

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.563 of 2022

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

Mukesh Singh @ Pinku, Son of Lok Nath Singh, Resident of village- Barap,
P.S.- Garhani, District- Bhojpur (Ara), Bihar, at present Flat No. 504, Pramila
Sudha Kunj, R.K. Puram, P.S.-Danapur, District- Patna

... .. Appellant

Versus

The Union of India through N.I.A

... .. Respondent

Appearance :

For the Appellant	:	Mr. Bindhyachal Singh, Sr. Advocate Ms. Nikita Mittal, Advocate
For the NIA	:	Mr. K.N.Singh (A.S.G.) (Sr. Advocate) Mr. Arvind Kumar, Spl. PP (NIA)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 30-04-2024

I.A. No. 1 of 2023

This is an application seeking condonation of delay of
13 days in filing of the present appeal.

2. Learned counsel for the appellant submits that since
the clerk was suffering from ailment, the present appeal could not
be filed within time.

3. There is no opposition to this prayer.

4. For the reasons stated in the application, we condone
the delay.

5. I.A. No. 1 of 2023 stands allowed.



6. Heard learned counsel for the parties.

7. By filing this appeal, the appellant has prayed for setting aside the order dated 25.05.2022 passed by the learned Special Judge, National Investigation Agency, Patna (in short 'NIA') in Special Case No. 05 of 2019 by which the prayer of the appellant for grant of regular bail in connection with Special Case No. 02 of 2019 arising out of RC Case No. 05 of 2019 (NIA, DLI), registered under Sections 414, 467, 468, 471 and 474 of the Indian Penal Code (in short 'IPC') and Sections 25(1)(a), 25(1-A), 25(1AA), 25(1-B), 26, 29 and 35 of the Arms Act and Sections 16, 17, 18, 18(b), and 19 of the Unlawful Activities (Prevention) Act has been rejected.

Submissions on behalf of the Appellant

8. As per the prosecution story, the informant S.I. Vijay Kumar Yadav of Baisi police station recorded his self-statement on 07.02.2019 stating therein that on 07.02.2019 at about 05:20 P.M., when he along with three other police constables reached Dalkola Check Post and started checking vehicles, one white Safari Car bearing Registration No. AS01AU5862 coming from Bengal side was stopped for checking and the driver along with two others tried to flee but were caught by the armed forces. They disclosed their identity as Suraj, Clearson Kabo and V.R. Kahorgam. When



the car in question was searched in presence of two witnesses, 600 live cartridges were seized from the middle seat of the car. From the possession of V.R. Kahomgam (accused), an old black Nokia Mobile with Airtel and Yellow SIM, Rs.5,000/- cash and a driving license were recovered. From the possession of Clearson Kabo, Rs.3,500/- cash, a VIVO touch screen mobile with SIM and a driving licenses were recovered. From accused Suraj, Rs. 630/- cash, one Aadhar Card and one Samsung mobile were recovered. The accused persons disclosed that they used to get the cartridges from Dimapur, Manipur and delivered it at Patna to Mukesh Singh (appellant) and Santosh Singh.

9. Earlier, the appellant has moved this Court for setting aside the order dated 17.09.2020 passed in Special Case No. 02 of 2019 by the learned Special Judge, NIA, Patna whereby and whereunder the prayer of the appellant was rejected in this case. This Court refused to interfere with the order of the learned Special Judge, NIA. Against the order of this Court, the appellant moved to the Hon'ble Supreme Court in Special Leave to Appeal (Crl) No. 9652 of 2021. A perusal of the order of the Hon'ble Supreme Court which is enclosed with the present petition would show that after argument for some time, learned senior counsel for the appellant sought permission to withdraw the Special Leave



petition. Accordingly, the Special Leave petition was dismissed as withdrawn.

10. In course of argument, learned counsel has once again made efforts to take us through the various submissions which have already been considered earlier by the Hon'ble Division Bench and those did not find favour with the Court and, as such, we are of the view that this Court can not once again go into those very submissions which have already been rejected earlier.

11. By way of last effort, learned counsel for the appellant has submitted that the appellant is in custody since 07.03.2019, therefore, more than five years have gone but the pace of the trial is very slow and it is not likely to be concluded in the near future, therefore, considering the period of incarceration of the appellant, he deserves privilege of bail.

Submissions on behalf of the NIA

12. On the other hand, learned counsel for the NIA submits that the chargesheet filed by the NIA in this case specifically states about the role of this appellant and how he was involved in the conspiracy of procurement and supply of sophisticated and prohibited arms and ammunition.



13. Learned counsel further submits that very recently in the case of Ning Kham Shangtam @ Ningkham Angkang in Cr. App. (DB) No. 882 of 2023, this Court while rejecting the prayer for bail of the said appellant has taken note of paragraph 17.24 of the supplementary chargesheet. In the said supplementary chargesheet, the name of this appellant and the role played by him have been discussed.

14. Learned counsel further submits that this Court has taken note of the information furnished to this Court that out of 90 witnesses, 24 witnesses have already been examined and the learned trial court has fixed slots for examination of the witnesses every month. It is expected that at least 5 witnesses are likely to be examined every month, therefore, all the prosecution witnesses would be examined within the next 14 months.

15. It is submitted that considering the seriousness of the allegations and severity of the punishments attached to the offences alleged against the appellant, he does not deserve to the privilege of bail on the ground of mere period of custody.

Consideration

16. We have heard learned counsel for the appellant, learned counsel for the NIA and perused the records. We agree with the submissions of learned counsel for the NIA that in this



case, considering the seriousness of the allegations, the appellant can not be enlarged on bail on the ground of mere period of his custody. Earlier, this Court has dealt with the submission of learned counsel for the appellant on merit but did not find a good case for grant of bail. The position has not changed. We are not inclined to interfere with the impugned order.

17. This Court has already directed the learned trial court to expedite the trial and ensure that the evidences are duly recorded as per the scheduled slots and all endeavours be made to conclude the trial as early as possible. It is expected that the learned trial court shall not grant any unnecessary adjournment in the matter and would abide by the schedule.

18. This appeal is dismissed.

(Rajeev Ranjan Prasad, J)

(Shailendra Singh, J)

annu/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	01.05.2024
Transmission Date	01.05.2024

