

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1478 of 2025

Arising Out of PS. Case No.-17 Year-2024 Thana- NIA District- Patna

Sarfaraz @ Muzaffar Ahmad Wani, Son of Gul Mohammad Wani, Resident of
- Dahmal, P.S.- Dist.- Anantnag, J and K

... .. Appellant/s

Versus

The Union of India through National Investigation Agency

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Kundan Kumar Ojha, Advocate Ms. Sadhna Parasher, Advocate Mr. Navneet Prabhakar, Advocate
For the Respondent/s	:	Mr.Dr. Krishna Nandan Singh, Sr. Adv. (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 MR. JUSTICE PRAVEEN KUMAR
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

6 24-02-2026 Heard learned counsel for the appellant and

learned A.S.G. assisted by Mr. Arvind Kumar, learned

counsel for the N.I.A.

2. The sole appellant in this case is seeking setting
aside of the order dated 15.07.2025 passed by the learned
Special Judge, NIA Court, Bihar, Patna in Special Case
No.10 of 2024/R.C. No.17 of 2024/NIA/DLI arising out of
Banjariya P.S. Case No.229 of 2024 registered for the
offences punishable under Sections 317(5), 318(4), 61(2),
338, 336(3), 340(2), 111, 178, 179, 180, 181 and 3/5 of the



Bhartiya Nyay Sanhita and Sections 16, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967. By the impugned order, the learned court has been pleased to reject the prayer of the appellant for grant of bail.

3. The prosecution case is based on the self-statement of ASI Indrajeet Paswan recorded on 05.09.2024 at 18.15 hrs at NH-28A near Kharwa Pool, Banjaria, District-East Champaran, Motihari. In his self-statement, the informant has stated that on 05.09.2024 at about 17:30 Hours in the evening, he along with other police personnels proceeded for patrolling and vehicle checking. When they reached near Shankar Dhaba, they got secret information that that from Jhakiya village three persons on one without number plate red coloured motorcycle are coming towards Khandwa Pool. One of the three persons have beard who was wearing blue colour T-shirt and black coloured pant and was carrying black coloured backpack in front of his stomach as also he is the person who was driving the motorcycle. Second person was wearing Khaki coloured Fullshirt and Blue coloured Jeans pant and third person was wearing white coloured T-shirt with lining and Black



coloured Jeans Pant. All of them was carrying fake Indian notes. On this information, the informant has informed the senior officials and with the Shashtra Bal personnels, they proceeded towards Khandwa Pool where they found one red motorcycle with above description and three persons on it was coming. On seeing police personnel, they tried to flee away, but police personnel chased them and nabbed all three persons. Seeing this action of the police, nearby people gathered there. Thereafter, police asked their names. They told their names as (1) Md. Nazar Saddam, (2) Md. Waris and (3) Md. Jakir Hussain. The informant requested the people who have assembled there to become witness to the production-cum-seizure list to which all of them refused by saying that these accused persons are outsiders, if we become witness, anything bad can happen to us. Thereafter, two of the raiding team members, namely, Sukhram Bharti and Aditya Kumar were made witnesses to the production-cum-seizure list. Police asked for papers of the motorcycle from Md. Nazar Saddam but he could not produce any papers. The Engine number and chasis number of the motorcycle was worn out. It seems that the motorcycle was



stolen one. On search of black coloured backpack, some clothes and hundred notes of 500 Rupees (total 50,000/-) two Aadhar Cards of Md. Nazar Saddam of different addresses was found. On search of his pant, hundred notes of 500 Rupees (total 50,000/-) was found. On search of Md. Waris, from his pant's pocket, eighty notes of Rs. 500/- and from his shirt's pocket twenty notes of Rs. 500/- (total Rs. 50,000/-) was found. And on search of Md. Jakir Hussain, sixty notes of Rs.500/- from his pant's pocket and thirty notes of Rs.500/- from his shirt's pocket (total 45,000/-) was found. Altogether from all the three persons, three hundred ninety (390) fake notes total of Rs.1,95,000/- was found. On further interrogation, they disclosed that they used to carry these fake Indian currency from Pakistan via Nepal through one Rajesh Sahni. They used to transport these fake notes via Delhi to Sarfaraj @ Muzaffar Ahamd resident of Jammu Kashmir. They disclosed that they have done this many times earlier also. In the presence of two witnesses named above, seizure list was prepared, on these three accused persons have put their signature. The informant alleged that from the above facts, it is clear that



these three accused persons in conspiracy with other named accused persons was trying to use fake Indian notes in the market.

4. For purpose of bail, learned counsel for the appellant has submitted firstly that in this case the seizure list has been prepared at 5.15 PM, on the seizure list P.S. case is mentioned, but it could not have been possible at the time of preparation of the seizure list considering that the FIR was lodged only at 6.45 PM. Learned counsel further submits that the mandatory provision of Section 105 of Bhartiya Nagrik Suraksha Sanhita (in short 'BNSS') has not been followed. It is his submission that the video recording of the search procedure was necessary which has not been done and, therefore, it would create huge doubt over the prosecution story.

5. Learned counsel submits that at the time of arrest of this appellant he was not served with written grounds which is mandatory, therefore, non-compliance with the mandate to provide the written grounds for arrest, the very arrest of the appellant would be illegal.

6. Learned counsel for the appellant has also



pointed out by referring to the Investigation of High Quality Counterfeit Indian Currency Offences Rules, 2013 (in short 'Rules of 2013') that in this case as against the mandate of sub-rule (2) of Rule 6 the seized currency were sent to the FSL, Patna after 21 days. Sub-rule (2) of Rule 6 mandates that the Investigation Officers shall forward the seized currency by the quickest means to the notified forensic authority, not later than forty-eight hours of the seizure, and the notified forensic authority shall communicate the results of the examination to the requisitioning officer by the quickest possible means including e-mail or facsimile.

7. Learned counsel has relied upon the judgment of the Hon'ble Supreme Court in the case of **Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Vs. State of Uttar Pradesh** reported in **2024 INSC 534**, to submit that this Court in exercise of its constitutional power may hold that the continuous incarceration of the appellant would be in the breach of Article 21 of the Constitution of India. On these grounds, prayer for bail of the appellant has been made.

8. On the other hand, learned ASG submits that in



this case the appellant is facing charge inter-alia under Section 15 of the Unlawful Activities (Prevention) Act, 1967 (in short 'UAPA'. The attention of this Court has been drawn towards Section 43D(5) of the said Act. It is submitted that the said provision clearly states that 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. Proviso to sub-section (5) of Section 43D further creates an embargo in clear terms saying 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. It is pointed out that sub-section (6) of Section 43D specifically states that the restrictions on granting of bail specified in sub-section (5) is in addition to the restrictions under the Code or any other law for the time being in force on granting of bail.



9. It is submitted that the respondent NIA has filed a counter affidavit and they have brought on record the copy of the charge-sheet filed against the accused persons, namely, Md. Nazar Saddam, Md. Waris, Md. Zakir Hushain and Muzaffar Ahmad Wani @ Sarfaraz (the appellant). The role played by this appellant has been revealed in course of investigation. The custodial interrogation of this appellant discloses that he had transferred Rs.1,00,000/- in February 2024 to bank account of Md. Nazar Saddam held in SBI for handing over the amount to one Mithilesh Tiwari, a resident of Nepal, who in turn would provide Rs.2,50,000/- worth of FICNs. Md. Nazar Saddam reached Raxual and contacted Mithilesh Tiwari. This appellant disclosed that subsequently, Md. Nazar Saddam travelled to Anantnag, J&K and handed over Rs.50,000/- worth of FICNs to him. Thereafter, this appellant paid Md. Nazar Saddam to book a flight ticket from Srinagar to New Delhi. Paragraph 17.6 to 17.18 of the charge-sheet have been placed before this Court.

10. It is submitted that details of transactions conducted by the suspect, a close associate of accused Md.



Nazar Saddam and Muzaffar Ahmad Wani through his Binance ID were analyzed. It was established that the suspect had transferred 1.99 USDT, 500 USDT and 500 USDT on 14.06.2024, 02.07.2024 and 09.07.2024 respectively. The recipient of the said crypto currency was identified as Salman Muhammad, a resident of Kashmora, Pakistan. It is stated that during investigation a mobile phone was seized during search at the house of accused Md. Nazar Saddam on 19.02.2025. Analysis of the extracted data of device revealed that it was used by Md. Nazar Saddam during the relevant period of the crime in the instant case. The examination of the extracted data from the mobile phone uncovered a Facebook chat dated 09.07.2024 between Md. Nazar Saddam and Muzaffar Ahmad Wani @ Sarfaraz (the appellant) in which they discussed about USDT (cryptocurrency). Another incriminating chat has been found in which this appellant asked whether the payments had to be made in USDT or into account. During the investigation the digital devices were seized from the residence of Md. Nazar Saddam and several transactions have been revealed in the technical analysis of the mobile



number used by Md. Nazar Saddam. The technical analysis has revealed that how Md. Nazar Saddam travelled to Anantnag, J&K on two occasions during March 2024 in connection with the procurement of FICNs from Nepal and their subsequent supply to this appellant in Anantnag, J&K, for circulation.

11. Learned ASG submits that so far as the plea of the appellant that the seizure list has been prepared in advance and the FIR has been lodged later on is concerned, the learned trial court has discussed this aspect of the matter in the impugned order and no fault may be found with the same.

12. Referring to a recent judgment of the Hon'ble Supreme Court in the case of **Dr. Naresh Kumar Garg Vs. State of Haryana and Ors.** reported in **2026 INSC 176**, learned ASG submits that assuming without admitting that there is a non-compliance with Section 105 BNSS, it cannot be argued by the appellant that because of the said non-compliance the recovery of fake currency from his possession would not be proved. The recovery would not become illegal.



13. Learned ASG further submits that there may be some delay in sending the fake currencies to the forensic authority but that alone cannot be ground at this stage to be looked into for purpose of grant of bail. In his submission, the plea of the appellant that he was not communicated as to the grounds for his arrest has no basic foundations and this issue is being raised at this stage. The appellant never moved any competent court of law immediately after his arrest and from the impugned order also it would appear that this issue was raised/convassed before the trial court.

14. It is submitted that the charges have already been framed in this case and custody of the appellant is not such that the ratio of the judgment in the case of **Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari** (supra) which has been relied upon by the appellant would help the appellant at this stage. In the said case, the Hon'ble Supreme Court exercised its constitutional power and release the appellant considering that he was in custody for 9 years and during this period of 9 years only two charge-sheet witnesses were examined. That is not the issue or case here.



15. We have heard learned counsel for the appellant and learned ASG for the NIA and perused the records. The learned trial court has passed the impugned order after dealing with the pleas of the appellant with regard to preparation of the seizure list. It has been noticed that in course of evening patrolling the accused persons were intercepted, they tried to escape but they overpowered and caught. From their separate possessions various amounts of currency in the denomination of Rs.500/- having a total face value of Rs.1,95,000/- were seized. Certain disclosures were made by the accused persons. They revealed that the consignment of FICN is being taken to Jammu & Kashmir via Delhi to be handed over to one Sarfaraz @ Muzaffar Ahmad (the appellant). They further revealed that they have been continuously indulging in such procurement and delivery of consignment of FICN on previous occasions.

16. The charge-sheet available on the record has enlisted the role and activities played by the appellant. We have referred some of the paragraphs which have been placed before us. The investigation has found several



money transactions between the accused persons and it has been found that this appellant had managed the travelling of the accused Md. Nazar Saddam by sending the money to the bank account of Md. Nazar Saddam. The technical analysis of the mobile of the said accused has revealed several incriminating materials which prima-facie establishes that this appellant was involved in the procurement of FICN. The chats of device between Md. Nazar Saddam and the appellant revealed their conspiracy to bring Indian currency notes. Several incriminating voice clips were found in the electronic devices seized during the search conducted on 19.02.2025 in the instant case. Specimen voice samples of this appellant and Md. Nazar Saddam have been obtained and sent to CFSL, New Delhi for comparison with the incriminating audio clips recovered from the seized devices. In one of the audio clips, security features of Indian currency, including optical variable effects, transparency features, etc. are discussed.

17. On going through the materials available on the record, we find no reason to take a view that there is no prima-facie evidence against the appellant. The mandate of



proviso to sub-section (5) of Section 43D clearly puts an embargo on granting of bail if the court is of the opinion that there are reasonable grounds for believing that the accusation against such person is prima-facie true. In this case not only the cognizance of the offences has been taken by the learned court below, in fact even charges have already been framed, therefore, it is evident that there are sufficient materials on the record which satisfied the test of cognizance and framing of charge.

18. We are of the opinion that so far as judgment of the Hon'ble Supreme Court in the case of Sheikh **Javed Iqbal @ Ashfaq Ansari @ Javed Ansari** (supra) is concerned, it is not going to help the appellant because the facts mentioned in the said judgment in paragraphs '7' and '8' would clearly show that in the said case the accused-appellant had remained in custody for 9 years, charges were framed in the year 2016 but during 9 years incarceration of the appellant only two witnesses were examined. The present case is clearly distinguishable. The appellant is in custody only since 16.09.2024.

19. We would further record that even with regard



to non-furnishing of written grounds for arrest seems to be a half-hearted plea which has not been raised on any earlier occasion.

20. The submission of learned counsel for the appellant as regards certain violation of the procedures in the matter of search and seizure and non-sending of the currency notes to the FSL cannot be a ground to be considered at this stage for purpose of bail.

21. The effect of those and the nature of the requirement of those provisions may only be considered at the stage of the trial.

22. In our considered opinion, the appeal has no merit. It is dismissed accordingly.

23. It is expected that the trial court shall proceed with the trial expeditiously and all endeavours be made to conclude the same as early as possible.

(Rajeev Ranjan Prasad, J)

(Praveen Kumar, J)

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