

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.115 of 2025

Arising Out of PS. Case No.-31 Year-2018 Thana- NIA District- Patna

Md. Mursheed @ Md. Murseed @ Surma Son of Late Md. Saleem @ Kalim
Resident of village -Bakarpur (Dariapur), PS- Muffasil, Distt. - Munger

... .. Appellant/s

Versus

1. The State of Bihar
2. The Under Secretary to the Government of India, National Investigation Agency Ministry of Home Affairs, Delhi, CTCR Division, North Block, New Delhi

... .. Respondent/s

Appearance :

For the Appellant	:	Mr. Rajnish Kumar Singh, Advocate
For the N.I.A.	:	Dr. Krishna Nandan Singh, Sr. Advocate(ASGI)
		Mr. Manoj Kumar Singh, Advocate
		Mr. Ankit Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)

Date : 02-05-2025

The present appeal has been filed under Section 21(4) of the National Investigation Agency Act, 2008 (hereinafter referred to as the 'N.I.A. Act') for release of the appellant on bail.

2. The F.I.R. bearing Muffasil P.S. Case No. 323 of 2018 dated 07.09.2018 came to be filed for committing the offence punishable under Sections 121/ 379/ 414/ 120(B)/ 34 of the Indian Penal Code and under Sections 25(1-a)/25(1-aa)/ 25(1-b)a/ 26/35 of the Arms Act and under Section 39 of the U.A.P. Act.



Thereafter, Superintendent of Police, Munger, Bihar has requested by informing the Ministry of Home Affairs, Government of India, New Delhi regarding the registration of the said case. Thereafter, the Ministry of Home Affairs, Government of India *vide* its order dated 04.10.2018, directed the National Investigating Agency to take over the investigation of the case bearing Muffasil P.S. Case No. 323 of 2018. Accordingly, the National Investigation Agency has registered the said case as RC31/2018/NIA/DLI on 05.10.2018.

3. Heard Mr. Rajnish Kumar Singh, learned counsel for the appellant and Dr. Krishna Nandan Singh, learned senior counsel for the Respondent-N.I.A. assisted by Mr. Manoj Kumar Singh and Mr. Ankit Kumar Singh.

4. Learned counsel for the appellant submits that the appellant has been implicated in the incident in question pursuant to the confessional statement made by the co-accused. It is further submitted that there is no material in the papers of the charge-sheet against the appellant herein. However, learned counsel has pointed out that there are statement of protected witnesses who have given the statement against the appellant. At this stage, learned counsel has referred the cross-examination of one of the protected witnesses and thereafter contended that the statements of the said



witnesses were recorded by the respondent agency by giving threats to him.

5. Learned counsel thereafter contended that the appellant is in custody since January, 2020 and, therefore, the appellant be released on bail.

6. On the other hand, learned counsel appearing for the N.I.A. has opposed the prayer for grant of bail. Learned counsel submitted that the present is a successive application filed by the appellant. In fact, appellant had filed Criminal Appeal (DB) No. 842 of 2023 before this Court for releasing him on bail. However, when this Court was not inclined to release the appellant on bail, learned counsel appearing on behalf of the appellant withdrew the said appeal. This Court, therefore, passed an order on 05.04.2024 whereby permission was granted to the appellant to withdraw the said appeal.

7. Learned counsel for N.I.A. would thereafter submit that the appellant has failed to point out any change of circumstance. It is also submitted that more than 6 accused preferred the appeal for grant of bail. However, this Court *vide* separate orders passed in the case of co-accused, rejected such prayer. It is further submitted that, in some of the cases, the concerned co-accused preferred S.L.P. before the Hon'ble



Supreme Court. However, the order passed by this Court has not been interfered with.

8. Learned counsel for the N.I.A. further submits that now the Hon'ble Supreme Court has given direction to the concerned Trial Court to conclude the trial before 16th May, 2025 and, therefore, trial of the present case would be over in near future. It is further submitted that out of 106 witnesses the prosecution has examined approximately 96 witnesses. Thus, the trial of the present case would be over immediately and, therefore, at this stage, this Court may not release the appellant on bail.

9. Learned counsel lastly submitted that there are 7 antecedents of the appellant and, therefore, on this ground also, his prayer for grant of bail may not be entertained.

10. We have considered the submissions canvassed by the learned counsels appearing for the parties. We have also perused the material placed on record and the orders passed by this Court in the case of the co-accused against whom similar type of allegations are levelled. At the outset, it is pertinent to note that the present is a successive appeal filed by the appellant for grant of bail. It is pertinent to note that though the learned counsel appearing for the appellant has placed on record the order dated 05.04.2024 passed by this Court in Criminal Appeal (DB) No. 842



of 2023, whereby this Court permitted the learned counsel appearing for the present appellant to withdraw the said appeal and thereby the request made by the appellant for grant of bail was not entertained and though the said order has been annexed, learned counsel did not point out the said fact during the course of his argument and he had argued the matter as if, for the first time, he has filed the appeal for grant of bail. Thus, the fact remains that the present is a successive appeal filed by the appellant for grant of bail.

11. The appellant has failed to point out the change of circumstance. The only ground which could be argued by the learned counsel for the appellant is that the appellant is in custody since 24th January, 2020 i.e. since last more than 5 years. However, it is relevant to note that, as per the case of the Respondent-N.I.A., out of 106 witnesses, prosecution has already examined 96 witnesses and it has been stated by the learned counsel that, as per the direction issued by the Hon'ble Supreme Court in the case of one of the co-accused, the Trial Court is required to complete the trial before 16th May, 2025. Thus, we are of the view that when the trial is at the verge of completion, the prayer for grant of bail cannot be entertained at this stage, and that too in the present successive appeal filed by the appellant.



12. At this stage, we would like to observe that the prayer for grant of bail made by co-accused Bajrang Shankar (in Criminal Appeal (DB) No. 704 of 2021), Manoj Kumar Singh (in Criminal Appeal (DB) No. 563 of 2023), Md. Niyazur Rahman @ Niyazul Rahman @ Golu (in Criminal Appeal (DB) No. 759 of 2023), Md. Irfan @ Md. Irfan Alam (in Criminal Appeal (DB) No. 948 of 2023) & Shivendra Rajak @ Sheelendra Rajak @ Shailendra Rajak (in Criminal Appeal (DB) No. 381 of 2024) has not been entertained by this Court *vide* separate orders.

13. It is also not in dispute that there are 7 F.I.R.’s registered against the present appellant. Thus, the appellant is having criminal antecedents.

14. Looking to the aforesaid facts and circumstances of the present case, we are of the view that the request made by the appellant for grant of bail cannot be entertained.

15. Accordingly, the present appeal stands dismissed.

(Vipul M. Pancholi, J)

(Sunil Dutta Mishra, J)

Sachin/-

AFR/NAFR	
CAV DATE	N.A.
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