

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.434 of 2020

Arising Out of PS. Case No.-14 Year-2018 Thana- NIA District- Patna

SANJAY RAM @ ABHAY S/o Gulab Chand Ram @ Gulab Chandra R/o
Vill- Hasanpur Rupanpatti, P.O.- Sukki, P.S.- Baligaon, Dist- Vaishali.
... .. Appellant/s

Versus

UNION OF INDIA THROUGH D.G. NIA, NEW DELHI. Union
... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Surya Prakash Singh, Advocate
Mr. Pusphendra Priyadarshi, Advocate
For the Respondent/s : Mr. Manoj Kumar singh, Spl. PP (NIA)

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE KHATIM REZA

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 21-12-2022

The present appeal has been preferred under Section 21(4) of the National Investigation Agency Act, 2008, by the appellant assailing an order dated 17.03.2020 passed by the learned Special Judge, N.I.A., Patna where by the petitioner's prayer for his release on bail in connection with Special Case No. 06 of 2018, arising out of RC Case No. 14/2018/N.I.A./DLI has been rejected.

2. The said criminal case came to be registered for the commission of the offences punishable under Sections 25(1B) (a), 25(1A), 25(1AA), 25(1AAA), 26(2) and 35 of the Arms Act, Sections 3 and 4 of the Explosive Substance Act and Sections 16, 17, 18, 20, 22 and 23 of the Unlawful Activities (Prevention) Act, 1967.



3. This appeal was presented for filing on 11.07.2020 and finally came to be registered on 09.10.2020. It is to be noticed that a limitation petition has also been filed vide I.A. No. 01 of 2020 seeking condonation of delay in making this appeal, apparently after lapse of 90 days from passing of the impugned order.

4. We have heard learned counsel for the appellant and learned Special Public Prosecutor for the State. Learned Special Public Prosecutor representing the NIA has submitted that this appeal having been filed 90 days after passing of the impugned order, is not maintainable as the delay is uncondonable in the light of clear statutory prescription under the second *proviso* to sub section 5 of Section 21 of the Act.

5. Our attention has been drawn to a Division Bench decision of Delhi High Court in case of ***Farhan Shaikh vs. State (National Investigation Agency)*** reported in ***2019 SCC OnLine Del 9158*** whereby and whereunder the Delhi High Court had condoned the delay of 314 days in preferring an appeal under Section 21 of the Act. The said judgment of the Delhi High Court in case of ***Farhan Shaikh vs. State (NIA)*** came to be put to challenge before the Supreme Court in SLP (Crl.) diary No(s)-41439/2019 [***Farhan Shaikh vs. State***



(National Investigation Agency)] wherein following interim order has been passed:-

“Delay condoned.

Leave granted.

List the appeal in the first five matters, subject to overnight part-heard matter, in the second week of February, 2020 on a non-miscellaneous day.

In the meantime, the operation of the impugned judgment shall remain stayed.”

6. A sequel of the said order dated 02.12.2019 is that the judgment of the Delhi High Court to the effect that the delay in preferring the appeal even beyond 90 days could be condoned, has been stayed.

7. On the strength of the said interim order, learned counsel appearing on behalf of the NIA has resisted maintainability of the present appeal.

8. After having gone through the judgment of Delhi High Court and the interim order dated 02.12.2019 passed by Supreme Court of India read with the statutory limitation prescribed under the second *proviso* of the Act, we are of the view that this appeal cannot be entertained and deserve to be



dismissed.

9. The application seeking condonation of delay is accordingly dismissed. Consequently the appeal stands dismissed as barred by limitation.

10. Before we part with the present order we must observe that the dismissal of this appeal, as time barred, will not deter the appellant from making any fresh application for his release on regular bail before the Special Court if any fresh ground is made out. Further, we may also remind the learned Special Court before whom the matter is pending the statutory requirement under Section 19 of the NIA Act which reads as under:-

“19. Trial By Special Court to have precedence.—The trial under this Act of any offence by a Special Court shall be held on day-to-day basis on all working days and have precedence over the trial of any other case against the accused in any other court (not being a Special Court) and shall be concluded in preference to the trial of such other case and accordingly the trial of such other case shall, if necessary, remain in abeyance.”

11. It is expected that the Trial Court shall proceed with desired expedition towards conclusion of the trial in



consonance with the spirit of statutory mandate under Section 19 of the NIA Act.

12. The appeal is dismissed but with the above-mentioned observations.

(Chakradhari Sharan Singh, J)

I agree.
Khatim Reza, J:-

(Khatim Reza, J)

Anand/Gaurav/-

AFR/NAFR	NAFR
CAV DATE	20.10.2022
Uploading Date	22.12.2022
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