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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Judgment: 30th May, 2017

+ **CRL. A. No.610/2017**

WASIM AKRAM MALIK

..... Appellant

Through Mr. Mehmood Pracha, Mr. R.H.A.
Sikander, Mr. Prateek Gupta and
Mohd. Danish, Advocates

versus

NATIONAL INVESTIGATION AGENCY

..... Respondent

Through Mr. Amit Sharma, Special PP with
Mr. Som Prakash and Mr. Shubham
Karnwal, Advocates

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI

HON'BLE MS. JUSTICE REKHA PALLI

G.S.SISTANI, J. (ORAL)

Crl. M1.A. No.9452/2017 (exemption)

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. This is an appeal filed by the appellant invoking Section 21 of the National Investigation Agency Act (hereinafter referred to for short as 'NIA Act') against the two orders passed by the Special Court, NIA dated 20.01.2017 and 17.04.2017. The grievance of the appellant is that the bail application filed by the appellant is not being heard by the Special Court in the absence of records which had been called for by

the Supreme Court of India and not received back. The second grievance of the counsel for the appellant is that although the record has been received back, but there is no NIA Court functioning as the Notification in the name of the Presiding Officer in terms of Section 11 of the Act has not been received.

4. Mr. Sharma, learned Special PP, who appears on an advance copy, submits that the present appeal is not maintainable in view of the express bar contained in Section 21(3) of the Act.
5. We have heard the learned counsel for the parties. Section 21 (3) and (4) of the NIA Act reads as under:

“21. Appeals-

.....

(3) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order including an interlocutory order of a Special Court.

(4) Notwithstanding anything contained in sub-section (3) of section 378 of the Code, an appeal shall lie to the High Court against an order of the Special Court granting or refusing bail.”

6. A reading of the aforesaid provisions reveals that there is an express bar against appeals from interlocutory orders, with the only exception being of orders either granting or refusing bail. A perusal of the orders dated 20.01.2017 and 17.04.2017 would show that bail has neither been granted nor rejected. The orders are simple orders adjourning the bail application of the appellant herein and thus, the present appeal would be met with the bar under sub-section (3) aforegoing. Even otherwise, we had passed over the matter once to ascertain until when the notification in terms of Section 11 is likely to

be issued. We were informed that a Notification under Section 11 (3) of NIA Act has been issued on the administrative side by this Court.

7. At this stage, Mr. Pracha, learned counsel appearing for the appellant submits that the Apex Court in the case of ***Hussain and Anr. v. Union of India***, Crl.A. 509/2017 dated 09.03.2017, in paragraph 27 has issued a direction that bail applications should normally be disposed of within one week by the subordinate courts. He submits that since this appellant has been in custody for more than six years and the trial is yet to commence and the bail application is pending decision, a direction be issued to the Special Judge to dispose of the bail application within the time as prescribed in the case of ***Hussain (Supra)***.
8. We are informed by Mr. Sharma, learned counsel for the respondent that the record has since been received back.
9. As prayed, the present appeal is disposed of with a direction to the Special Court, NIA to dispose of the bail application filed by the appellant within the time frame as prescribed by the Apex Court in ***Hussain (Supra)***.
10. The appeal is accordingly disposed of.

G. S. SISTANI, J.

REKHA PALLI, J.

MAY 30, 2017 // /pst/p