

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.965 of 2025

Arising Out of PS. Case No.-11 Year-2021 Thana- NIA District- Patna

Rakesh Kumar, S/o Parshuram Singh, R/o Gola Road, Gajadhar Chak, PS-
Danapur, Distt.- Patna (Harbin), Permanent R/o Village- Bistol, PS- Karona
OP, District- Jehanabad (Harbin), Presently in Judicial custody at Beur
Central Jail, Patna

... .. Appellant/s

Versus

The Union of India through the Director General, National Investigation
Agency, C.G.O. Complex Lodhi Road, New Delhi

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Thakur Manish Mohan, Advocate
Mr. Amit Pandey, Advocate
Ms. Ashmita Sinha, Advocate
Mr. Rakesh Kumar, Advocate

For the Respondent/s : Mr.(Dr.) K.N. Singh, ASG
Mr. Arvind Kumar, Spl.P.P., NIA
Mr. Shivaditya Dhari Sinha, Advocate
Mr.Paritosh Parimal, Advocate
Mr. Aayushman, AC to ASG

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

8 24-03-2026 Heard learned counsel for the appellant and Dr. K.N.

Singh, learned ASG assisted by Mr. Arvind Kumar, Advocate

for the N.I.A.

2. The records have been placed before this Court to

consider the prayer of the sole appellant to set aside the

impugned order dated 01.07.2025 passed by the learned Special

Judge, NIA, Patna in Special Case No.07 of 2021 in connection

with RC-11/2021/NIA/DLI dated 17.06.2021, arising out of



Karona OP Case No.246/2021 dated 31.03.2021 registered for the offences under Sections 121A and 120B of the Indian Penal Code, Sections 4, 5 and 6 of the Explosive Substances Act, 1908, Sections 25(1-A), 25(1-AA), 25(1-B)(a) 26 and 35 of the Arms Act, 1959, Sections 13, 18, 20, 23, 38 and 39 of the Unlawful Activities (Prevention) Act, 1967 and Section 17 of the Criminal Law Amendment Act whereby and whereunder the learned Special Judge, NIA, Patna has been pleased to reject the prayer for bail of the appellant.

3. This is the second attempt of the appellant to obtain bail in connection with the present case. Earlier Cr.Appeal (DB) No. 36 of 2023 filed before this Court for the identical relief was disposed of vide judgment dated 06.09.2023 with a direction to the learned Special Judge, NIA to conclude the trial within a reasonable period.

4. Learned counsel for the appellant submits that as per the report received from the learned trial court, this Court will find that presently evidence of 31 witnesses out of total 83 prosecution witnesses have been recorded. The learned Presiding Judge had been transferred and the court was lying vacant at the relevant time. It is submitted that in such circumstance where the appellant has already remained in



incarceration for almost five years since 31.03.2021 and the prosecution is yet to examine at least 52 witnesses, it would be appropriate for this Court to hear the present matter on its own merit keeping in view these circumstances.

5. As per the prosecution story, as disclosed in the FIR lodged by the NIA on 17.06.2021, on secret information, a raid was conducted by the police party in the garage/workshop of one Parshuram Singh (father of the appellant) from where huge quantity of arms & ammunition, equipment used in manufacturing of arms, explosives, communication equipment and several incriminating documents related to CPI (Maoist) were recovered.

6. Learned counsel for the appellant submits that it would be evident from the prosecution case and the seizure list that a raid was conducted in the garage/workshop of Parshuram Singh who is the father of the appellant and from the said garage/workshop the investigating agency had seized certain articles such as detonator, liver and parts of .303 rifle. So far as the present appellant is concerned, there is no material showing that this appellant was engaged in the workshop business where the vehicles are washed in the workshop. The investigating agency has not collected any evidence that in the said business



of the workshop the appellant had any role.

7. The submission is that rather it is an admitted position that this appellant was working as a salesman in an electronic gadget showroom having a chain retail outlets in the State of Bihar.

8. Learned counsel submits that in the whole investigation no independent witness has come forward to say that this appellant was ever seen in the company of the nexalite Uday Ji @ Rajesh Kumar Sinha @ Shailesh Srivastava.

9. It is further submitted that the investigating agency has come out with a case that this appellant was on talking term with said Uday Ji @ Rajesh Kumar Sinha @ Shailesh Srivastava but neither any call detail report (CDR) nor any voice recording etc. has been collected by the investigating agency. In such circumstance, even this allegation that the appellant was on talking term with Uday Ji @ Rajesh Kumar Sinha @ Shailesh Srivastava has no basis to stand. The investigating agency has not found any money trail/transaction between the appellant and the so-called Uday Ji @ Rajesh Kumar Sinha @ Shailesh Srivastava.

10. In the aforementioned background, it is submitted that the appellant has been arrested in this case only for the



reason that he happened to be one of the sons of Parshuram Singh. The appellant has remained in incarceration for almost five years and given the present situation, the examination of the prosecution witnesses is likely to take more than couple of years. Learned counsel has submitted that this would attract application of Article 21 of the Constitution of India and the constitutional right of the appellant is required to be respected at this stage when he has already suffered substantial period of incarceration but there is no chance of conclusion of the trial in near future.

11. Learned ASG representing the NIA has opposed the prayer for bail of the appellant. It is submitted that this appellant was helping his father in connection with the manufacturing of the arms and ammunition. In course of hearing, this Court called upon learned ASG to specifically answer as to whether there is any independent witness with the investigating agency who has claimed to have seen the appellant in the company of the nexalite Uday Ji @ Rajesh Kumar Sinha @ Shailesh Srivastava, the answer is that there is no independent witness on this point.

12. This Court further called upon the learned ASG to inform as to whether the NIA has collected any CDR or voice



recording of the appellant and the said nexalite Uday Ji @ Rajesh Kumar Sinha @ Shailesh Srivastava with whom the appellant is said to be on talking term, again there is no contest that no such evidence has been brought on the record.

13. It is also not contested that the NIA has not found any money trail/transaction between the nexalite Uday Ji @ Rajesh Kumar Sinha @ Shailesh Srivastava and this appellant.

14. Learned ASG submits, at this stage, that in fact the NIA is likely to further prune the number of witnesses and he has instruction to say that the number of witnesses on behalf of the prosecution has been pruned and it has been brought down to 52.

15. Having regard to the entire facts and circumstances and the submissions noted hereinabove, we have noticed that in this case the appellant happens to be the son of Parshuram Singh whose garage was raided and from there incriminating articles were seized, however, on behalf of the NIA, nothing has been brought before this Court to demonstrate that the appellant was connected with the workshop business of his father, rather it is admitted that the appellant was working in a retail outlet of electronic gazettes and there is no independent witness claiming that he was seen in the company of the



nexalite Uday Ji @ Rajesh Kumar Sinha @ Shailesh Srivastava, there is no recovery from his personal possession or from his residence and no money trail/transaction has been found involving the appellant, even regarding criminal antecedent, it is stated that the appellant has no criminal antecedent, the appellant has remained in incarceration for almost five years and at this stage the trial is not likely to be concluded in next couple of years, keeping in view the judgment of the Hon'ble Supreme Court in the case of **Javed Gulam Nabi Shaikh Vs. State of Maharashtra and Another, 2024 SCC online 1693**, we are of the considered opinion that the impugned order is liable to be set aside.

16. Accordingly, we set aside the impugned order and direct release of the appellant on bail on furnishing bail bond of Rs.25,000/-(Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned Special Judge, NIA, Patna in Special Case No.07 of 2021 in connection with RC-11/2021/NIA/DLI, arising out of Karona OP Case No.246/2021, subject to the condition under Section 437 (3) Cr.P.C. and further condition that the appellant shall remain present on the date fixed in the trial, two consecutive defaults in putting appearance before the trial court without



showing any cogent reason may invite action towards
cancellation of his bail bond by the learned trial court.

17. This appeal stands allowed to the extent indicated
hereinabove.

(Rajeev Ranjan Prasad, J)

(Soni Shrivastava, J)

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