

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.882 of 2023

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

Ning Kham Shangtam @ Ningkham Angkang, Son of Ating Angkang @ Hampun Thing @ Athing Shangtam R/O Village- Lungfu, Lumphu, P.O And P.S- Litan, Dist- Ukhrul (Manipur), Presently Residing At Gali/Lane No. 17 Near Badminton Hall, Half Nagarjan, P.S.- East Police Station, Nagaland, District- Dimapur, Nagaland

... .. Appellant

Versus

The State of Bihar through N.I.A., Patna

... .. Respondent

Appearance :

For the Appellant/s	:	Mr. P.N. Shahi, Senior Advocate Mr. Shivanand Singh, Advocate
For the Respondent/s	:	Mr. K.N. Singh, A.S.G Mr. Manoj Kumar Singh, Spl PP Mr. Shivaditya Dhari Sinha, Advocate Mr. Devansh Shankar Singh, Advocate Mr. Ankit Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 29-03-2024

Heard Mr. Pushkar Narayan Shahi, learned Senior Counsel assisted by Mr. Shivanand Singh, learned counsel for the appellant and Dr. K.N. Singh, learned ASG assisted by Mr. Manoj Kumar Singh, learned Special PP for the National Investigation Agency (in short 'NIA').

2. By filing this appeal, the appellant is seeking setting aside of the order dated 20.07.2023 passed in Special Case No. 02 of 2019 R.C. No. 05 of 2019, CIS No. 02 of 2019 by learned Special Judge, N.I.A., Patna whereby and whereunder the learned



court has rejected the prayer of the appellant for grant of regular bail in connection with R.C. No. 05.2019/NIA/DLI dated 28.02.2019 registered for the offences punishable under Sections 414, 467, 468, 471, 474 of the Indian Penal Code, Section 25(1) (a), 25(1A), 25(1AA), 25(1-B)(a), 26, 29 and 35 of the Arms Act and Sections 16, 17, 18, 18B and 19 of the Unlawful Activities (Prevention) Act, 1967 arising out of Baisi P.S. Case No. 35 of 2019 registered for the offences punishable under Section 414 of the Indian Penal code and Section 25(1-B)(a), 26, 35 of the Arms Act.

Submissions on behalf of the Appellant

3. Learned Senior Counsel for the appellant submits that 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 and Santosh Singh.

4. Learned Senior Counsel for the appellant submits that the appellant is not named in the first information report but in course of investigation, police recorded confessional statement of the apprehended accused in which the name of the appellant has transpired. It is pointed out that the name of this appellant has surfaced in the confessional statement of co-accused Suraj whom this appellant does not know and he has no concern with him in any manner. It is further submitted that the appellant was not arrested on the spot and no incriminating article has been recovered from his possession to connect him with the alleged occurrence in which huge quantity of arms and ammunition have been seized.



5. Learned Senior Counsel submits that the appellant has been brought in this case by way of taking him on remand from Dimapur East P.S. Case No. 0115 of 2019 and in connection with this case, he is in custody since 20.05.2019. It is submitted that in the present case, altogether, 123 witnesses are to be produced by the prosecution but till date only 24 witnesses have been examined, therefore, the trial is not likely to be concluded in near future. Considering the incarceration of the appellant for about five years in connection with this case, it is submitted that the appellant deserves privilege of bail at this stage.

6. Learned Senior Counsel submits that one of the accused, namely, Tripurari Singh @ T.P. Singh has been granted bail by learned co-ordinate Bench of this Court in Cr. Appeal (DB) No. 930 of 2022.

Submissions on behalf of the NIA

7. Dr. K.N. Singh, learned ASG has opposed the appeal. A counter affidavit has been filed in this case and with the counter affidavit, a copy of the supplementary chargesheet filed by the NIA has been brought on record.

8. Learned ASG submits with reference to the materials present in the supplementary chargesheet that the name of this appellant has transpired not only in the confessional statement of



co-accused Suraj but also in his statement recorded under Section 164 Cr.P.C. before a learned Magistrate. The Investigating Agency has found that the appellant was engaged in smuggling of weapons, he is the prime accused and the investigation has revealed that the appellant had received huge amount in his account and in the account of his wife from some of the members of the gang who were involved in deliveries of consignment of arms and ammunition. In this connection, paragraph '17.24' of the supplementary chargesheet and copy of the bank account showing deposits made in the account of the appellant from time to time by the co-accused have been relied upon.

9. Learned ASG further informs this Court that though initially the prosecution had given list of 123 witnesses but recently it has been pruned and now about 90 witnesses are to be examined in the trial. Out of 90 witnesses, 24 witnesses have already been examined and the learned trial court has fixed slots for examination of witnesses every month. It is informed that expectedly at least five witnesses are likely to be examined every month, therefore, all the prosecution witnesses are likely to be examined within next fourteen months.

10. It is submitted that the prayer for bail of Tripurari Singh @ T.P. Singh has been allowed by learned co-ordinate



Bench but a perusal of the order would show that his name has not been taken in the confessional statement much less in the statement under Section 164 Cr.P.C. There are several distinguishable features of the said case.

11. It is pointed out that one of the accused, namely, Santosh Kumar @ Santosh Singh had moved this Court for identical relief in Cr. Appeal (DB) NO. 114 of 2021 which has been rejected by learned co-ordinate Bench of this Court vide judgment dated 03.10.2023. Yet, another accused Mukesh Singh had also moved this Court in Cr. Appeal (DB) No. 139 of 2021 which has been rejected vide judgment/order dated 26.10.2021 and a Special Leave to Appeal preferred before the Hon'ble Supreme Court in Special Leave to Appeal (Cri) No. 9652 of 2021 has been rejected vide order dated 07.01.2022.

Consideration

12. Having regard to the entire materials placed before this Court, we are of the considered opinion that mere incarceration of the appellant for about five years in custody would not be enough to allow him to go on bail. The seriousness of the allegations and the severity of the punishment attached to the offences alleged against the appellant are such that this Court would not accept the submission of learned Senior Counsel for the



appellant that because the trial is not likely to be concluded very soon, therefore, the appellant deserves privilege of bail.

13. We deem it appropriate to take note of the information furnished in paragraph '17.24' of the supplementary chargesheet hereunder:-

“17.24. The FIR established the incident. Investigation through the disclosures and pointing out established the places of earlier deliveries of consignments of arms and ammunition as well as association of Ningkhan Sangtam (A-6) with Suraj (A-1), V.R. Kahorangam (A-2), Clearson Kabo (A-3), Mukesh Singh (A-5) and Santosh Singh (A-7) and his involvement in the conspiracy of procurement and supply of sophisticated and prohibited arms and ammunition. The investigation establishes the conspiracy hatched between the accused persons for smuggling of weapons of which Ningkhan Sangtam (A-6) was a prime member. It also establishes the advance of Rs 10 Lacs received by Ningkhan Sangtam (A-6) from Mukesh Singh (A-5) & Santosh Singh (A-7) for a consignment of arms & ammunition. The investigation establishes the procurement & supply of arms & ammunition by Ningkhan Sangtam (A-6) in assistance with Suraj (A-1), V.R. Kahorangam (A-2), Clearson Kabo (A-3) to Mukesh Singh (A-5) & Santosh Singh (A-7), which was further delivered by Tripurari Singh (A-4) to Bhikhan Ganju (A-8), a TPC naxal Leader. The statement of witnesses and Bank account statements establishes the transfer of fund to Ningkhan Sangtam (A-6) through Banking channels as per the directions of Mukesh Singh (A-5) and Santosh Singh (A-7). The statement of Hawala operator Raj Patni has established the transaction of money through Hawala between Mukesh Singh (A-5) and Ningkhan Sangtam (A-6). Statement of protected witness establish that Ningkhan Sangtam (A-6) was the main conspirator and Suraj (A-1) was his main courier who had travelled to Patna and Chauparan



earlier for delivery of consignments of arms and ammunition. Photo identification memos by witnesses establish the identity of Ningkhan Sangtam (A-6) and procurement of insurance on forged documents and the fabrication of concealed cavity in the vehicle of accused Ningkhan Sangtam (A-6) which were used for earlier consignment.”

14. We have also perused the copies of the bank account statements which have been enclosed with the counter affidavit and the account statement is disclosing deposits of huge amount from time to time. At this stage, we are not entering into any discussion on the merit of the case but from the materials present on the record, we are not inclined to interfere with the impugned judgment/order.

15. This appeal has no merit. It is dismissed accordingly.

16. The learned trial court shall expedite the trial and shall 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.

(Rajeev Ranjan Prasad, J)

(Jitendra Kumar, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	29.03.2024
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