05.04.2022
Sl. No.23
akd

C. R. A. 44 of 2021

In Re : A petition of appeal under Section 21(4) of the National Investigation Agency Act, 2008 filed on 02.02.2021 :

A N D

In Re : Md. Jamiul Sk. …… Appellant

Mr. Ranadeb Sengupta
Mr. Sachit Talukdar
… … for the appellant

Mr. Y. J. Dastoor .. Ld. Addl. Solicitor General
Mr. Debasish Tandon
… … for the NIA

Inspite of repeated opportunities, National Investigation Agency (NIA) has not submitted written opposition to the bail application. Under such circumstances, learned Additional Solicitor General seeks leave to oppose the application through oral submissions. Accordingly, the matter is taken up for final hearing.

Mr. Ranadeb Sengupta, learned advocate appearing for the appellant submits no fake Indian currency notes (*in short 'FICNs'*) were seized from his client. Complicity of his client is founded on transmission of images of FICNs from a mobile phone bearing No.9064150827 to that of a co-accused. Materials on record show the aforesaid mobile phone bearing No.9064150827 did not belong to the appellant. There is no live-link connecting the appellant with dealing in FICNs. He is in custody for more than two years and there is little possibility of the trial concluding in near future.

Learned Additional Solicitor General along with Mr. Debasish Tandon, learned advocate appearing for the National Investigation Agency submits materials collected in course of investigation show appellant was a co-conspirator with accused from whose possession a large volume of fake Indian currency notes valued at Rs.7 lakhs were recovered. Investigation revealed the SIM card relating to mobile phone bearing No.9064150827 had been lost and subsequently, was used by the appellant. Statements of witnesses as well as call detail records show the appellant was using the aforesaid mobile phone number. Hence, the appellant had entered into conspiracy with other accuseds to traffic FICNs to the prejudice of the economic interest of the nation.

In response, Mr. Sengupta submits the appellant has been falsely implicated as would appear from the discriminatory treatment meted out to him vis-à-vis the discharged accused. The said accused who had been discharged, also had telephonic exchanges with the principal accused. He stood on the same footing with the appellant.

We have gone thorough the materials on record. Images of FICNs which tallied with the seized fake Indian currency notes were sent from a mobile phone bearing No.9064150827 to the mobile phone of a co-accused. A large volume of FICNs was recovered from the said co-accused. Statements of witnesses as well as call detail records prima facie give an impression that the appellant had control and was using the aforesaid mobile phone bearing No.9064150827. As the communication between the appellant and the co-accused relates to exchange of incriminating materials i.e. images of fake Indian currency notes, he cannot be treated on par with the discharged accused. Trial has already commenced. In view of the aforesaid facts, we are not inclined to release the appellant on bail.

However, as the appellant has undergone imprisonment for more than two years, we direct the trial court to take necessary steps to conclude the trial at an early date preferably within one year from the next date fixed for recording evidence. NIA as well as the accused persons including the appellant shall cooperate with the trial court in that regard.

CRA 44 of 2021 is accordingly, disposed of.

(Bivas Pattanayak, J.) **(Joymalya Bagchi, J.)**