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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 29th April, 2019

CRL.A. 923/2018

SYED MOHD ZISHAN ALI

..... Appellant

versus

THE STATE (NCT OF DELHI)

.... Respondent

Advocates who appeared in this case:

For the Appellant : Mr. M.S. Khan and Mr. Prashant Prakash, Advocates.

For the Respondent : Mr. Ravi Nayak, APP for State along with ACP Lalit Mohan Negi,
Inspector Ravinder Tyagi, SI, Vikas Deep.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MS. JUSTICE ANU MALHOTRA

J U D G M E N T

SIDDHARTH MRIDUL, J (OPEN COURT)

1. The present appeal under Section 21 (4) of the National Investigation Agency Act, 2008, assails the Order dated 12th July, 2018, in Case No. 9378/2018, titled as “*State vs. Sayed Mohd. Zishan Ali*”, passed by Additional Sessions Judge-02 (FTC), District Patiala House Courts, New Delhi, whereby the bail application instituted on behalf of the appellant, came to be dismissed.

2. Learned counsel appearing on behalf of the appellant invites our attention to the statement, under Section 161 of the Code of Criminal Procedure (hereinafter referred to as 'Cr.PC'), 1973, made by Mohammad Saquib Khan, cited as a prosecution witness in the trial, which is underway, to urge that the same does not in any manner disclose the commission of any offence within the meaning of the provisions of Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as 'UAP Act').

3. Predicated on the above solitary submission, it is asseverated that the appellant is entitled to be released on bail *ex debito justitiae*.

4. At the outset, we must observe that the relevant provision of the UAP Act, in relation to the grant or release on bail to an accused person is enunciated as a non-obstante clause, which clearly and unequivocally postulates that, if the Court is of the opinion that, there are reasonable grounds for believing that the accusations against such person are *prima facie* true, he shall not be released on bail. Further, the provision stipulates that the restrictions contained in Section 437 (1) Cr.PC, are also applicable.

5. In the present case, it is an admitted position that the appellant is standing trial pursuant to the charges being framed against him under Sections 18, 18-B and 20 of the UAP Act. A perusal of the order on charge dated 6th March, 2018, leads to one inescapable conclusion, that of the *prima facie* involvement of the appellant in grave and serious offences, which attract a sentence that may extend to imprisonment for life upon conviction.

6. Furthermore, a perusal of the report under Section 173 Cr.PC filed against the appellant and the circumstance that, he was declared a Proclaimed Offender in the present proceedings, as well as, his propensity to furnish fabricated documents, suffice in our view to believe that, he represents a flight risk.

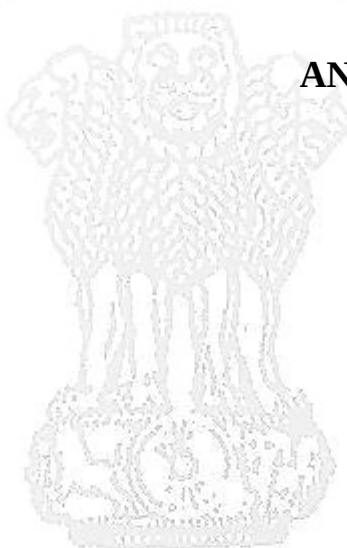
7. In view of the foregoing, we find no warrant to interfere with the impugned order dated 12th July, 2018, rendered by the Special Court.

8. The appeal being devoid of merit is accordingly dismissed.

**SIDDHARTH MRIDUL
(JUDGE)**

**ANU MALHOTRA
(JUDGE)**

**APRIL 29, 2019
RS**



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