

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.310 of 2025

Arising Out of PS. Case No.-31 Year-2022 Thana- NIA District- Patna

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Anwar Rashid S/o- Late Abdul Rasid R/o- 82, Noorkhanpur Near Ek Minara
Masjid, PS & District-Bhadohi, U.P

... .. Appellant

Versus

The Union Bank of India through National Investigation Agency Bihar

... .. Respondent

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Appearance :

For the Appellant/s	:	Mr. Mujahid Ahmad, Advocate Mr. Shams Akhtar, Advocate
For the Respondent/s	:	Mr. Dr. K.N. Singh (A.S.G.) Mr. Arvind Kumar, Spl. PP Mr. Aayushman, AC to ASG Mr. Paritosh Parimal, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SOURENDRA PANDEY
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 20-11-2025

Heard Mr. Mujahid Ahmad, learned counsel for the appellant and Dr. K. N. Singh, learned Senior Advocate (ASG), assisted by Mr. Arvind Kumar, learned Special P.P. for the National Investigation Agency (in short 'NIA').

2. This appeal arises out of the order dated 25.07.2024, passed by learned Special Judge NIA, Patna (hereinafter referred to as the 'learned trial court') in Special Case No. 07 of 2022, in connection with Phulwarisharif P.S. Case No. 827 of 2022 dated 12.07.2022, later on re-registered as NIA FIR No. 31/2022/NIA/DLI dated 22.07.2022 for the offences punishable



under Sections 120, 120B, 121, 121A, 153A and 153B/34 of the Indian Penal Code (in short 'IPC'). Upon investigation, the NIA has filed a chargesheet against the appellant for his prosecution under Sections 120B, 121, 121A, 122, 153, and 153B of IPC and Sections 10, 13, 17, 18, 20, 38, and 39 of Unlawful Activities (Prevention) [in short 'UA(P)] Act, 1967. Sanction for prosecution of the appellant as required under Section 196 Code of Criminal Procedure (in short 'CrPC') and Section 45(1) of the UA(P) Act, 1967 has been accorded by the Ministry of Home Affairs, Government of India.

Prosecution Story

3. The prosecution case is based on the self-statement of one Akrar Ahmad Khan, who was the Police Inspector-cum-Police Station Incharge, Phulwarisharif, on 12.07.2022. In his recorded statement, he has alleged as under:-

"On 11.07.2022, at about 7:30 PM, he got an information that some miscreants are planning to do some occurrence during the proposed Patna visit of the Prime Minister of India, they are doing training for a fortnight for this purpose. On this information, the Officer-in-Charge of Phulwarisharif Police Station brought it to the notice of the senior officers. The senior officers constituted a team of police officers and with the said



team, the Officer-in-Charge/informant reached 'Ahmed Palace' situated in Naya Tola Nahar under Phulwarisharif Police Station. On reaching there and in course of verification, it came to his notice that some unknown persons are holding meeting on the second floor of the 'Ahmed Palace' during last two months and visit of unknown persons are frequent there. The informant came to know that during 6th-7th July also, a meeting had taken place in which some doubtful people had come.

It is alleged that as the informant was conducting the verification, in the meantime, Md. Jalaluddin and Athar Parvez, who are the owner of 'Ahmed Palace', came there. In their presence, in presence of two independent witnesses, when the second floor of 'Ahmed Palace' was searched, in course of search from a room, he found a literature, namely, 'India 2047 towards Rule of Islamic India, Internal Document not for circulation' which was in seven pages and there were five copies of the same. In search, thirty pamphlets written in Urdu and twenty five pamphlets written in Hindi of Popular Front of India, 20 February 2021, forty nine flags made of clothes, red, green and white bearing blue colour star on the flag, booklets printed in Urdu were found. The search team also found thirty chairs placed in the big hall and on a table, photocopy of lease deed on a non-judicial stamp paper,



showing the name of house owner of Farhat Bano, wife of Jalaluddin and the name of lessee as Athar Parvez, son of Abdul Qayum Ansari was found. The house owner informed that the second floor of the building was taken by Athar Parvez for purpose of giving training and training was provided on 6-7 July 2022 in which people from other states had come and several doubtful person had also received training there. Athar Parvez, however, denied but when the police enquired from him in presence of Jalaluddin and local people, he told them that he was an active member of SIMI organization and after the SIMI organization was banned and the members of the same were in jail, he was providing them legal help.

He informed that at present he was District General Secretary of SDPI party. He disclosed that the *parcha*, flags and the booklets are of Popular Front of India (in short 'PFI'). At the instance of the PFI, he is adding the former members of SIMI with this party and is establishing a secret organization. He disclosed that the main object of the organization is to take revenge against the atrocities upon Muslims and whosoever makes comment or abuses Islam religion, he is targeted and attacked. Recently, Nupur Sharma had said wrong against the religion, against her steps are being taken to take the revenge. For this reason, revenge had been taken in



Amravati in Maharashtra and Udaipur in Rajasthan. He further disclosed that in this planning, other persons are also actively participating with him. He named twenty five other persons who were members of the PFI in different areas and were conducting the activities of the PFI. He disclosed that there are other people whom he identifies by face and all of them could come and get training here and they are motivated to raise their voice and unleash war against a particular community of the local society.

The Officer-in-Charge conducted a raid in the house of Athar Parvez in Mohalla, Gulistan from where a bag containing red, green and white colour flags inscribed with a blue colour star on the flag and copy of the lease deed were found. From the bag, the documents known as 'India 2047 towards rule of Islamic India, Internal document' not for circulation and other documents were also found. The contents of the documents India 2047 towards Rule of Islamic India has been mentioned in the FIR which is being reproduced as under:

“... Popular Front of India (PFI) is confident that even if 10% of total Muslim population rally behind it, PFI would subjugate the coward majority community to their knees and bring back the glory of Islam in India.

External Help

In the scenario of full-fledged show down with the State, apart from relying on ours trained PE cadres,



we would need help from friendly Islamic countries. In the last few years, PFI has developed friendly relationship with Turkey, a flag-bearer of Islam. Efforts are on to cultivate reliable friendship in some other Islamic countries.”

4. Keeping in view the gravity of the offence and its normal security ramifications, the Central Government formed an opinion that a scheduled offence under the NIA Act has been committed, hence it is required to be investigated by the NIA in accordance with the NIA Act, 2008. Accordingly, the NIA took over the investigation.

5. During investigation of the case, the NIA filed a third supplementary chargesheet, copy of which is available on the record with the counter-affidavit of the NIA. It has transpired that the accused persons of this case were connected with the accused persons/suspects of multiple NIA cases directly or through common contacts. On the basis of the call data records of the accused persons, sixteen locations including the premises of this appellant (A-37) at 82 Noorkhanpur, near Ek Minara Masjid, Bhadoi, Sant Ravidas Nagar, Bhadoi, Uttar Pradesh were searched. During search of his premises, NIA found articles related to his bank details, association with members of various proscribed terrorist organisations and financial assistance to them and his ideology supporting to members of terrorist organisations.



6. The NIA further found that the appellant was ex-member of the banned terrorist organisation Students Islamic Movement of India (SIMI) and after the ban imposed on the said organisation, he had been instrumental in forming another association/organisation namely '*Wahadat-e-Islami Hind*'. He was associated with several Popular Front of India (PFI) members of Bihar and Uttar Pradesh including the FIR named accused Athar Parwez and was instrumental in preparing a secret group of ex-SIMI members to work for the agenda of Popular Front of India. It has been found that this appellant was collecting funds from various sources which were further sent to several convicted accused of the terror cases, imprisoned in various jails. He was also acting as an intermediate messenger to communicate information sent from the accused of terror cases to like-minded persons or associates. The appellant was sending radical books/materials to various like-minded persons.

7. On the basis of the seized articles from his house, the appellant was arrested and remanded in police custody where he was interrogated. He has disclosed his association with the members of the proscribed terrorist organisation SIMI, the various activities which he conspired about the future plans of PFI and the investigation revealed that the appellant had received a letter from Mohammad Abrar Amir, Jamat-e-Islami, Pakistan in which



Mohammad Abrar had advised him to resolve his problem staying in India itself and that staying in Pakistan will get the appellant into a lot of problem. This shows that he was associated with the proscribed terrorist organisation and with the support of Pakistani associates, his intention was to migrate to Pakistan for extending the ideology of SIMI.

8. The investigation has further revealed the association of this appellant with inmates of Aurangabad Arms Haul case, Indian Mujahiddinn case, 7/11 train bomb blast case, Gateway of India bomb blast case, Daesh case, Nanded Arms Haul case and Mumbai 26/11 attack case, etc. One diary seized from the house search of this appellant contained the handwritten details of these inmates and their family members which establishes the inclination of the appellant towards the ideology of these inmates of proscribed terrorist organisation and support to their terror activities.

9. The NIA has found bunch of papers containing addresses and other details of criminals, lodged in various jails including Safdar Hussain Nagori, a convicted SIMI member and his associates lodged in Bhopal Central Jail, Ghulam Sarwar, ex-SIMI head of Bihar State and Mohammad Sahenshah, both arrested in Case No.377 of 2017 of PS Civil Line, Gaya Bihar case. These persons have been termed as victim by this appellant. The handwritten “shaheed list” related to accused killed in police



encounter. Thus, the bunch of papers seized from the premises of the appellant confirms his support to terrorist and their terror activities. His association with SIMI cadres associates, namely Zakir Hussain, Amjad @ Pappu, Saliq @ Sallu and S.K. Mahboob @ Guddu who were also accused in Bijnor Blast case and were killed during encounter of Bhopal police on 31.10.2016, has surfaced in course of investigation. From his house, a letter written by Abdus Sami, a convicted accused of ISIS case investigated by Special Cell, Delhi Police was found in which a request was made to the appellant for financial assistance. NIA also seized various receipts of electronic money orders showing money sent to various inmates established that the appellant was providing financial support to accused persons of terror cases. The letter written to Postmaster, Post Office, Bhadoi, UP by this appellant related to non-receipt of acknowledgment of financial support amounting to Rs. 88,700/- from November, 2014 to July, 2015 to the various persons lodged in jail including accused of Gandhi Maidan, Patna blast case.

10. It appears from the records that together with the third supplementary chargesheet, NIA has filed list of witnesses, list of documents, list of material evidence and the original prosecution sanction order. The learned trial court has noticed the materials available on the record in form of chargesheet and the documents which have been seized in course of search of the house of the



appellant. The learned trial court has also noticed the kind of criminal antecedents of the appellant. There are nine criminal cases shown to have been registered against the appellant spanning in a period of more than 20 years in which he is facing accusation of commission of heinous offences like murder, attempt to murder and also under the provisions of the UA(P) Act. The learned trial court has also relied upon the judgment of the Hon'ble Supreme Court in the case of **National Investigation Agency vs. Zahoor Ahmad Shah Watali** reported in **(2019) 5 SCC 1**; **Gurwinder Singh vs. State of Punjab** reported in **2024 INSC 92** and the **Union of India vs. Barakathullah etc.** reported in **2024 INSC 452** wherein the Hon'ble Supreme Court has expressed its concern to the threat raised by such terrorist organizations and held that where the accusations against the respondents are *prima facie* true, the mandate contained in the proviso to Section 43D(5) of the UA(P) Act would become applicable and the accused would not be released on bail. Taking note of these views/opinion of the Hon'ble Supreme Court, the learned Special Judge, NIA Patna/trial court has rejected the prayer for bail of the appellant.

Submissions on behalf of the appellant

11. While assailing the impugned order rejecting prayer for bail of the appellant by the learned trial court, Mr. Mujahid Ahmed, learned Advocate, has argued that the entire prosecution case



is false and concocted and the allegations of channelising illegal funds and transfer of funds by the appellant, in furtherance of commission of terrorist act or to achieve any illegal object, have no basis to stand. The appellant is not a member of PFI as alleged by the prosecution agency rather, he was a marketing agent in Crescent Publication and was in contact with many persons, book corners, School Principal and was visiting different places in India for the purpose of book sales/marketing and supply.

12. Learned counsel submits that the appellant has been dragged in this case on the basis of merely a hypothetical story and without a cogent material against him and for such hypothetical story, he cannot be put behind the bars. There is nothing to support the allegation that the appellant was ever engaged in waging war or attempted to wage war or conspired to wage war against the Government of India. Therefore, the charges under Sections 121, 121A and 122 would not be attracted against him. It is submitted that the prosecution agency has not collected any reliable material to show that the funds allegedly sent by the appellant to different persons have been used for procuring arms and ammunitions or to achieve any object of waging war. It is submitted that the charges under Sections 10, 17, 18, 38 and 39 of the UA(P) Act would not get attracted against the appellant.



13. By filing a supplementary affidavit, learned counsel for the appellant has brought on record some orders passed by the Hon'ble Supreme Court as also by this Court in similar matters. It is submitted that some of the co-accused have been granted bail. This Court earlier granted bail to a co-accused Nooruddin Jangi @ Advocate Nooruddin Jangi in Criminal Appeal (DB) No. 749 of 2023. Then, Jalaluddin Khan has been granted bail by the Hon'ble Supreme Court in Criminal Appeal No. 3173 of 2024. Athar Parwez has also been granted bail in Criminal Appeal No. 5387 of 2024 by the Hon'ble Supreme Court. Arman Mallick in Criminal Appeal (DB) No. 93 of 2024, Mohammad Sinan in Criminal Appeal (DB) No. 514 of 2024 and Iqbal @ Iqbal Abdul Khader in Criminal Appeal (DB) No. 535 of 2024 have been granted bail by this Court. Abid K.M. and Abdul Rafeek M. have also been granted bail in Criminal Appeal (DB) No. 875 of 2024 and Criminal Appeal (DB) No. 949 of 2024 respectively.

14. Learned counsel submits that in the case of the appellant also, the rigours of Section 43D(5) of the UA(P) Act, 1967 would not come into his way and on the principle of parity, the appellant would deserve privilege of bail during pendency of the appeal. It is submitted that there are huge number of witnesses to be examined and there is no chance of culmination of trial in near future.



Submissions on behalf of the NIA

15. On the other hand, Dr. K.N. Singh, learned ASG has opposed the prayer for bail of the appellant. It is submitted that in course of investigation of the case, from the premises of the appellant, several incriminating materials have been seized showing connection of the appellant with the several convicts of terror cases. The investigating agency has found from the statement of the protected witnesses and the details found in the diary of this appellant that he was sending money to the terrorists and sometimes even to the family members of such convicts of terror cases. Learned ASG has produced before this Court the copy of the letter written by Safdar Nagori, the convict prisoner and erstwhile Secretary General of SIMI wherein he has disclosed his ideologies and his wish of *shahadat*.

16. On the principle of parity, learned ASG submits that by no stretch of imagination, the cases of the co-accused who have been granted privilege of bail during the ongoing trial could stand on similar footing much less on identical footing with the present appellant. To distinguish the present case from that of those who have been granted bail either by this Court or by the Hon'ble Supreme Court, learned ASG has pointed out that from possession of or the premises of those co-accused, no material parallel to the materials found from the premises of the appellant was seized.



Nooruddin Jangi @ Advocate Nooruddin Jangi was granted bail after this Court held that a few isolated materials showing his participation in protest marches organized under the PFI banner, there was nothing on record which would *prima facie* establish that he had been or is indulging in activities which would constitute overwhelming public functionaries by means of criminal force. Jalaluddin Khan was granted bail by the Hon'ble Supreme Court after taking a view that it was not possible to record a conclusion that there were reasonable grounds for believing the accusation against the appellant of commission of offence punishable under the UA(P) Act is *prima facie* true. The Hon'ble Supreme Court, however, made it clear in paragraph '23' of its judgment that its reasons are confined to the case of the appellant and the same will have no bearing on the trial and cases of the co-accused. Athar Parwez has also been granted bail by the Hon'ble Supreme Court for the reason that the materials which were allegedly recovered from his possession was a rent deed showing that first floor of Ahmad Palace was rented out to the said appellant and the statement of the protected witnesses had not mentioned anything specific that could be attributed to the appellant to *prima facie* attract charges under the UA(P) Act, 1967.

17. Learned ASG further submits that in other cases, in which some of the accused have been granted bail, this Court has held that like the case of Athar Parwez, in the case of these



appellants, the first condition under Section 43D(5) of the UA(P) Act, 1967 is duly satisfied hence the rigours of the said provision would not be attracted. This Court has taken note of the materials seized from the premises of the appellants and having noticed that their cases were different from co-accused Mohammad Irshad Alam and Reyaz Moarif in Criminal Appeal (DB) No. 130 of 2024 and Criminal Appeal (DB) No. 42 of 2024, allowed their bail. Thus, it is submitted that those co-accused were granted bail only after finding a clear distinction between the case of those appellants from that of Md. Irshad Alam and Reyaz Moarif whose prayer for bail has been rejected by this Court. It is thus, submitted that the case of this appellant cannot be kept on the same pedestal with that of the appellants named above in different criminal appeals by this Court. Pointing out the observations of the Hon'ble Supreme Court, learned ASG has submitted that the observations of the Hon'ble Supreme Court in one case is not to be taken for other cases.

Consideration

18. Having heard learned counsel for the appellant and learned ASG for the NIA as also on perusal of the records, we have noticed that in its third supplementary chargesheet, the NIA has placed on record overwhelming materials collected from the premises of the appellant. It has been found that the appellant was a member of a proscribed terrorist organization, namely SIMI and after



the said organization was banned, he formed an organization of '*Wahadat-e-Islami Hind*'. He was instrumental in preparing a secret group of ex-SIMI members to work for the agenda of Popular Front of India and its prime agenda was to establish Islamic rule in India as envisioned in the PFIs 'India 2047 document'.

19. This Court has noticed from the chargesheet enclosed with the third supplementary affidavit and from the documents such as the statement of the protected witnesses, the search list, copy of the letter written by Safdar Nagori, the convict prisoner and the handwritten list containing the name of the persons whom money was being sent by the appellant that the appellant was providing financial assistance to the members of the terrorist organization and the convicted terrorists. The chargesheet specifically mentions that this appellant along with Asiya Andrabi, Head of '*Dukhtaran-e-Millat*', Khurram Parvej and other persons with separatist agenda from Jammu and Kashmir were involved in spreading their ideology of waging war against the Government of India and disaffection towards the government established by law in India. Asiya Andrabi is accused in NIA case and Khurram Parvej is also arrested by NIA in terror funding cases. The chargesheet further contains information collected from the material seized from the house of the appellant that he was in association with inmates of Aurangabad Arms Haul case, Indian Mujahiddinn case, 7/11 train bomb blast case, Gateway



of India bomb blast case, Daesh case, Nanded Arms Haul case and Mumbai 26/11 attack case, etc. All these have transpired from the diary seized from the house of the appellant containing handwritten details of these inmates and their family members. The bunch of papers seized from his premises contained addresses and other details of criminals lodged in various jails including Safdar Hussain Nagori, a convicted SIMI member and his associates lodged in Bhopal Central Jail, Ghulam Sarwar, ex-SIMI head of Bihar State and Mohammad Sahenshah, both arrested in Gaya blast case. The appellant has also been found associated with Zakir Hussain, Amjad @ Pappu, Saliq @ Sallu and S.K. Mahboob @ Guddu who were the accused in Bijnor Blast Case and were killed during encounter of Bhopal Police on 31.10.2016.

20. We have noticed that against this appellant altogether nine cases were lodged and the nature of cases are on similar lines.

21. Learned counsel for the appellant has though taken a plea of parity but in our considered opinion, by no stretch of imagination the case of this appellant may be placed on identical footing with that of those appellants who have been granted bail by this Court. We have noticed the distinctions drawn by learned ASG pointing out the observations of this Court and the Hon'ble Supreme Court while granting bail to some of the co-accused. The distinctions are well drawn. There are overwhelming materials on the record in



support of the chargesheet. We have already noticed them hereinabove, therefore, those are not being reiterated for brevity sake.

Section 43D(5) of the UA(P) Act, 1967 reads as under:-

“(5) Notwithstanding anything contained in the Code, no person accused of an offence punishable under Chapters IV and VI of this Act shall, if in custody, be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release:

Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under section 173 of the Code is of the opinion that there are reasonable grounds for believing that the accusation against such person is *prima facie* true.”

22. In our considered opinion, at this stage, this Court cannot come to a conclusion even *prima facie* that there is no reasonable ground for believing that the accusations against the appellant of raising funds for terrorist act, his association with the terror accused and convicts and providing financial assistance to them are not *prima facie* true. In fact, taking note of these aspects of the matter, this Court has rejected the prayer for bail of a number of co-accused in this very case. The plea of parity would thus fail.

23. We have been informed that the appellant is in incarceration for about two and half years and the trial is not likely to be concluded in near future. First of all, our observation would be



that mere incarceration of two and half years in the case of the present nature which involves a threat to the security of the nation and its citizens and which requires recording of evidence of large number of witnesses cannot be kept on equal footing with the other cases and mere period of incarceration of two and half years, at this stage, cannot be a good ground to grant bail to the appellant. Still, we hold an opinion that all endeavours be made by the learned trial court to conclude the trial as early as possible, preferably within a period of one year. The learned ASG has informed that all endeavours are being made to produce the witnesses on the dates fixed in the matter.

24. It is expected that the NIA must be vigilant and take appropriate steps to produce the witnesses on the date fixed by the learned Special Judge, NIA Court, Patna.

25. In result, this appeal would fail. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

Rishi/-

AFR/NAFR	
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