

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 912 OF 2022**

Rizwan Ahmed @ Khalid @ Azad

...Appellant

V/s.

The National Investigating Agency And Anr.

...Respondent

Mr.Abdul R. Bukhari for Appellant.

Smt. A.S. Pai, Special P.P. for Respondent No.1-NIA.

Mrs. S.D. Shinde, A.P.P. for the Respondent No.2-State.

**CORAM : A. S. GADKARI AND
PRAKASH D.NAIK, JJ.****DATE : 2nd DECEMBER, 2022.****P.C.:-**

. By the present Appeal under Section 21(4) of the National Investigation Act, 2008 (*for short "NIA Act"*) read with Section 375(b) of the Code of Criminal Procedure (*for short "Cr.PC."*) the Appellant has impugned Judgment and Order dated 7th January 2022 passed in NIA Special Case No.3 of 2016 by the learned Additional Principal and Special Judge, MCOCA/POTA/NIA/TADA, Greater Mumbai to the extent of imposition of sentence of 8 years upon the Appellant.

2. Heard Mr. Bukhari, learned Advocate for the Appellant and Smt. A.S. Pai, learned Special P.P. for the Respondent – NIA. Perused the record.

3. It is the contention of the learned Advocate for the Appellant that, the Appellant pleaded guilty before the Trial Court and therefore instead of trying him in the said offences allegedly committed by him under Sections 18, 20, 38 & 39 of the Unlawful Activities (Prevention) Act, 1967 (*for short* “UAP Act”), read with Section 120-B of Indian Penal Code (*for short* ‘IPC’) he has been sentenced to rigorous imprisonment for 8 years. He submitted that, the Appellant was immature at the time when he was indoctrinated by radical forces and got swayed away because of the same. He submitted that, there are no allegations against the Appellant to have committed an act of destruction of public property or causing loss to the life of any citizen. He submitted that, the reformatory theory as contemplated under the criminal jurisprudence may be applied in the present case and the sentence of Appellant be reduced from 8 years to 7 years.

4. Per contra, the learned Special P.P. submitted that, the Appellant will be released from jail on 23rd August 2023 after undergoing sentence including remissions. She submitted that, if the sentence imposed upon the Appellant is reduced, it would amount to recording of finding that, the sentence imposed by the trial Court was not proper or legal. She submitted that, as per Section 375(b) of Cr.P.C., the conviction and sentence by Court of Sessions can be interfered with to the extent of its legality once the Appellant pleads guilty of the crime. She therefore prayed that, the appeal may be dismissed.

5. Perusal of the record indicates that, it is a matter of fact on record that, the Appellant pleaded guilty before Special Court and therefore has been convicted under Sections 18, 20, 38 and 39 of the UAP Act read with Section 120-B of Indian Penal Code. After hearing the learned Advocate for the Appellant and learned Special P.P., the trial Court has recorded the findings and imposed the maximum sentence of 8 years for the said offences upon the Appellant after holding him guilty for the same. We are of the considered view that, there is no illegality committed by the trial Court in awarding the said sentence of 8 years upon the Appellant.

6. After perusing record and in particular the impugned Judgment and Order, this Court finds that, the trial Court has not committed any error either in law or on facts while imposing the said sentence of 8 years upon the Appellant.

7. In view of the above, we find that, there are no merits in the Appeal. Appeal is accordingly dismissed.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)

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