

After a year, Indian court grants bail to three student activists arrested on bogus “terrorism” charges

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The Delhi High Court has granted bail to three student activists arrested by the Delhi police one year ago on bogus “terrorism” charges under the draconian Unlawful Activities Prevention Act (UAPA). They have been victimized as part of the vicious legal vendetta India’s Narendra Modi-led Bharatiya Janata Party (BJP) government has mounted against opponents of its class war and communalist policies, including the anti-Muslim Citizenship Amendment Act (CAA).

Natasha Narwal, Devangana Kalita and Asif Iqbal Tanha were arrested by the Delhi police, which is under the direct control of Modi’s Home Minister and chief henchman, Amit Shah, in May 2020. They were detained on the basis of frame-up charges in relation to the so-called “Delhi riot conspiracy case” and later booked under the UAPA. Narwal and Kalita are students at Jawaharlal Nehru University (JNU), and Tanha is from Jamia Millia Islamia (JMI) University.

The real reason for their arrests and detention was their involvement in the anti-CAA protests, which swept across India in late 2019 and early 2020. These three students and many other anti-CAA protesters arrested by the Delhi police have been falsely blamed by the authorities for the communal riots that convulsed parts of northeast Delhi for four days, beginning February 23, 2020. The riots—whose victims were overwhelmingly poor Muslims—were incited by BJP officials and facilitated and, in some cases, joined by police.

The CAA, pushed through the national parliament by Modi and his supremacist BJP in December 2019, discriminates against Muslims by defining Indian citizenship on an explicitly religious basis for the first time in the country’s history. The CAA provides an automatic path to citizenship for non-Muslim immigrants from the main Muslim countries in South Asia—Pakistan, Bangladesh and Afghanistan—who arrived in India before the end of December 2014. However, Muslim immigrants from these same countries and all others from the region are excluded from its provisions and liable to expulsion.

The CAA is part of a vicious communal campaign mounted by the BJP against India’s Muslim minority. During the campaign for the April-May 2019 parliamentary elections, in which the BJP won re-election, Amit Shah, then the BJP’s

president, repeatedly denounced Muslim immigrants from Bangladesh as “termites” and vowed that if the BJP was reelected, they would be thrown into the Bay of Bengal.

On August 5, 2019, the Modi government moved to scrap the limited semi-autonomous constitutional status of Jammu and Kashmir, India’s only Muslim-majority state. It placed the whole state under a brutal military lockdown. One year later to the day, Modi laid the foundation stone for a temple devoted to the mythical Hindu god, Ram, on the site of the Babri Masjid, which was razed to the ground by a mob of Hindu fanatics incited and directed by BJP leaders and associated Hindu supremacist organizations in December 1992. This major escalation of the BJP’s Hindu communal campaign was approved in advance by the Indian Supreme Court in a verdict issued in November 2019.

Rammed through parliament in a matter of days in December 2019, the Modi government’s anti-Muslim CAA was met with widespread opposition throughout the country, but especially in the national capital Delhi. Workers, youth and intellectuals joined the protests, which cut across religious, ethnic and caste-communal lines.

Fearing that the anti-CAA movement would intersect with growing working-class opposition to its austerity measures and other pro-investor policies, the Modi government doubled down on its effort to whip up Hindu communalism, with the aim of dividing the working class and mobilizing its far-right supporters as shock troops against it.

Pushed onto the back foot, the BJP-led central and state governments unleashed lethal police violence against the anti-CAA protesters, while fomenting communalist reaction with crude denunciations of their opponents as anti-Indian and pro-Pakistani. This culminated in the Delhi riots. Directly instigated by local BJP leaders, they resulted in the deaths of at least 53 people, the injuring of hundreds and the destruction of scores of homes and businesses.

Seeking to turn reality on its head, the Modi government subsequently directed the police to frame up anti-CAA protest leaders, Muslim and Hindu alike, for the Delhi riots. Dozens of government opponents have been arrested on bogus charges of

being involved in a broader “conspiracy” to foment the Delhi riots, while the true culprits in and around the BJP go free. Underscoring the vindictiveness of the authorities, a pregnant JMI student, Zafoora Zargar, was jailed from April through June 2020 in the midst of the surging COVID-19 pandemic.

Narwal, Kalita and Tanha are just three of scores of people facing what are widely conceded, even by much of the corporate media, to be utterly bogus charges under a draconian “anti-terrorism” law. In its June 15 ruling granting them bail, the Delhi High Court said: “[I]t seems, that in its anxiety to suppress dissent, in the mind of the State, the line between the constitutionally guaranteed right to protest and terrorist activity seems to be getting somewhat blurred. If this mindset gains traction, it would be a sad day for democracy.”

The High Court ruling reflects concerns within sections of the ruling class and its political establishment that the BJP government has gone too far in its legal vendetta against its political opponents. It fears that such a transparently bogus use of the UAPA’s draconian provisions to victimize government opponents will dangerously erode the credibility of the bourgeois “democratic” state, its courts and police in the eyes of working people.

The High Court verdict is also driven by concerns that if the Modi government is not chastened, it could use the UAPA or other authoritarian measures against its opponents within the political establishment, further destabilizing bourgeois rule. The BJP has repeatedly accused the leaders of the parliamentary opposition of being “anti-national,” suggesting that their criticisms of the government are akin to “treason,” and as part of its 2019 coup against Kashmir it arbitrarily detained the principal leaders of the pro-Indian Kashmiri regionalist parties for months without charge.

Expressing concern about “foisting (the) extremely grave and serious penal provisions” of the UAPA “frivolously upon people,” the Delhi High Court justices warned that “wanton use of serious penal provisions would only trivialise them.”

Further elaborating on its advice to the Modi government that it should use the UAPA more sparingly, the court said: “Notwithstanding the fact that the definition of ‘terrorist act’ in section 15 UAPA is wide and even somewhat vague, the phrase must partake of the essential character of terrorism and the phrase ‘terrorist act’ cannot be permitted to be casually applied to criminal acts or omissions that fall squarely within the definition of conventional offences as defined *inter alia* under the IPC [Indian Penal Code].”

The UAPA was introduced by a Congress Party government in December 1967 amid concerns that mounting political opposition could not be contained and suppressed through existing legislation. It contains deliberately vague definitions of “terrorism,” so as to facilitate mass repression of political opponents, and successive governments, led by both the Congress and BJP, have used its draconian provisions to suppress popular opposition.

One of the most prominent recent examples is the case of five left-wing intellectuals—Varavara Rao, Arun Ferreira, Vernon Gonsalves, Sudha Bharadwaj and Gautam Navlakha—whom the BJP placed under house arrest in August 2018 and have since undergone lengthy incarceration. Without presenting a shred of credible evidence, the police and BJP leaders have accused the five of being “urban Naxals,” suggesting they are in cahoots with the banned Communist Party of India (Maoist), which has waged a decades-long insurgency against the Indian state.

The Indian government and Delhi police are not about to accept the High Court’s decision to bail out the student activists. Immediately after the High Court decision, a Delhi police spokesperson said: “We are not satisfied with the interpretation of the provisions of Unlawful Activities (Prevention) Act by the Hon’ble High Court in a matter concerned with grant of Bail. We are proceeding with filing a Special Leave Petition before the Hon’ble Supreme Court of India.”

The Supreme Court, which has a long record of conniving with the Modi government in its authoritarian and communalist actions, has indicated its dissatisfaction with the High Court ruling, but pending a full hearing of the matter rejected the BJP government’s plea for the bail order to be stayed.

On June 18, the Supreme Court termed the High Court’s criticisms of the UAPA’s definition of “terrorism” and the use to which the government has put it “surprising,” adding that the ruling “can have pan-India ramification(s).” Further elaborating on its concerns, the Supreme Court stated: “The manner in which the High Court had interpreted the Act (UAPA) will probably require examination by the Supreme Court. ... [I]n the meantime, the impugned judgment shall not be treated as a precedent and may not be relied upon by any of the parties in any of the proceedings.”



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