

GAHC010052172017



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.A./418/2017

THE NATIONAL INVESTIGATION AGENCY
THROUGH THE SUPERINTENDENT OF POLICE , NIA, BRANCH OFFICE,
GUWAHATI, ASSAM, MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA

VERSUS

PURAKHU ANGAMI
S/O SHRI PUHOSA ANGAMI, RTD. GOVT. SERVANT, DEPTT.OF TOURISM,
NAGALAND, R/O NEAR TOURIST LODGE, NEW MINISTERS HILL, P.S.
KOHIMA SOUTH , DIST. KOHIMA, NAGALAND

Advocate for the Petitioner : SC, NIA

Advocate for the Respondent : MR. T ISLAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 08-06-2023
(M. Zothankhuma, J)

Heard Mr. D.K. Das, learned senior counsel assisted by Mr. S. Narayan, learned counsel appearing on behalf of the NIA. Also heard Mr. T. Islam, learned counsel for the sole respondent Mr. Purakhu Angami.

- 2.** This appeal has been preferred under Section 21(4) of the NIA Act, 2008 against the Order dated 17.10.2017 passed by the Special Judge, NIA Nagaland, Dimapur in Case No. R.C.01/16/NIA-Guw, granting bail to the respondent, who was arrested on 13.10.2017.
- 3.** The learned senior counsel for the NIA submits that the Supplementary Charge-sheet filed by the NIA in Case No. R.C.01/16/NIA-Guw contains the instructions of the respondent in his official letter pad as Director of Tourism Department, which is to the following effect – “Please arrange adjust to pay Rs. 5.00 Lakh to our NPG(K). This has to be adjusted from SD Civil work”.
- 4.** The learned senior counsel for the NIA submits that the use of the word “our NPG(K)” establishes the fact that the respondent has sympathy and was inclined towards NSCN(K), a banned terrorist organization. Accordingly, the bail granted to the petitioner should be set aside, as there was no occasion for the learned Special Court to have granted bail in matters pertaining to Sections 17 & 40 of the UA(P) Act, 1967.
- 5.** The learned senior counsel for the NIA also submits that Charge-sheet having been submitted, charges have been framed against the respondent and trial is going on.
- 6.** Mr. T. Islam, learned counsel for the respondent on the other hand, submits that the respondent does not have any sympathy or affinity with the banned terrorist organization and the allege use of the word “our NPG(K)”, does not establish that the respondent has anything to do with the banned organization. He submits that the payment of money to the banned organization is due to

extortion made by the banned organization, the refusal of which would have entailed harm to the life of the respondent. He also submits that the respondent, having complied with the conditions imposed in the bail order, there is no occasion for the bail order to be set aside, especially after the respondent has been on bail for more than 5 ½ years.

7. The learned counsel for the respondent submits that though charges have been framed against the respondent, no trial has started before the learned Special Court, in view of the fact that no prosecuting counsel has been appointed by the NIA to prosecute the case till date.

8. We have heard the learned counsels for the parties.

9. The fact that money had been paid to a banned terrorist organization is not in dispute between the parties. It is also not in dispute that the respondent had paid the said amount prompted by an element of threat. This is clear from paragraph No. 23(V) of the appeal submitted by the NIA, where it has been stated that the finding of the learned Trial Court, so far as commission of offence by the respondent accused was correct, but the correctness of the existence of a threat was neither pleaded by the petitioner in his bail application nor was it apparent on the face of the record.

10. The recording made by the learned Special Court, which has been stated to be correct by the NIA is reproduced as follows:- "It is apparent to see that the accused persons have undoubtedly committed offence but it is an offence which is prompted by element of threat".

11. We have also noticed that bail was granted to the respondent, who was the

Director of Tourism Department, Government of Nagaland, on 17.10.2017 and that, as on date, he has retired from service. Charge-sheet has been filed and charge has apparently been framed against the respondent under Sections 39 & 40 of the UA(P) Act, 1967.

12 We are of the view that the question whether the words "our NPG(K)" allegedly written by the respondent in his letter head, which is part of the Supplementary Charge-sheet filed by the NIA, establishes the respondent's sympathy and inclination towards the NSCN(K), can always be decided during the trial proceedings before the learned Special Court.

13. In that view of the matter and keeping in view the fact that the petitioner has been on bail for more than 5 ½ years without violating the conditions of bail, we are not inclined to interfere with the impugned order passed by the Special Court granting bail at this stage.

14. The appeal is accordingly dismissed.

JUDGE

JUDGE

Comparing Assistant