

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.634 of 2024

Arising Out of PS. Case No.-15 Year-2015 Thana- NIA District- Patna

Sudhir Kumar Kuswaha @ Sudhir Kushwaha, Son of Late Shiv Shankar Prasad Kuswaha, Resident of Village- Ghora Sahan, P.S- Harpur (Adapur), Distt.- East Champaran Also At Visharam Pur, Ward No.-01. Chatwa, P.S- Kalaiya, Distt.- Bara Pradesh No.-2, (Nepal).

... .. Appellant

Versus

The Union of India through the Director General, National Investigation Agency C.G.O Complex, Lodhi Road, New Delhi.

... .. Respondent

Appearance :

For the Appellant/s	:	Mr. Thakur Manish Mohan, Advocate Mr. Amit Pandey, Advocate
For the Respondent/s	:	Mr. K.N. Singh, A.S.G. Mr. Manoj Kumar Singh, Advocate Mr. Shivaditya Dhari Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

2 19-06-2024 Heard Mr. Thakur Manish Mohan, learned counsel for the appellant and Mr. K.N. Singh, learned ASG assisted by Mr. Manoj Kumar Singh, learned counsel for the National Investigation Agency (in short 'NIA').

2. This appeal has been preferred for setting aside the order dated 29.04.2024 passed by learned Special Judge, N.I.A., Patna in connection with Special Case No. 06 of 2019 arising out of R.C. Case No. 15 of 2015 registered for the offences punishable under Sections 120B, 489B and 489C of the Indian Penal Code and Sections 16, 18 and 20 of the Unlawful



Activities (Prevention) Act, 1967 by which the prayer of the appellant for bail has been rejected.

3. As per the prosecution story, on 19.09.2015 at about 01:20 P.M., the officers of Directorate of Revenue Intelligence, Patna recovered and seized Fake Indian Currency Notes FICNs, containing 1188 notes in Rs.500 denominations, having face value equivalent to Rs.5,94,000/- from the bag of accused Afroz Ansari from near Ramgarhwa Railway Crossing, East Champaran while he was enroute to deliver the consignment to someone in Raxaul.

4. The appellant has got two criminal antecedents being Motihari Town P.S. Case No. 78 of 2008 registered under Sections 489A, 489B and 489C of the Indian Penal Code and Muzaffarpur P.S. Case No. 555 of 2022 for the offence registered under Sections 420, 120B, 468, 471, 489B, 489C read with 34 of the Indian Penal Code.

5. It appears on perusal of the materials available on the record that in course of investigation of the present case, the name of the appellant transpired. It has been noticed that this appellant has past criminal antecedents and history of FICN racketeering. According to the chargesheet, the statement of the witnesses established that this appellant was user of a mobile



number being 7250474643 and he had been in contact with the co-accused. The Call Details Record (in short 'CDR') of his mobile was also analyzed which indicated that he was in contact with other gang members.

6. Paragraphs '17.11', '17.12', '17.13' and '17.14' of the supplementary chargesheet are as under:-

"17.11 CDRs analysis of accused persons further establish that Sudhir Kushwaha (A-7) was user of mobile number 7250474643 and had been in contact with other gang members during initial days of trafficking FICN. CDRs analysis also establish as Sudhir Kushwaha (A-7) was user of mobile number 7250474643 and had been in contact with other accused persons who have either been convicted by the Ld. Court are facing trial in the instant case regarding the delivery of the consignment of FICNs.

17.12 Investigation revealed that accused Sudhir Kushwaha was the kingpin of FICN racket of the instant case and used the territory of India and Nepal for procurement, transportation and circulation of fake currency.

17.13 During investigation, arrest warrant was issued against accused Sudhir Kushwaha (A-7) on 12.07.2019 and proceedings u/s 82 and 83 CrPC were carried out. After observation of 83 CrPC proceeding dated 19.12.2020, Ld. NIA Court Patna issued permanent warrant against him on 09.01.2021. Moreover, a cash reward of Rs.50,000/- was declared against Sudhir Kushwaha S/o Shiv Shankar Kushwaha R/o Ghorasahan, Harpur (Adapur), East



Champanan, Bihar.

17.14 Accused Sudhir Kushwaha (A-7) was arrested by Muzaffarpur Town PS in case crime no. 555/2022 dated 07.07.2022 and High Quality FICN Rs.1,54,000/- was recovered from his possession. The said accused was produced in the instant case before NIA Spl Court Patna on 07.01.2023.”

7. Learned counsel for the appellant submits that the appellant has been falsely implicated in this case on the basis of the confessional statement of the co-accused and except oral testimony of the co-accused, there is no documentary evidence to substantiate that the alleged mobile number referred to in the chargesheet belongs to the appellant.

8. Learned counsel for the appellant submits that in the present case, there is no cogent evidence against the appellant and except the CDR, there is no evidence that this appellant was in contact with the other co-accused persons, moreover, nothing has been recovered from conscious possession of the appellant.

9. Learned counsel further submits that as on today, the fact is that the two co-accused have already been convicted in this case in the earlier trial and after arrest of the appellant, now charge has been framed against him and one of the prosecution witnesses has been examined so far. According to



him, there are altogether 39 witnesses and examination of those witnesses is likely to take much time, therefore, at this stage, the appellant deserves privilege of bail.

10. On the other hand, Mr. K. N. Singh, learned ASG submits that not only the allegations against the appellant are serious in nature, the criminal antecedents of the appellant would show that he has been involved in identical kind of unlawful activities since long and in the present case even after issuance of processes under Sections 82 and 83 Cr.P.C. when the appellant could not be arrested, then the learned NIA Court, Patna issued a permanent warrant against him on 09.01.2021 and a cash reward of Rs.50,000/- was declared against him. Later on, he was arrested by Muzaffarpur Town Police in Case Crime No. 555 of 2022 dated 07.07.2022 with High Quality FICN Rs.1,54,000/-. Thereafter, he has been produced in the instant case before the learned NIA Special Court, Patna on 07.01.2023.

11. Learned ASG, therefore, submits that in the kind of the allegations and the criminal records of the appellant, if released on bail, there is every possibility that he would abscond the trial.

12. Having heard learned counsel for the appellant



and learned ASG for the NIA as also on perusal of the records, we find that in the chargesheet there are serious allegations against the appellant, his criminal antecedents are showing that he is an accused in identical kind of cases and the fact remains that in the present case he was absconding and permanent warrant was issued against him as also a cash reward was declared. Now, trial has begun and the custody of the appellant so far cannot be said to be such that it would be a matter to be looked into for purpose of bail.

13. In the opinion of the Court, the appellant does not deserve privilege of bail. His prayer is refused. Let the learned trial court expedite the trial and continue with the recording of the evidences as far as practicable during shorter dates.

14. The appeal is dismissed.

(Rajeev Ranjan Prasad, J)

(Shailendra Singh, J)

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