

GAHC010247802023



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

Case No. : I.A.(Crl.)/1139/2023

JAI KISHAN SHARMA
S/O- LATE MANOHAR LAL SHARMA, R/O- KHONSA BAZAR, P.O. AND P.S.
KHONSA, DIST.- KHONSA, ARUNACHAL PRADESH, PIN- 792130.

VERSUS

NATIONAL INVESTIGATION AGENCY (NIA),
REPRESENTED BY ITS STANDING COUNCIL.

Advocate for the Petitioner : MR. V A CHOWDHURY

Advocate for the Respondent : SC, NIA

Linked Case : Crl.A./201/2020

JAI KISHAN SHARMA
S/O- LATE MANOHAR LAL SHARMA
R/O- KHONSA BAZAR
P.O. AND P.S. KHONSA
DIST.- KHONSA
ARUNACHAL PRADESH
PIN- 792130.

VERSUS

NATIONAL INVESTIGATION AGENCY (NIA)

SC
NIA

Advocate for : MR K K MAHANTA
Advocate for : SC
NIA appearing for NATIONAL INVESTIGATION AGENCY (NIA)

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 19.12.2023

(K.R. Surana, J)

Heard Mr. A.M. Bora, learned senior counsel, assisted by Mr. B. Bhagawati, learned counsel for the applicant. Also heard Mr. R.K.D. Choudhury, learned DSGI appearing for the respondent.

2. This application has been filed for modification/ relaxation of condition contained in paragraph no. 30(ii) of the order dated 27.06.2022 passed by this Court in Crl.A. No. 201/2020, which was imposed while granting bail to the applicant.

3. It is submitted that the applicant was granted bail by this Court by the aforesaid order dated 27.06.2022 in connection with NIA Case No. RC-03/2019/NIA/GUW under Section 302/307/34 IPC and Section 25 (1b)(a)/27 of the Arms Act and Section 10/13 of the Unlawful Activities (Prevention) Act, 1967. Therefore, as per the said condition imposed by the Court, the applicant is required to move the Court of learned Special Judge, NIA, Yupia, Arunachal Pradesh.

4. The learned senior counsel for the applicant has submitted that the application is facing trial in a similar prosecution initiated by the NIA being RC-

10/2019/NIA/GUW at Dimapur, Nagaland, where charge-sheet has been filed against the applicant under Section 120-B/384 IPC as well as Section 17 of the Unlawful Activities (Prevention) Act, 1967 and in connection with the said case, the learned NIA Court, Dimapur had granted bail to the applicant with a condition not to leave the jurisdiction of the Trial Court without prior permission.

5. It is further submitted that the respondent has filed an appeal before the Supreme Court of India against the order dated 27.06.2022 passed by this Court in Crl.A. No. 201/2020 and therefore, he also has to interact with his learned counsel at Delhi.

6. Accordingly, the learned senior counsel for the applicant has submitted that the said condition contained in paragraph 30(ii) of the order dated 27.06.2022 be modified by permitting the applicant to remain within the jurisdiction of this Court instead of limiting movement of the applicant to the jurisdiction of learned trial Court at Yupia.

7. The learned DSGI has opposed the prayer on the ground that it would be difficult to track the movement of the applicant if the jurisdiction of travel is enlarged.

8. We have considered the circumstances under which this application has been moved. Having regard to what has submitted by the learned senior counsel for the applicant, the Court is of the considered opinion that the nature of direction contained in paragraph 30(ii) of the order dated 27.06.2022 is a prohibition to the applicant to leave the State of Arunachal Pradesh without prior permission of the learned Trial Court. Therefore, what requires is the intimation to the learned trial Court before leaving the jurisdiction of the State of Arunachal Pradesh.

9. It is a usual practice of the learned Trial Court to fix another date for

appearance and therefore, the applicant would be aware of the date on which he is required to appear either in the State of Arunachal Pradesh or in the State of Nagaland. Be that as it may, to facilitate the applicant to move the learned Trial Court for seeking permission to leave the jurisdiction of the concerned State of Arunachal Pradesh, the Court is inclined to provide that it would be permissible for the applicant to send an email to his learned counsel engaged for his defence in the Court Special Judge (NIA), Yupia, Arunachal Pradesh, which can be filed by his learned counsel seeking permission from the learned Trial Court to leave the jurisdiction of the State of Arunachal Pradesh. It is provided that in the event such an application by email is filed by the applicant through his learned counsel, the learned Special Judge (NIA), Yupia, Arunachal Pradesh shall consider the same and such application by email shall not be rejected merely on the ground that it was not physically presented by the applicant and it would be open to the Special Judge (NIA), Yupia, Arunachal Pradesh to pass an appropriate order on the application filed by the applicant to move outside the State of Arunachal.

10. Accordingly, this application stands partly allowed by partly modifying the condition no. (ii) of paragraph 30 of the order dated 27.06.2022 passed by this Court in CrI.A. No. 201/2020.

11. Accordingly, this application stands disposed of.

JUDGE

JUDGE

Comparing Assistant