

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.514 of 2024

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

Mohammad Sinan, Son of Harmad, Resident of R/a No.- 1-39 Nandawara
Main Road, Sajipa Munnuru village, Panemmangalore Bantwal Taluk, Dist.-
Dakshin Kannada, Karnataka.

... .. Appellant

Versus

The Union of India through National Investigation Agency

... .. Respondent

with

CRIMINAL APPEAL (DB) No. 535 of 2024

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

Iqbal @ Iqbal Abdul Khader, Son of Abdul Khadar, Resident of - R/a No. -1-
141/2, Iqbal Noor villa, Near Govt. School, Sajipa Munnuru Village,
Panemangalore, Path Bantwala Taluka, Dist.- South Kannada, Karnataka

... .. Appellant

Versus

The Union of India through National Investigation Agency

... .. Respondent

Appearance :

(In CRIMINAL APPEAL (DB) No. 514 of 2024)

For the Appellant/s	:	Mr. Kundan Kumar Ojha, Advocate
For the Respondent/s	:	Mr. Krishna Nandan Singh (A.S.G)
		Mr. Manoj Kumar Singh, Spl.PP
		Mr. Ankit Kumar Singh (JC)
		Mr. Pramod Kumar (PP, NIA)

(In CRIMINAL APPEAL (DB) No. 535 of 2024)

For the Appellant/s	:	Mr. Kundan Kumar Ojha, Advocate
For the Respondent/s	:	Dr. Krishna Nandan Singh (A.S.G)
		Mr. Manoj Kumar Singh, Spl.PP
		Mr. Ankit Kumar Singh (JC)
		Mr. Pramod Kumar (PP, NIA)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

and

HONOURABLE MR. JUSTICE S. B. PD. SINGH

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 18-04-2025

Heard learned counsel for the appellants and learned
counsel for the National Investigating Agency (in short 'NIA').



2. These two appeals are arising out of the common order dated 07.03.2024 (hereinafter called 'the impugned order') passed by learned Special Judge, NIA, Patna, Bihar (hereinafter called the 'learned trial court') in Special Case No. 07 of 2022/R.C. No. 31 of 2022.

3. By the impugned order, the learned trial court has been pleased to reject the prayer for bail of the appellants during the ongoing trial. Both the appellants are aggrieved by and dissatisfied with the order of the learned trial court.

4. In order to appreciate the matter, it would be necessary to take note of the prosecution case.

Prosecution Case

5. The prosecution case is based on a self-written report dated 12.07.2022 of Akrar Ahmed Khan, the Inspector of Police-cum-Officer-in-Charge of Phulwarisharif Police Station, Patna. In the written report, the informant alleged that 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.

6. It is alleged that as the informant was conducting the verification, in the meantime, Md. Jalaluddin (A-2) and Athar Parvez (A-1), 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 6th-7th 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 our 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”

7. On the basis of the written information furnished by the Officer-in-Charge of the Police Station, Phulwarisharif P.S. Case No. 827 of 2022 was registered under Sections 120/120(B)/121/121(A)/153/153(B)/34 IPC.

8. During investigation, the NIA filed a second supplementary charge-sheet in which the appellant Md. Sinan (A-31) and appellant Iqbal Abdul Khader (A-33) were chargesheeted. The role of these two appellants have been mentioned in paragraph ‘11.1’ and ‘11.3’ of the second supplementary charge-sheet. Both of them have been found to be members of the Popular Front of India (PFI) and they were instrumental in illegal channelizing of funds from abroad to the PFI members in India. It is stated that A-31 used to provide online services for air, train ticket booking and insurance. The examination report and extracted data received from CERT-IN revealed that the syndicate of the above-mentioned accused persons were channelizing the funds from UAE/ Saudi Arabia and depositing the same in the bank accounts of different entities including accused persons of East Champaran (Motihari) module of the PFI.



9. Suspicious transactions in form of cash deposits were made from A-31 and Abdul Rafiq M. (A-34) from the Canara Bank Panemangalore Bantwal and Vitala branches of Dakshina Kannada district of Karnataka in the Canara Bank account number 6342101000497 of Md. Sajjad Alam. The cash amounts less than Rs. 50,000/- were deposited in multiple transactions to avoid generation of Suspicious Transaction Report (STR) and escape scrutiny of Law Enforcement agencies.

10. Searches were conducted at seven locations in Kasaragod, district of Kerala and Dakshina Kannada, district of Karnataka including in the house and shop of the appellant (A-31) on 05.03.2023 wherein huge incriminating evidences were recovered and seized pertaining to illegal transactions. Both the appellants were arrested on 06.03.2023. Custodial examination of the accused A-31 and A-33 revealed that Iqbal (A-33) being stationed in Dubai, United Arab Emirates (UAE) was engaged in the illegal transfer of funds in India including PFI cadre Md. Sajjad Alam and other PFI members for carrying out activities of PFI. These funds were used in extending the unlawful activities of PFI in Bihar even after the ban of PFI by the central government. Seizure of two notebooks from the house search of the co-accused/cousin Sarfaraz and extracted data of seized mobile



phones of Iqbal (A-33) and Sarfaraz Nawaz (A-32) revealed illegal channelizing of funds and deposit of cash amounts including in the name of Md. Sajjad Alam.

11. The NIA has seized original cash deposit receipts by which the cash deposits in the Canara bank account no. 6342101000497 of Md. Sajjad Alam were made using the depositors name as Sinan, Mobile No. 9964137310 from Panemangalore and Bantwal branches of Canara Bank. The CCTV footages of these cash deposits from Panemangalore Bantwal and Vitala branches of Canara Bank of Dakshina Kannada district have been brought on record with the charge-sheet to demonstrate involvement of these syndicate in illegal channelizing of funds to Md. Sajjad Alam of Bihar.

12. The learned trial court while rejecting the prayer for bail of the appellants has taken note of the materials available on the record and the judgments of the Hon'ble Supreme Court in the case of **NIA vs. Zahoor Ahmad Shah Watali** reported in **(2019) 5 SCC 1** and **Gurwinder Singh vs. State of Punjab** reported in **2024 SCC OnLine SC 109**. The learned trial court held that the accusations against both the appellants appear to be *prima facie* true, their cases are squarely covered by the



observations of the Hon'ble Supreme Court and the bail petitions are liable to be rejected.

Submissions on behalf of the appellants

13. While assailing the impugned order of the learned trial court, learned counsel for the appellants would submit that so far as the appellant Md. Sinan (A-31) is concerned, he has been brought in this case during investigation alleging that he along with accused (A-34) deposited cash amount of less than Rs. 50,000/- several times from Canara Bank Panemangalore Bantwal and Vitala branches of the district in Canada Bank of Md. Sajjad Alam and to various accused/suspects for committing terrorist acts. There are also allegations of conspiracy and both the appellants have been charged for criminal conspiracy in abetting waging war against the Government of India in association with co-accused persons and in criminal conspiracy of collecting men, arms and ammunition and preparing to wage war with the intention of waging war against the Government of India.

14. Learned counsel submits that the entire prosecution story is false and concocted and the story of channelizing illegal funds and transfer of funds by the appellant in furtherance of commission of terrorist act or to achieve any illegal object has no iota of truth. It is submitted that the appellant (A-31) is not a



member of the PFI, rather he was running his small shop of e-ticket booking and mobile recharge at his local market. It is submitted that one Ibrahim is the nephew (sister's son of the appellant), he lives in Saudi Arabia and he sometimes used to send money in the bank account of the appellant for expenses of his wife, (sister of appellant), but such transaction of money occurred among the family members for meeting monthly expense and daily need of the family, this has been termed as channelizing of illegal funds. It is submitted that mere allegation of transferring amount without any corroborative evidence of using the same for procuring arms and ammunition and achieving any goal to commit terrorist act, does not attract any of the provisions of the UA(P) Act as defined under Section 2(1)(k) of the Act, which has the meaning assigned to it in Section 15. In the grounds of appeal, the petitioner has contended that the PFI was a democratic organisation registered under the Societies Act and had been in service of many welfare activities, nonetheless, it was banned on 27.09.2022. The further ground is that the bail application of the applicant has been rejected only on the ground of a *prima facie* case to believe the allegations as true without there being a definite accusation against the appellant based on



any material document or evidence collected before or after arrest.

15. Learned counsel for the appellants has submitted that except for the allegations, there are absolutely no material involving the appellants in the commission of offence under Section 15 of the UA(P) Act. It is also submitted that in view of the previous FIR RC/14/2022/NIA/DLI dated 13.04.2022 and FIR in RC No. 4/2022/NIA/DLI dated 19.09.2022 on the same set of allegations against another set of accused with verbatim reproduction of same occurrence is nothing but a violation of “Doctrine of Sameness”. Judgment of the Hon’ble Supreme Court in the case of **T.T. Antony vs. State of Kerala** reported in (2001) 6 SCC 181 has been cited on behalf of the appellant.

16. Learned counsel for the appellant (A-31) would submit that all transactions of the appellant pertains to the period prior to the imposition of ban on PFI organisation, therefore, no *prima facie* offence under Section UA(P) Act is being made out against the appellants.

17. As regards the appellant Iqbal (A-33), the NIA has collected the account statement of the Canara Bank of Md. Sajjad Alam to establish that Iqbal (A-33) was associated in the criminal conspiracy of cash deposit in the bank account of Md. Sajjad



Alam which was channelized through him from UAE. The extracted data of seized mobile phones of Iqbal (A-33) has been cited to establish his association with Sarfaraz (A-32) and Sinan (A-31) in transfer of illegal funds to Md. Sajjad Alam. The search list related to the house search of Iqbal (A-33) has been cited to establish the seizure of one Samsung Galaxy A-53 5G mobile along with one SIM. Statement of Md. Nawfad and Zakir Hussain recorded under Section 161 CrPC have been cited to establish association of Sarfaraz and Iqbal in transfer of illegal funds from abroad and to establish association of Sinan and Sarfaraz. Statement of some other witnesses have been cited to establish the association of the appellants with PFI and their involvement in channelizing of the illegal funds from UAE to India.

18. On behalf of Iqbal (A-33), it is contended that he is not a member of PFI rather he used to work in Dubai and after returning from Dubai he was running his small shop at his local place. He was remitting some amount from Dubai or UAE to India but the same was sent for the livelihood expenses of his family and children through legal channels. It is submitted on behalf of A-33 that sometimes he used to provide room rent service to his clients through other brokers and in pursuance to that, he had to transact with persons/clients on behalf of some



other brokers/service providers also, and in the present era of digital transactions, such transaction cannot be termed as channelising funds for illegal means, when each and every transaction have been made according to law. He has cited his health issues as according to him he was undergoing treatment for his life-threatening disease Acute Achalasia cardia. It is one of his contentions that all transactions of the appellant pertains to the period prior to the imposition of ban on PFI organisation, therefore no prima facie offence under UA(P) Act is made out against the appellant. It has also been brought to our notice that in this case so far three accused persons have been granted bail. Nooruddin Jangi @ Advocate Nooruddin Jangi has been granted bail by a learned coordinate Bench of this Court in Criminal Appeal (DB) No. 749 of 2023. The two other accused namely Jalaluddin Khan @ Md. Jalaluddin and Athar Parvez have been granted bail by the Hon'ble Supreme Court in Criminal Appeal No. 3173 of 2024 and Criminal Appeal No. 5387 of 2024 respectively.

19. It is submitted on the basis of the materials available on the record it may be found by this Court that rigours of Section 43D(5) of the UA(P) Act, 1967 would not be attracted. However, it has been alternatively submitted that even if the



condition provided under proviso to subsection 5 of Section 43D of the UA(P) Act, 1967 is attracted, this Court being a constitutional court must come to the rescue of the appellants considering that the appellants are in incarceration for over two years but the trial is not likely to be concluded in near future. There are altogether 160-170 witnesses to be examined and presently PW-2 is being cross-examined. Learned counsel relied upon the judgment of the Hon'ble Supreme Court in the case of **Union of India v. K.A. Najeeb** reported in (2021) 3 SCC 713, **Vernon vs. State of Maharashtra and Anr.** reported in (2023) 15 SCC 56 and **Javed Shaikh vs. State of Maharashtra** reported in (2024) 9 SCC 813.

Submissions on behalf of the NIA

20. On the other hand, learned ASG for the NIA has opposed the prayer of bail of these appellants. It is his common contention that the PFI is an unlawful association. Its ultimate objective was to overthrow the existing constitutional system of Democratic Government of India and to replace it with an Islamic Caliphate where Shariat/Islamic law shall be imposed. It is contended that the PFI, under the garb of promoting national integration, communal amity and welfare of minorities and



weaker section, was clandestinely working to achieve the objective of Islamization of the country by the year 2047.

21. As regards the role of these two appellants, it is submitted that during investigation, the digital article seized from the house searches and personal searches of Md. Sinan (A-31) it has been found that he was instrumental in illegal channelising of funds from UAE/Saudi Arabia and depositing the same in the bank accounts of different entities, including accused persons of East Champaran (Motihari) Module of PFI of this case. The cash deposits in the Canara Bank account of Md. Sajjad Alam were made using the depositor's name as Sinan from Panemangalore and Bantwal Branches of Canara Bank which was channelised from UAE. Regarding Iqbal (A-33), it is stated that he used to collect money from Md. Sajjad Alam and sent the same to India through illegal channels. On instruction of Md. Iqbal (A-33), Sarfraz Nawaz (A-32) and Abdul Rafeek M (A-34) collected money from Abid K M (A-35) in India and deposited the same in the account of Md. Sajjad Alam using credentials of Md. Sinan (A-31).

22. Learned ASG submits that one of the co-accused Belal @ Irshad (A-30) has received huge amount from the bank account of Md. Sajjad Alam during the period of 2022-2023. In



this manner, the involvement of these appellants in transfer of illegal funds from abroad to different persons in India for committing terrorist acts have been sought to be established.

23. Learned ASG submits that there are sufficient materials on the record to establish a *prima facie* case not only under the provisions of the IPC and Arms Act but also under the UA(P) Act, 1967 hence the rigours of Section 43D(5) of the UA(P) Act, 1967 would be attracted in the case of these appellants.

24. As regards the alternative submission made by learned counsel for the appellants, learned ASG submits that the ratio of the judgments of the Hon'ble Supreme Court in the case of **K.A. Najeed** (*supra*), **Vernon vs. State of Maharashtra** (*supra*) and **Javed Shaikh** (*supra*) would not help the appellants because the appellants are not in incarceration for a long period and they cannot be said to have undergone a substantial part of the sentence which is prescribed for the offences of which the appellants have been charged with.

Consideration

25. We have heard learned counsel for the appellants and learned ASG for the Union of India as also perused the records. These two appellants have been chargesheeted vide



Charge-sheet No. 1B/2023 dated 01.09.2023 for the offences punishable under Sections 120B, 121, 121A and 123 of the IPC and Sections 10, 13, 17 and 18 of the UA(P) Act. Sections 121, 121A and 123 of IPC are being reproduced hereunder for a ready reference:-

121. Waging, or attempting to wage war, or abetting waging of war, against the Government of India.

Whoever wages war against the Government of India, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or imprisonment for life and shall also be liable to fine.

121A. Conspiracy to commit offences punishable by section 121.

Whoever within or without India conspires to commit any of the offences punishable by section 121 or conspires to overawe, by means of criminal force or the show of criminal force, the Central Government or any State Government, shall be punished with imprisonment for life, or with imprisonment of either description which may extend to ten years, and shall also be liable to fine.

123. Concealing with intent to facilitate design to wage war.

Whoever, by any act, or by any illegal omission, conceals the existence of a design to wage war against the Government of India, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.



26. From the materials available on the record, although this Court finds that there are allegations that these appellants are the members of the PFI and in order to achieve the agenda of establishing Islamic rule in India by 2047 and overthrow the Democratic Government in India, they conspired among themselves with the co-accused in the matter of committing offence of waging war against the Government of India, we find that the allegations are not supported/corroborated by producing any materials to form a *prima facie* opinion against these appellants.

27. While some of the co-accused have been chargesheeted under Sections 153A and 153B of IPC with Section 120B read with Section 25 and 29 of the Arms Act also, so far as these appellants are concerned, the NIA has not found sufficient materials to file a charge-sheet against them for the offences under Sections 153A and 153B of IPC. Section 153A punishes a person for promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony. Section 153B punishes a person for imputations, assertions prejudicial to national integration. Thus, unlike other accused,



these appellants have not been chargesheeted under these two Sections of the IPC.

28. This Court has further noticed that these two appellants are the residents of the State of Kerala and Karnataka. The counter affidavit of the NIA discloses that Iqbal (A-33), Sarfaraz (A-32) and Md. Sinan (A-31) were involved in transactions of illegal funds. Iqbal used to collect money from Md. Sajjad Alam in Dubai/UAE and sent the same to India through illegal channels. These are vague statements without disclosing the period during which the funds were collected from Md. Sajjad Alam and sent to India.

29. No transaction of money has been shown between these appellants and the accused Reyaz Moarif (A-4) or with any of the accused of the Supplementary Charge-sheet No. 1A/2023, namely, Md. Tanveer @ Tanveer Barkati, Md. Abid, Md. Belal @ Irshad and Md. Irshad Alam.

30. This Court further finds that no telephonic connection of these appellants has been found with Md. Yaqub Khan (A-27) and Shahid Reza (A-38).

31. In the charge-sheet filed against these appellants, in paragraph '15.1' it is stated that the digital articles seized from the house searches and personal searches of the accused Md.



Sinan (A-31), Sarfaraz Nawaz (A-32), Iqbal (A-33), Rafeck M (A-34) and Abid K M (A-35) were forwarded to CERT-IN, New Delhi for forensic examination and data extraction. In this very paragraph a vague statement has been made that “The extracted data revealed that the syndicate of abovementioned accused persons was instrumental in illegal channelizing of the funds from UAE/Saudi Arabia and depositing same in the bank accounts of different entities including accused persons of East Champaran (Motihari) Module of the PFI of this case.”

In the whole charge-sheet, however, there is no assertion that these appellants had received money in their bank account from any source in UAE/Saudi Arabia.

32. Paragraph ‘17.17’ of the charge-sheet points out that the FIR named accused persons including Athar Parwez (A-1), Md. Jalaluddin (A-2), Nooruddin Jangi @ Advocate Nooruddin (A-19) and Arman Mallick @ Imteyaz Anwar (A-25) were part of the criminal conspiracy and they intended to disrupt the sovereignty of India and to cause disaffection against India. A-1 & A-2 have been granted bail by Hon’ble Supreme Court. A-19 has been also granted bail by a learned coordinate Bench of this Court.



33. It is evident that in paragraph '17.17' there is no mention of the name of these applicants. There is no allegation that the appellants were part of the criminal conspiracy with the FIR named accused persons. The charge-sheet nowhere says that these appellants were ever seen participating in a meeting of PFI post-ban period. This Court further finds that in paragraph '17.28' of the charge-sheet a statement has been made that the suspicious transaction in form of cash deposits were made from Md. Sinan (A-31) and Abdul Rafeek M from the Canara Bank, Panemmangalore, Bantwal and Vitalla Branches of Dakshina Kannada District of Karnataka in the Canara Bank account no. 6342101000497 of Md. Sajjad Alam. It is alleged that Iqbal (A-33) was employed in the United Arab Emirates. In the year 2020, he became associated with a group of individuals in Dubai who were engaged in the illegal transaction of funds to India.

34. On reading of paragraph '17.28' to '17.31' of the charge-sheet this Court finds that although there are allegations that these appellants had at some point of time made some suspicious transactions but there is no whisper in the charge-sheet that these appellants made any transaction in the bank account of the PFI by way of deposit of cash for running the unlawful activities of the PFI during the post-ban period. The



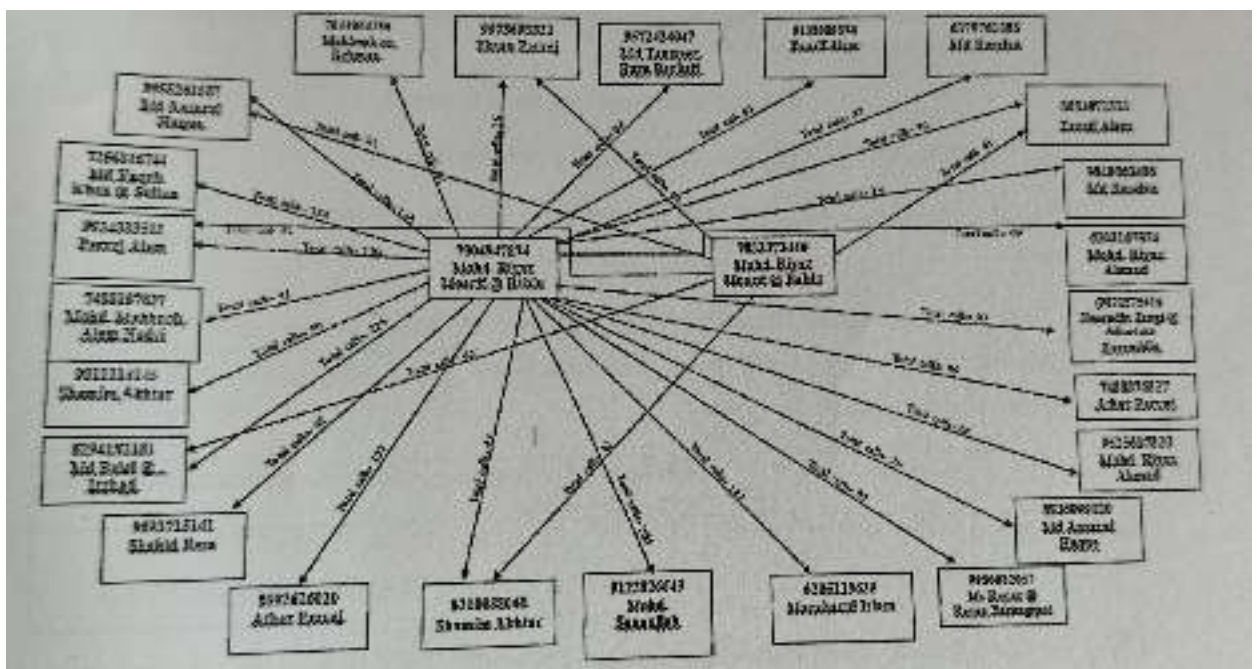
materials in this regard available on the record are not sufficient to form an opinion that there are reasonable grounds to believe that the accusations against the appellants are prima facie true.

35. At this stage, it is further noticed that in Chargesheet No. 1D/2023 in which Reyaz Moarif (A-4) has been chargesheeted and which forms part of the counter affidavit of the NIA, paragraph '17.64' deals with the analysis of call data record of the mobile numbers of Reyaz Moarif and his connections with the co-accused. We reproduce paragraph '17.64' of the Charge-sheet No. 1D/2023 as under:-

“17.64 Analysis of Call data record of mobile number 7004947874 & 7033373446 of Reyaz Moarif (A-4) revealed that he was associated with the FIR named accused persons of the PFI namely Athar Parvej (A-1) mobile no. 8292626020, Tausif Alam (A-6) mobile no. 8084072313, Shamim Akhtar (A-3) mobile no. 9311114145, Mohammad Sanaullah @ Aakif (A-5) mobile no. 7739774394 & 9122826649, Noorudin Jangi (A-19) mob. no. 9871575416, Ehsan Parvej (A-8) mobile no.9973693322, Md. Reyaz @ Reyaz Farangipet (A-20) mob. No. 9980082057, Mehboob ur Rehman (A-11) mob. no. 7044064786, Md Ansarul Haque @ Ansar Bhai (A-21) mob. no. 8936099120, Ehsan Pervej 9973693322, Md. Roselan (A-10) 9840063406 and Mazaharul Islam @ Mazhar Imam (A-23) mobile no. 6205119635 in the criminal conspiracy of the PFI. He was also connected with other co-accused Md Yaqub khan @ Sultan @ Usman (A-27) Mob. no. 7256846744, Md Tanweer Raja Barkati (A-28) mobile no. 9572424047, Md. Belal @ Md. Irshad (A-30) mobile no. 8294182181, Shahid Reza (A-38) mobile nos. 9693715141 & 8207674451 and other PFI members for extending the criminal conspiracy of PFI even after ban of the PFI by Central Government.”



36. The above connection has been shown with a graphic detail in the charge-sheet and we have extracted the same hereunder for a ready reference:-



37. It is evident from paragraph ‘17.64’ of the Charge-sheet No. 1D/2023 that the analysis of call data record of Reyaz Moarif (A-4) is not showing his connection with Sajjad Alam, Md. Sinan and Iqbal @ Iqbal Abdul Khader.

38. This Court finds that as per allegations, Reyaz Moarif @ Bablu (A-4) happened to be the Joint Secretary and Vice-President of the PFI against whom there is an allegation that he had hatched a criminal conspiracy with the other accused persons of PFI for accomplishing Islamic rule in India by 2047. The call data record of the two mobile phones of Reyaz Moarif (A-4) is not showing his connections with these appellants and



unlike the case of Md. Yaqub Khan (A-27), Tanveer Barkati (A-28) and Abid (A-29), there is no legally intercepted voice call to connect these appellants with any terrorist act, if any, of the PFI during the post-ban period. Thus, the allegation of being involved in channelising of illegal funds in some suspected accounts is not based on any material showing a *prima facie* case against the present appellants. There is nothing on the record to show that such transaction would fall within the definition of “terrorist act” and it would mean raising funds for “terrorist act” as envisaged under Section 17 of the UA(P) Act, 1967. The charge-sheet does not contain any description of the so-called suspected accounts in which the appellants had made transfer of money.

39. This Court has earlier rejected the prayer for bail of Md. Irshad Alam and Reyaz Moarif in Criminal Appeal (DB) No. 130 of 2024 and Criminal Appeal (DB) No. 42 of 2024. The role of Reyaz Moarif (A-4) as discussed in the charge-sheet has been taken note of hereinabove for purpose of distinction, no connection of the present appellants has been found with Md. Reyaz Moarif (A-4). There is a clear distinction between the case of these appellants and that of Md. Irshad Alam and Md. Reyaz Moarif whose prayer of bail has been rejected by this Court. In case of Md. Irshad Alam, the materials on record showed that there was legally intercepted telephonic call which he had with



other activities of the organisation in which he was found arranging arms and ammunition and conducted recce of a youth in order to plan his targeted killing. No such allegations much less any material is present against these appellants.

40. This Court further finds that in this case, till date three accused persons have been enlarged on bail. One Nooruddin Jangi @ Advocate Nooruddin Jangi was granted bail by a learned coordinate Bench of this Court in Criminal Appeal (DB) No. 749 of 2023 whereas two other accused, namely, Md. Jalaluddin Khan @ Md. Jalaluddin (A-2) and Athar Parwez (A-1) have been granted bail by the Hon'ble Supreme Court in Criminal Appeal No. 3173 of 2024 and Criminal Appeal No. 5387 of 2024 respectively. In case of Athar Parwez, which is a recently decided case by the Hon'ble Supreme Court, while noticing the facts of the case, the Hon'ble Supreme Court has observed that in the charge-sheet, there is no allegation that the appellant was a member of a terrorist gang or organisation. The PFI of which the appellant was allegedly a member has not been declared a terrorist organisation within the meaning of Section 2(m) of the UA(P) Act, 1967. As regards the funds received by Athar Parwez (A-1), the Hon'ble Supreme Court has observed in paragraph '30' of the order as under:-



“30. Allegations against the Appellant with regard to having collected Zakat from the people for helping the PFI or recruiting members of PFI. Suffice it to say at this stage, that on the day such activities were carried out by the Appellant, PFI was not a banned organisation. None of the witnesses or the protected witnesses stated that the money so collected in the form of Zakat was ever misappropriated by the Appellant or was in any manner used for illegal activities. The statement of the protected witnesses has not mentioned anything specific that would be attributed to the Appellant which could prima facie attract charges under the UAPA, 1967.”

41. We have taken note of paragraph ‘30’ notwithstanding the fact that so far as the case of the appellants is concerned, the investigating agency has not found any money transferred by the appellants in the account of the PFI, Athar Parwez or Md. Reyaz Moarif. The so-called transactions in the suspected accounts cannot be taken as a reasonable ground to believe it a prima-facie case of illegal channelization of funds by the appellants.

42. In the light of the aforementioned discussions, keeping in view what transpired from the charge-sheet placed before us, we are of the opinion that at this stage, there is no reasonable ground for believing that the accusations against the appellants of raising funds for terrorist act are prima facie true.

43. For taking this view, the Court is merely expected to record a finding on the basis of broad probabilities, as has been observed by the Hon’ble Supreme Court and we are doing the same taking the materials placed before us as they are. Thus, the rigours of



Section 43D(5) of the UA(P) Act, 1967 would not be attracted in this case.

44. In view of our above opinion, we need not go into the alternative submission of learned counsel for the appellants. The appellant has remained in custody for over two years and the views expressed by Hon’ble Supreme Court in case of Athar Parwez would cover the case of this appellants as well.

45. In result, we set aside the impugned order of the learned trial court and direct release of the appellants on bail immediately on such terms and conditions as may be deemed just and proper by the learned trial court. The learned trial court shall determine the terms and conditions to be imposed upon the appellants after hearing learned counsel for the respondent.

46. It is made clear that the observations made hereinabove are tentative in nature and no part of it shall cause prejudice to the case of the either parties and it will have no bearing on the trial.

(Rajeev Ranjan Prasad, J)

(S. B. Pd. Singh, J)

Rishi/-

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