



# Evidences in Organised Crime & Offences Against National Security

## SECURING TRANSNATIONAL EVIDENCE

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# Fact Pattern: Terror Group Planning and Execution

- A terror group, based in Narnia, planned a terror attack on major cities of India. Some of the trained persons were provided support from a radical group of People's Republic of Gondor.
- Bombs were placed at prominent public places and public transports of one major city of India.
- Prior to the incidence intelligence department of India received an input and in accordance thereto, along with Special Task Force with NIA immediately activated and arrested some of the Indian nationals along with other persons having nationality of Narnia, Morwood and Gondor.
- In spite of arrests several explosions occurred on 9th November 2022 causing casualties and destruction of property. National Investigating Agency (NIA) registered the case and started investigation.
- The investigation revealed some logistic, manual, technical and financial assistance of several persons belonging to above countries in order to operate the above noted terror attack. During investigation the major conspirator Al-Altaf, Sam Jawahiri and Ahmad Al-Baksh were interrogated, they named one Nathligam and Nandini, members of one radical Maoist group of India, who were responsible of mobilizing funds through dark web, which persuaded some more persons and sleeper cells, active in India, to join the plan for attack. Some unaccounted money was also recovered.
- Al-Altaf, Samir Jawahiri and Ahmad Al-Baksh, Nathligam, Nandini and others were named, investigated and tried for criminal conspiracy under relevant section of IPC, UAPA, PMLA, Fugitive Economic Offender Act etc.

# Points of Consideration: Identifying Issues and Challenges

**A**

## Identifying Transnational Issues

Identify  
Transnational  
Issues regarding  
securing  
evidences

**B**

## Suggested Solutions

Suggest solutions  
coordinate  
evidences  
successful  
adjudication

some  
to  
and

# **Securing Evidence in Transnational Terrorism Cases in India poses several Challenges**

- **Lack of International Cooperation**
- **Jurisdictional Issues**
- **Intelligence Sharing**
- **Digital Evidence & Forensic Analysis**
- **Witness Protection**
- **Chain of Custody**
- **Language Barriers**
- **Funding and Resources**
- **Coordination Among Agencies**

# Addressing challenges & interplay of different laws

## Laws Governing Evidence

- **Indian Evidence Act, 1872/ BSA 2023**
- **Code of Criminal Procedure, 1973 (CrPC)/ BNSS 2023**

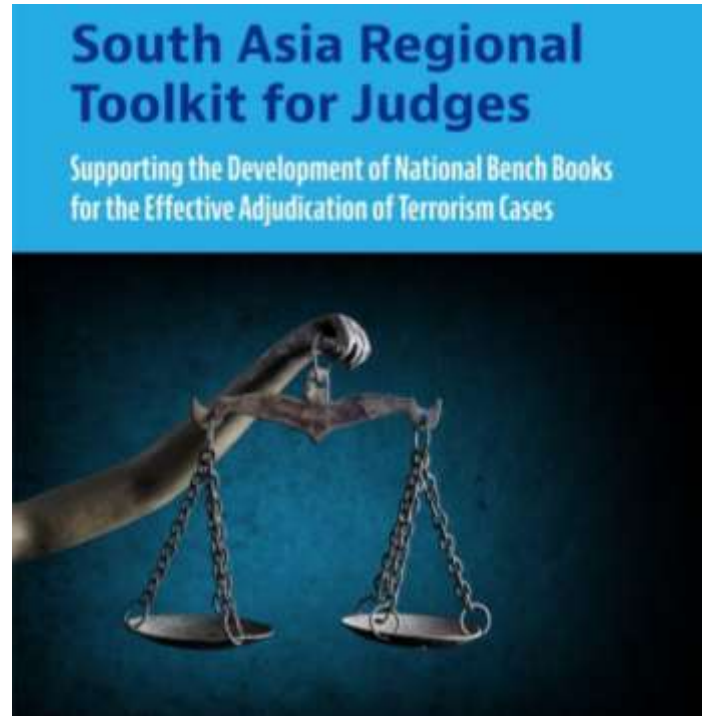
## Anti-Terrorism Laws

- **Bharatiya Nyaya Sanhita, 2023 (BNS)**
- **Unlawful Activities (Prevention) Act, 1967 (UAPA)**
- **Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA):**
- **Prevention of Terrorism Act, 2002 (POTA)**

# **FINDING SOLUTIONS**

**Any guidelines available in India  
to cater these transnational  
issues?**

- Comprehensive guidelines of MHA IS II Division/Legal Cell I dated 04-12-2019.
- These guidelines are in consonance with United Nation Security Council.



# Provisions in Criminal Procedure Code/ BNSS and other Acts in relation to Transnational Issues?

## CrPC/ BNSS

S. 166A Cr.P.C./ S. 112 BNSS – Letter of Request to competent authority for investigation in a Country or a place outside of India

## CrPC/ BNSS

S. 105K Cr.P.C. / S. 123 BNSS – Procedure in respect of Letter of Request

## PMLA

Section 57- Letter of Request to a contracting State in certain cases  
Section 61- Procedure in respect of Letter of Request

## FEOA

Section 12 - Declaration of Fugitive Economic Offender for ossification of Property in other States.



# Section 530 in Bharatiya Nagarik Suraksha Sanhita, 2023

## **Trial and proceedings to be held in electronic mode.**

All trials, inquiries and proceedings under this Sanhita, including-

- i. issuance, service and execution of summons and warrant;
- ii. examination of complainant and witnesses;
- iii. recording of evidence in inquiries and trials; and
- iv. all appellate proceedings or any other proceeding, may be held in electronic mode, by use of electronic communication or use of audio-video electronic means.

- ❖ Terrorism often transcends national boundaries
- ❖ Timely and Effective International Cooperation is essential to a Criminal Justice response to Terrorism
- ❖ Two important terminologies are used for cooperation in Transnational issues
  - MLAT
  - Letter Rogatory

## ❖ Mutual Legal Assistance

- Mutual Legal Assistance is a mechanism whereby
- Countries cooperate with one another
- In order to provide and obtain formal assistance in
- Prevention, Suppression, Investigation, Prosecution and Adjudication of Crime
- To ensure that the criminals do not escape or sabotage the due process of law
- For want of evidence available in different countries

## Difference between MLA Request & Letter Rogatory

	MLA	LR
<b>Nature</b>	Made by Central Authority of India to the Central Authority of another Country on the request of IO or Agency	Issues by Indian Courts on the request of IO or Investigating Agency under S. 166 A, Cr.P.C. / S. 112 BNSS
<b>Scope</b>	Can only be made to the Countries with which India has Bilateral, Multilateral Treaty/ Agreement or International Convention	Can be issued to the Countries with whom India is having treaties & If any Treaty doesn't exist than on the basis of assurance of reciprocity

# State (N.C.T. Of Delhi) vs Navjot Sandhu @ Afsan Guru on 4 August, 2005

## FACTS & JUDGEMENT

December 13, 2001,

- A terrorist attack occurred on the Indian Parliament in New Delhi.
- Nine people killed, 16 injured.
- Investigation revealed role of a terrorist organization, Lashkar-e-Taiba (LeT).
- Trial court convicted Afzal Guru, Shaukt Guru & Geelani: Afsan Guru, Yasin Malik acquitted.

## APPEAL & SUPREME COURT JUDGEMENT

- Convicts appealed Delhi HC: Convictions Upheld
- The Supreme Court upheld conviction of Afzal Guru & commuted the death sentence of Shaukat Guru to 10 years.

## EXECUTION

Afzal Guru was executed by hanging on February 9, 2013, at Tihar Jail in New Delhi.

# SIGNIFICANCE & CONCLUSION

This case highlights the *challenges of investigating and prosecuting transnational terrorism cases in India.*

## **The case involved:**

- International cooperation: With foreign agencies, including the FBI.
- Digital evidence: Primarily phone records and email communications.
- Complexity: The case involved multiple accused, complex conspiracy theories, and international links.

*The case demonstrates the Indian judiciary's ability to handle complex transnational terrorism cases and its commitment to upholding the rule of law.*



Thank You