

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

Cril.A. No.28 of 2023

National Investigation Agency

Appellant

Vs.

Shaikhom Bruce Meetei.

Respondent

BEFORE

**HON'BLE THE CHIEF JUSTICE MR. M. SUNDAR
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH
(ORDER)**

(Order of the Court was made by Mr. M. Sundar, CJ)

08.12.2025

[1] Captioned appeal is a statutory appeal under Section 21 of 'the National Investigation Agency Act, 2008 (34 of 2008)' {'NIA Act' for the sake of brevity}.

[2] National Investigation Agency (NIA) which is the appellant, has filed the captioned appeal assailing 'an order dated 27.02.2023 made in Cril. Misc.(Bail) Case No.15 of 2023 Ref: NIA Case No.RC 08/2022/NIA-DLI on the file of the court of Special Judge(NIA), Manipur' ('impugned bail order' for the sake of convenience and clarity). The court of Special Judge (NIA, Manipur) shall hereon and henceforth be referred to as 'said NIA court' (also for the sake of convenience and clarity).

[3] The lone respondent in the captioned appeal is accused No.5 (A-5) in the NIA criminal case, details of which have been set out *supra* in describing the bail order and this case shall be referred to as 'said NIA case' for the sake of convenience.

[4] In the hearing today, Mr. Kh. Samarjit, learned Deputy Solicitor General of India(DSGI) and senior advocate instructed by Mr. Nongdamba Naorem, learned counsel on record for NIA (appellant) and Mr. L. Shashibhushan, learned senior advocate appearing on behalf of Mr. Fakharuddin, learned counsel on record for the lone respondent are before this Court.

[5] This Court is informed that the entire matter turns on a short point. This Court, with the consent of learned senior counsel and learned counsel on both sides took up the main criminal appeal and heard out the same.

[6] Factual matrix in a nutshell *i.e.*, factual matrix containing short facts imperative for appreciating instant order is that in the said NIA case trial is proceeding against 3(three) accused namely, A-1, A-2 and A-5; that it is to be noted that A-1, A-2 and A-5 denote accused Nos. 1, 2 & 5 respectively; that it is to be noted similar abbreviation/s will be used with regard to other accused also(if necessary); that lone respondent in the captioned main appeal shall be referred to as A-5(on the basis of his rank in the said NIA case in the said NIA court for the sake of convenience); that charge qua A-5 is *vide* section 120-B of erstwhile Indian Penal Code 1860 (Act No.45 of 1860), sections 17, 39 and 40 of 'the Unlawful Activities(Prevention)Act, 1967 (37 of 1967)' {UA(P)A} that before final report under Section 173 of erstwhile Code of Criminal Procedure, 1973 (Cr.PC) *i.e.*, charge sheet was filed on 12.07.2023, A-5 filed a bail application on 09.02.2023; that the said NIA court issued notice in the bail application and gave an opportunity to the prosecution to file objections and listed the matter on 17.02.2023 for objections; that on

17.02.2023, detailed objections were filed by NIA; that after a copy of the objections were furnished to A-5, the case was fixed on 24.02.2023 for hearing the bail application; that on 24.02.2023, the learned Judge presiding the said NIA court was on leave and the matter was adjourned to 27.02.2023; that on 27.02.2023, it is submitted by NIA that the 'PAIRAVI Officer' (to be noted, this Court is informed that 'PAIRAVI Officer' is an officer assigned to assist Special Public Prosecutor of NIA) requested for an adjournment on the ground that the Special Prosecutor was not in a position to attend Court owing to personal inconvenience; that the request of PAIRAVI Officer was not acceded to, said NIA court proceeded with hearing the bail application and granted bail to A-5 *vide* impugned order; that aggrieved by the impugned order, NIA is on appeal; that the main appeal was heard out today as alluded to *supra*. To complete facts we deem it appropriate to add that post impugned order, charges were framed on 18.10.2023 and trial commenced on 06.01.2024.

[7] Notwithstanding myriad grounds and averments in the appeal memo, learned DSGI very fairly submitted that he is predicating his argument only on one point and that one point has been articulated in the sub-paragraph (ii) of paragraph 7 of the grounds which read as follows:

'7. Grounds of which the present appeal is filed:

The present appeal has been preferred inter alia, on the following grounds, amongst many, with a further leave to allow the present Appellant to raise any points of Law at the time of hearing:

(i).....

(ii) For that the Ld. Special Court below has erroneously passed the impugned order without giving an opportunity of being heard to the Prosecution/NIA to the bail application;'

[8] Owing to fair stand taken by learned DSGI, the legal perimeter within which the captioned criminal appeal now perambulates has shrunk vastly.

[9] It is necessary to record the undisputed position that post impugned order granting bail to A-5, charge sheet(final report under section 173 of erstwhile Cr.PC) was filed by NIA in said NIA court on 12.07.2023, thereafter charges were framed against A-1,A-2 & A-5 and the trial is proceeding against A-1,A-2 & A-5. In the trial, there are as many as 95 (87+8) witnesses on the side of prosecution. To be noted, this Court has written 87+8 as prosecution originally filed a list of 87 witnesses and thereafter by way of a Misc. case, added 8 more witnesses. Out of the 95 witnesses, 28 witnesses have been examined thus far and PW-27 and PW-28 were last examined on 03.12.2025 and the case is next listed on 17.12.2025. What is of utmost significance is, post impugned order *i.e.*, post grant of bail, A-5 has neither breached any bail condition/s nor failed to appear in any of hearings before the said trial court. In other words, A-5 has not jumped bail and A-5 is regularly attending all the hearings. Likewise, this Court is informed that A-1 and A-2 who are also out on bail are also complying with the bail conditions and they are also attending all the hearings before the said NIA court. This undisputed submission is of significance and therefore, we take this on record.

[10] In the aforesaid submission of significance, we now proceed to examine the apprehension expressed by the learned DSGI. All that learned

DSGI submits is, in the light of the language in which 43D(5) of UA(P)A is couched, it is imperative that the Public Prosecutor should be given an opportunity of 'being heard' but in the case on hand, when only one adjournment was sought on the side of the prosecutor, the same was ignored and bail was granted. To be noted, there is no other ground that is urged before this Court, notwithstanding very many averments and grounds that have been raised in the appeal memo as already alluded to *supra*. This also means that there is no issue pertaining to violation of proviso to 43D(5) which in turns means that perusal of case diary by the Court making the impugned order is not an issue. In this view of the matter, it is to be noted that it would be evident from the narrative and calendrical progression which has been captured *supra*, the impugned order granting bail was made prior to the filing of charge sheet, therefore, the question of perusing charge sheet (final report) did not arise and it was only a question of perusing the case diary. In any event the learned DSGI clarifies that this is not an issue and submits that his only concerns is impugned order should not become a precedent qua opportunity of being heard to Prosecutor in other cases.

[11] Reverting to the calendrical progression, this Court is of the considered view that said NIA court could have acceded to the request for adjournment made on 27.02.2023 and given one more opportunity to the Public Prosecutor for 'being heard'. However, as A-5 who is the lone respondent in the captioned appeal has since neither breached the bail conditions nor failed to appear before the said NIA court for nearly 3 years now(2 years and 10 months to be precise), we are not disturbing the impugned bail order but we are addressing the lone concern of learned DSGI

by writing that the impugned bail order shall not serve as a precedent qua giving opportunity of being heard to Prosecutor in other matters.

[12] In the light of the narrative thus far, captioned appeal is disposed of as closed sustaining the impugned order *i.e.*, order dated 27.02.2023 made by the court of Special Judge(NIA), Manipur in Cril. Misc.(Bail) Case No.15 of 2023 albeit with the rider that the same shall not be cited as a precedent qua giving opportunity of being heard to Prosecutor in other matters.

[13] Captioned criminal appeal is disposed of as closed in the aforesaid manner. There shall be no order as to costs.

JUDGE

CHIEF JUSTICE

John Kom