused's custody was unlawful since it was only authorised by the magistrate for a two-day period, and he was required to be shown on August 30, 2018. On the other hand, his passage was prohibited by a Delhi High Court ruling. The Magistrate's order cannot thereafter be used to cover the time frame from after August 30 to October 1. In actuality, the time frame is said to be covered by the home arrest order at that point.

The Court determined that home arrest does not fall within the definition of lawful detention under Section 167(2) of the CrPC. The panel ruled that even if the accused was taken into custody earlier, the 90-day term would nonetheless begin to run on the day of detention. As a result, the appellant's home arrest term, which ran from August 28 to October 1, 2018, had to be dropped. The Supreme Court noted that home arrest is not entirely foreign to custody in India and may be regarded as a legal form of custody if such an order is made by a qualified Magistrate. The Court did rule, however, that the

decision to impose house arrest should depend on the gravity of the offence, the accused's age and health, and should be made on a case-by-case basis.

The court further explained that a house arrest order is not the same as being in police custody since, in the former, the accused is free to stay in the limits of their own home, whilst in the latter, they are in the custody of the police. Therefore, the time spent under house arrest is not covered by Section 167 of the CrPC. The Bombay High Court's ruling that Gautam Navlakha was ineligible for default bail because his time spent under house arrest could not be considered as police custody under Section 167 of the CrPC was affirmed by the Supreme Court in light of this. The Court did, however, make clear that, under the right conditions, the idea of home arrest might be deemed a legal form of detention, and that any such choice should be made in light of the particular facts and circumstances of each instance.

V. CONCLUSION

In circumstances where home arrest is used as a form of custody, the Supreme Court's ruling in *Gautam Navlakha v. National Investigation Agency* has significant implications for the notion of custody in India. The Court has made it clear that home detention is legal if it is ordered by an accredited magistrate and is based on the seriousness of the crime, the accused's age, and his or her health. This judgment defines the rights of accused people with regard to default bail and the computation of the 90-day period under Section 167 of the Criminal Procedure Code (CrPC) and offers a framework for how and under what circumstances such orders should be made.

A major step towards ensuring fair and reasonable treatment of accused individuals in the Indian criminal justice system is the Court's focus on completing the requirements under Section 167 for the right to default bail and the incongruity of police custody detention beyond the initial term of 30 days. However, the decision also has important drawbacks, notably for journalists who perform investigative reporting, whistle-blowers, power imbalances in society, and freedom of speech and expression.

As it seems to be based more on technicalities than the merits of the case, the ruling may erode public confidence in the legal system. Those who think the accused was guilty may see this as a miscarriage of justice, which might reduce public faith in the court system's fairness and objectivity. The rule of law must be upheld at all costs, and the judgment may unintentionally undermine public confidence in the legal system.

Furthermore, the verdict can discourage journalists and whistle-blowers from going after corrupt behaviour by influential people or organisations. Potential whistle-blowers may be discouraged from coming forward with crucial information that the public has a right to know due to their fear of being sued for slander or defamation. This could result in a climate of secrecy and impunity where individuals in positions of authority can behave irrationally and without concern about repercussions.

In addition, the ruling can legitimise existing racial and gender power disparities in society. The complainant in this case was a relatively obscure and weak lady, whereas the accused was a rich and powerful guy. The verdict may be seen as a triumph of the strong against the weak, and it might keep minorities and women on the margins of society. Additionally, it could prevent sexual assault or harassment victims from coming forward, especially if they lack the accused's finances or power.

Finally, the decision could have broader effects on the right to free speech and expression. The verdict in this case, which included a media outlet and a public figure, may be seen as limiting the press's freedom to cover stories of public interest. Investigative journalism may be discouraged as a result, and the media may find it more difficult to hold individuals in positions of authority accountable. Additionally, it can make people wonder how to preserve the appropriate balance between the right to privacy and the freedom of expression, as well as the function of the media in doing so.

The verdict in *Gautam Navlakha v. National Investigation Agency*, in particular, the legality of home arrest as a kind of custody, clarifies the definition of custody in India. Although the focus on meeting the requirements under Section 167 for the right to default bail and the incongruity of police custodial remand beyond the initial period of 30 days

is a positive step, the decision may have detrimental effects on the public's trust in the legal system, whistle-blowers and investigative journalists, power imbalances in society, and freedom of speech and expression. Society must find a way to combine the protection of individual liberties and rights with the need to hold those in positions of authority responsible for their deeds. This necessitates ongoing attention to how judicial judgements affect larger society values and interests.

VI. REFERENCES

- Gautam P. Navlakha v. National Investigation Agency, Supreme Court of India (Criminal Appeal / Civil Appeal arising out of NIA matter – May 12, 2021)
- Unlawful Activities (Prevention) Act, 1967 (Central Act governing UAPA offences).
- Maneka Gandhi v. Union of India, AIR 1978 SC 597 (Supreme Court of India on Article 21).
- Raghubir Singh v. State of Haryana, (1989) 1 SCC 44 (Supreme Court on bail/custody principles).
- R.D. Upadhyay v. State of Andhra Pradesh, (2006) 4 SCC 274 (Supreme Court on default bail under CrPC).
- K.K. Verma v. Union of India, (1997) 8 SCC 60 (Supreme Court on personal liberty/ Article 21).
- S.P. Gupta v. Union of India (Judicial Services Case), AIR 1982 SC 149 (Constitutional interpretation involving rights and judicial process).
- State of Rajasthan v. Balchand, (1977) 4 SCC 308 (Supreme Court: "bail is rule, jail is exception").
- Chaganti Satyanarayana v. State of Andhra Pradesh, (1999) 5 SCC 172 (Supreme Court on custody/remand interpretations).

- *State of West Bengal v. Dinesh Dalmiya*, (2004) 10 SCC 524 (Supreme Court on custody/CrPC remand principles).
- *State of Uttar Pradesh v. Bhagwant Rai*, (1962) Supp 1 SCR 315 (Supreme Court on fundamental rights in criminal process).
- National Crime Records Bureau Statistics on Undertrial Prisoners (latest annual report/Ministry of Home Affairs)
- *Union of India v. K.A. Najeeb*, (2021) Supreme Court decision on bail under UAPA (reported in SCC and legal summaries).
- *Central Bureau of Investigation v. Dayamoy Mahato*, Supreme Court on bail principles in national security/public order cases (2025).