

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.661 of 2025

Arising Out of PS. Case No.-27 Year-2023 Thana- NIA District- Patna

Rohit Rai @ Prakash @ Manoj, S/o- Prakash Narayan Rai @ Baccha Rai, at present R/o Village- Bagahi Kumbhapur P.S.- Saiyyad Raja, Chandauli, Dist- Chandauli, U.P permanent R/O Village-Bithvar P.O.- Manihari, P.S.- Bhabhua, Dist- Kaimur.

... .. Appellant/s

Versus

Union of India Through Director General N I A Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Alok Kumar, Sr. Advocate Mr. Raghwendra Pratap Singh, Advocate Ms. Tanya Kumari, Advocate
For the Respondent/s	:	Mr. (Dr.) Krishna Nandan Singh, Sr. Adv. (A.S.G) Mr. Manoj Kumar Singh, Spl.P.P., NIA Mr. Shivaditya Dhari Sinha, Advocate Mr. Abhinav, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

6 09-01-2026 Heard Mr. Alok Kumar, learned senior counsel for the appellant and Mr. (Dr.) K. N. Singh, learned A.S.G. for the NIA assisted by Mr. Manoj Kumar Singh, Advocate.

2. This appeal has been preferred for setting aside the impugned order dated 04.04.2025 by which the learned Special Judge, NIA, Patna has rejected the appellant's prayer for bail in connection with Special Case No.10 of 2023 arising out of NIA P.S. RC No.27/2023/NIA/DLI dated 26.09.2023 registered for the offences punishable under Sections 25(1-b)a, 26 and 35 of the Arms Act and Sections 13, 16, 18 and 20 of the Unlawful



Activities (Prevention) Act (in short 'UA(P)' Act).

3. The prosecution case is based on a written report of one Kamlesh Paswan, the officer in-charge of Goh police station, Aurangabad recorded on 07.08.2023 at about 12.15 hrs. In his written report, the officer in-charge, Goh police station has recorded that on 07.08.2023 at about 12.15 hrs on a secret information that two Maoists, who were riding on a red colour motorcycle, were planning to commit some crime near the village Dehuri canal, he reached there and saw that two persons were coming on a motorcycle. On seeing the police personnel, the motorcycle rider attempted to escape by turning the motorcycle but on chase both the persons were apprehended and disclosed their names as Rohit Rai @ Prakash (the appellant) and Pramod Yadav. On search from the possession of appellant, a firearm having six rounds capacity of firing with three live cartridges were recovered. It is alleged that from the possession of the appellant, certain articles/pamphlets and diary were also recovered which would indicate that he was a member of the prescribed organization, namely, CPI (Maoist) and was engaged in collection of levy to strengthen the financial condition of the organization.

4. It appears that in this case, the appellant is said to



have been arrested on 07.08.2023 at 12.15 hrs and from his possession one pistol and three live cartridges with some documents allegedly showing his connection with CPI (Maoist), Magadh Zone have been recovered.

5. Learned senior counsel for the appellant has drawn the attention of this Court towards disclosure statement said to have been recorded by the NIA (D-22) present at Annexure-P/3. The attention of this Court has been drawn towards the fact that even as this disclosure statement has not been signed by the appellant but it bears the signature of the two witnesses and three NIA personnel. According to this statement, the appellant was arrested by police on 07.08.2023 at 9.00 PM. It is submitted that in view of the said disclosure statement on which the NIA has placed reliance by enclosing it with the charge-sheet, the time of arrest of the appellant and the date and time of recording of the FIR would become doubtful.

6. Learned senior counsel submits that from the entire materials, which have been collected by the NIA, it is not shown that this appellant had ever demanded any Rangdari/Levy from any person. There is no witness at all to say that this appellant had ever approached him for demand of levy. It is also submitted that the NIA has brought one printing press owner as



a witness in this case who has alleged that this appellant was one of the persons who had approached him for printing of the levy receipts which he had denied.

7. It is submitted that the modus operandi of implicating the appellant through this witness may be seen from the fact that no TIP was conducted even as the appellant was in custody of the NIA in jail, his photograph was shown to the witness and then the witness stated that this appellant was one of the persons who had approached him for printing of the receipt.

8. Learned senior counsel further submits that in this case even as the appellant has been made accused in two other cases, it would appear that one of the cases was registered only one week before the present case and the another one was recorded on the very next day. In both the cases, the appellant has been granted bail as no sufficient materials could be brought before the Court to even prima-facie show the involvement of the appellant.

9. Learned senior counsel has further pointed out that the levy receipts which are said to have been found in possession of the appellant did not bear any receipt in the handwriting of the appellant and there is no such material



collected in course of investigation. In these circumstances, there being no prima-facie material on the records, the continued incarceration of the appellant is an infringement of his right to life under Article 21 of the Constitution of India.

10. To strengthen his submissions, learned senior counsel submits that in this case altogether 113 witnesses are to be examined by the NIA and till date only eight witnesses have been examined even as the appellant is in jail since 07.08.2023. Thus, there is no chance of conclusion of trial in next few years.

11. The appeal has been contested by learned ASG representing the NIA. It is submitted that in course of investigation the witnesses have stated that this appellant was one amongst the persons who were seen with other accused persons of this case and he was engaged in strengthening the organization of CPI (Maoist) in the area.

12. Learned ASG has further submitted that the NIA is intending to prune the number of witnesses in this case and it is likely to be brought down to 80 witnesses. It has already been brought down to 80 witnesses and they are further thinking to prune it down.

13. Learned ASG submits that since this appellant has been found associated with the other accused persons, his



connection with the Maoist organization has been established.

14. Having heard learned senior counsel for the appellant and learned ASG for the NIA as also on perusal of the records placed before this Court, we have noticed at this stage that so far as this appellant is concerned, it is alleged that from his possession one country made pistol with three live cartridges and some incriminating documents are said to have been recovered from his possession. In course of hearing even as we called upon learned ASG to demonstrate that any independent witness or protected witness in this case has taken name of this appellant as one of the persons demanding the levy, no material of that kind has been shown to us. It is not denied that the owner of the printing press was shown the photograph of the accused and on the basis of his identification from the photograph, it is stated that this appellant was one amongst the persons who had gone to the printing press for printing of the levy receipt, though the printing press owner had not printed the same. It is not known who had printed the levy receipt and further this Court has not been shown any material showing that this appellant had written or put his signature or gone to any person demanding the levy.

15. We find that in the circumstances, he has remained in jail for about two years five months by now, only eight



witnesses have been examined so far, as per present estimation altogether 80 witnesses are to be examined, therefore, this trial is not likely to be concluded in near future, the appellant has already been granted bail in other two cases, in the circumstances, we set aside the impugned order and direct release of the appellant on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, NIA, Patna in connection with Special Case No.10 of 2023 arising out of NIA P.S. RC No.27/2023/NIA/DLI, subject to the conditions as laid down under Section 480 (3) of Bhartiya Nagarik Suraksha Sanhita and subject to further condition that during the trial, the appellant shall present himself on the dates fixed in the matter and, in case of two consecutive defaults in putting appearance, his bail bond shall be cancelled by the learned trial court.

16. This appeal is allowed.

(Rajeev Ranjan Prasad, J)

(Ritesh Kumar, J)

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