

**THE ANTI-HIJACKING (Amendment) ACT, 1994**

(39 OF 1994)

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# THE ANTI-HIJACKING (Amendment) ACT, 1994

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# THE ANTI-HIJACKING (Amendment) ACT, 1994

(39 of 1994)

An Act further to amend the Anti-Hijacking Act, 1982

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows :

**1. Short title and commencement** — (1) This Act may be called the Anti-Hijacking (Amendment) Act, 1994.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2.** After section 5 of the Anti-Hijacking Act, 1982 (hereinafter referred to as the principal Act), the following section shall be inserted, namely :—

**“5A. Conferment of powers of investigation, etc.—**

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, for the purposes of this Act, the Central Government may, by notification in the Official Gazette, confer on any officer of the Central Government, powers of arrest, investigation and prosecution exercisable by a police officer under the Code of Criminal Procedure, 1973:

(2) All officers of police and all officers of Government are hereby required and empowered to assist the officer of the Central Government referred to in sub-section (1), in the execution of the provisions of this Act.”

**3.** After section 6 of the principal Act, the following sections shall be inserted, namely :—

**“6A. Designated Courts** — (1) For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify a Court of Session to be a Designated Court for such area or areas as may be specified in the notification.

(2) Notwithstanding anything contained in the Code

of Criminal Procedure, 1973, a Designated Court shall, as far as practicable, hold the trial on a day-to-day basis.

**6B. Offences triable by Designated Courts** — (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,

- (a) all offences under this Act shall be triable only by the Designated Court specified under sub-section (1) of section 6A ;
- (b) where a person accused of or suspected of the commission of an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section (2A) of section 167 of the Code of Criminal Procedure, 1973, such Magistrate may authorise the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate:

Provided that where such Magistrate considers, —

- (i) when such person is forwarded to his as aforesaid ; or
- (ii) upon or at any time before the expiry of the period of detention authorised by him,

that the detention of such person is unnecessary, he shall order such person to be forwarded to the Designated Court having jurisdiction;

- (c) the Designated Court may exercise, in relation to the person forwarded to it under clause (b), the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code of Criminal Procedure, 1973, in relation to an accused person in such case who has been forwarded to him under that section;
- (d) a Designated Court may, upon a perusal of a complaint made by an officer of the Central Government or the State Government as the case may be authorised in this behalf take cognizance

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of that offence without the accused being committed to it for trial.

(2) When trying an offence under this Act, a Designated Court may also try an offence other than an offence under this Act, with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

**6C. Application of Code to proceedings before a Designated Court** — Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973, shall apply to the proceedings before a Designated Court and the person conducting a prosecution before a Designated Court shall be deemed to be a Public Prosecutor."

4. After section 7 of the principal Act, the following section shall be inserted, namely:

**"7A. Provision as to bail** — (1) Notwithstanding anything in the Code of Criminal Procedure, 1973, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond unless —

- (a) the Public Prosecutor has been given an opportunity to oppose the application for such release; and
- (b) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not

guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail is specified in sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973, or any other law for the time being in force on granting of bail.

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973."

5. After section 10 of the principal Act, the following section shall be inserted, namely:

**"10A. Presumptions as to offences under sections 4 and 5** — In a prosecution for an offence under section 4 or section 5 if it is proved —

- (a) that the arms, ammunition or explosives were recovered from the possession of the accused and there is reason to believe that such arms, ammunition or explosives of similar nature were used in the commission of such offence; or
- (b) that there is evidence of use of force, threat of force or any other form of intimidation caused to the crew or passengers in connection with the commission of such offence,

the Designated Court shall presume, unless the contrary is proved, that the accused had committed such offence."