

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.180 of 2021**

Arising Out of PS. Case No.-5 Year-2019 Thana- NIA District- Patna

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Tripurari Singh @ T.P. Singh, Son of Late Bhuneshwar Singh, resident of
Village - Makhdumpur, Police Station - Tankuppa and District - Gaya (Bihar).

... .. Appellant

Versus

1. The State of Bihar
2. The Union of India through the Director General, N.I. A., C.G.O. Complex,
Lodhi Road, New Delhi. Bihar

... .. Respondents

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Appearance :

For the Appellant	:	Mr. Manish Kumar, Advocate Mr. Gajendra Kumar Singh, Advocate
For the NIA	:	Mr. Manoj Kumar Singh, Advocate

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and**

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 22-11-2021

Heard Mr. Manish Kumar, learned counsel for the
appellant and Mr. Manoj Kumar Singh, learned counsel for the
National Investigating Agency.

2. This appeal under Section 21(4) of the Nation
Investigation Agency Act, 2008 has been preferred by the
appellant for setting aside the order dated 28.01.2021 passed by
the learned Special Judge, National Investigating Agency, Patna
in Special Case No.02/2019 arising out of RC Case No.05/
2019, CIS No.02/2019 whereby the prayer for grant of bail of
the appellant was rejected.



3. Initially, on the basis of self-statement of a Sub-Inspector of Police, Vijay Kumar Yadav, a first information report (for short 'FIR') was registered vide Baisi P.S. Case No.35 of 2019 dated 07.02.2019 under Sections 414 of the Indian Penal Code (for short 'IPC'), 25(1-B)(a), 26 and 35 of the Arms Act against accused persons, namely, Suraj, V. R. Kahorangam, Clearson Kabo, Mukesh Singh, Santosh Singh and other unknown persons.

4. During investigation of the case, the Central Government received information about Baisi P.S. Case No.35 of 2019. It also received information regarding interdiction of sophisticated weapons by the Bihar Police including Under Barrel Grenade Launchers and a large number of 9.96 mm ammunition being allegedly smuggled from across Myanmar Border with the help of some Naga undergrounds to be supplied to Maoists and gangsters in the country with the objective of committing terrorist act.

5. In view of the gravity of the offence and its interstate and international linkages, the Ministry of Home Affairs, Government of India issued orders in exercise of powers vested under Section 6(5) read with Section 8 of the National Investigating Agency, 2008 on 26.02.2019 directing



the National Investigating Agency to take up investigation of Baisi P.S. Case No.35 of 2019 and re-register a case into the matter. Accordingly, RC Case No.5/2019/NIA-DLI was registered at P.S.-New Delhi on 28.02.2019 under Sections 414, 467, 468, 471 & 474 of the IPC, 25(1)(a), 25(1A), 25(1AA), 25(1-B)(a), 26, 29 and 35 of the Arms Act and 16, 17, 18, 18B and 19 of the Unlawful Activities (Prevention) Act, 1967 against the aforesaid accused and other unknown persons.

6. During investigation of the case, complicity of the appellant was found in the commission of the offence. He was arrested by the National Investigating Agency on 18.02.2019. Since then he is in jail. The National Investigating Agency completed the investigation of the case and submitted a report under Section 173(2) of the Code of Criminal Procedure (for short 'CrPC') in the court of Special Judge, National Investigation Agency, Patna, Bihar vide charge-sheet No.21 of 2019 dated 03.08.2019.

7. The appellant moved for grant of bail before the learned Special Judge, National Investigating Agency, Patna which had been rejected by the impugned order dated 28.01.2021.

8. Assailing the impugned order, Mr. Manish Kumar,



learned counsel for the appellant submitted that the appellant is a businessman and is not involved in any manner in the alleged offence. He submitted that due to mistake of fact, he has been sent up for trial. He contended that the learned Special Judge failed to appreciate that the appellant is not named in the FIR and his name has been dragged only for the reason that he has issued a cheque in the name of Sumant Kumar which does not constitute any offence against him. According to him, there is no material to show the complicity of the appellant in the present case. Neither any arm nor any ammunition has been seized from his possession. He submitted that in absence of recovery of any incriminating article, his continued detention in custody is bad in law. He argued that name of the appellant transpired in the confessional statement of co-accused which has got no evidentiary value in the eyes of law. He submitted that the court below failed to appreciate that the appellant is a contractor and he makes payment to the suppliers through cheques. In certain circumstances, he does not even know the identity of the person in whose favour cheques are issued. He submitted that his detention as an under trial prisoner for such a long period is violative of Article 21 of the Constitution of India.

9. On the other hand, Mr. Manoj Kumar Singh,



learned counsel for the National Investigating Agency submitted that the instant case relates to recovery of parts of 01 AK-47 rifle & 02 MA-3 MK-II rifles with Under Barrel Grenade Launcher (UBGL) and one empty magazine of AK-47 along with 1800 numbers of live cartridges which were kept concealed in parts and were being transported in the seized white Tata Safari vehicle within the jurisdiction of Baisi Police Station in the district of Purnea, Bihar. The said vehicle was occupied by three persons, who were arrested. The accused Santosh Singh and Mukesh Singh used to procure prohibited highly sophisticated weapons and prohibited ammunition from NSCN (IM) self-styled Major accused Ningkhan Sangtam and used to further deliver these prohibited military grade weapons and ammunition to the absconding accused Bhikhan Ganjhu through the appellant Tripurari Singh. The investigation further reveals that the appellant was the conduit for supply of three previous consignments of large number of sophisticated weapons and ammunition of similar nature to the absconding accused Bhikhan Ganjhu. The association of the appellant along with the co-accused Mukesh Singh, Santosh Singh on one hand and the absconding accused Bhikhan Ganjhu, a Zonal Commander of TPC (Tritya Prastuti Committee) on the other hand and his role



as a conduit for procurement and supply of illegal and prohibited sophisticated arms and ammunition was established from the statements of protected witnesses recorded under Sections 164 of the CrPC and the statements of other witnesses recorded under Section 161 of the CrPC.

10. Referring to the counter affidavit filed on behalf of respondent no.2, Mr. Manoj Kumar Singh, learned counsel for the National Investigating Agency submitted that there are materials to establish and corroborate that the appellant travelled to deliver the consignments of prohibited and sophisticated arms and ammunition to absconding accused Bhikhan Ganjhu. The investigation further reveals that the appellant transferred Rs.60,000/- through banking channels in part consideration of weapon consignment to Mukesh Singh and Santosh Singh. The CDR of mobile numbers also establishes and corroborates the visit of the appellant to Lohardaga for supply of arms.

11. Mr. Singh, learned counsel for the National Investigating Agency further contended that Bhikhan Ganjhu is a Zonal Commander of a terrorist gang and a reward of Rs.10 lakh has been declared on him by the Jharkhand Government. He contended that there is evidence to suggest that the appellant is in close contact with other accused persons and visits hotel



Krishna Inn at Ranchi and forests of Lohardaga in connection with the illegal trade of arms and ammunition since long.

12. In reply, Mr. Manish Kumar, learned counsel for the appellant submitted that on perusal of the counter-affidavit filed on behalf of National Investigating Agency only an allegation of conspiracy has been made against the appellant, but in support of that allegation no documentary evidence has been brought on record. He reiterated that the appellant has no concern either with the co-accused Santosh Singh or Mukesh Singh. He submitted that there is no evidence of meeting of mind amongst the accused persons.

13. We have heard learned counsel for the parties and carefully perused the material on record.

14. There is no dispute to the fact that the case relates to procurement and supply of highly sophisticated and prohibited arms and ammunition from a foreign country. The charges are quite serious. There are *prima facie* materials to suggest the active involvement of the appellant in the illegal trade of arms and ammunition. The materials collected during investigation against the appellant are highly incriminating. The seizure of large quantity of illegal weapon suggests that they were destined for insurgent groups in different States. The



gravity of the offence is such that it threatens the national security. The influx of consignments from Myanmar raises serious alarm. In such cases, the period of custody alone would not be relevant for grant of bail especially in view of stringent provisions of law under which the appellant is being prosecuted.

15. In view of the discussions made above, we do not find any error in the impugned order passed by the learned Special Judge, National Investigating Agency, Patna.

16. The appeal preferred against the impugned order is, hereby, dismissed.

17. Since the appellant is in custody for over two years, the trial court is directed to conduct the trial expeditiously and conclude the same as early as possible.

(Ashwani Kumar Singh, J)

(Rajeev Ranjan Prasad, J)

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