

News

A petitioner to the Delhi High Court is challenging the anti-terror law, arguing that a journalist who claims the AI Summit is going badly could be imprisoned under the UAPA.



The Foundation for Media Professionals' case began with arguments from Senior Advocate Arvind Datar.

Arguments in a number of petitions contesting various provisions of the Unlawful Activities Prevention Act (UAPA) were begun by the Delhi High Court on Thursday.

The High Court has received four petitions in all. Senior Advocate Arvind Datar presented the argument on behalf of the Foundation for Media Professionals, one of the petitioners.

According to him, the organization has contested Sections 2(1)(o)(iii), 43D(4), the proviso to 43D(5), Sections 35 and 36, and Chief Justice Devendra Kumar Upadhyaya and Justice Tejas Karia.

Although creating or attempting to cause disaffection against India is considered "unlawful activity" under Section 2(1)(o)(iii), Section 43D(4) forbids the granting of anticipatory bail. In a UAPA case, the proviso to Section 43D(5) states that bail cannot be granted if there are substantial grounds to think that the charge against the defendant is prima facie true after reviewing the case diary. The designation of an individual or an organization as a terrorist or a terror organization is covered in Sections 35 and 36.

Datar contended that Section 2(1)(o)(iii) is arbitrary, ambiguous, and overly broad. He claimed to be speaking on behalf of a group of journalists and said the law now makes it illegal for a journalist to write an article that criticizes the government's mining policy or the current AI summit.

"At this point, there are no limits or limitations. A journalist who claims that the AI-summit is failing could go to jail. Fundamental to the UAPA is the journalist's ongoing concern that any criticism would be interpreted as a sign of disenchantment with India. I might object to a mining policy. Even if it would portray India negatively, he said, "as long as I'm not encouraging or inciting violence, it's not illegal; it's democracy."

Regarding the ban on anticipatory bail, he stated that the UAPA clause is in violation of Article 14 of the Indian Constitution since the Bharatiya Nyaya Sanhita (BNS) contains comparable provisions wherein bail may be given.

He added that it is illegal to deny someone bail based on their case diary and that courts have ruled since 1897 that case diaries are not admissible as any type of evidence.

He declared, ***"A case diary can only be used to contradict the police officer."***

The Court stated that the case will resume on March 16 after hearing Datar for a while.

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