IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.284 OF 2025

Pradeep Rameshwar Sharma .. Appellant

Vs.

National Investigation Agency .. Respondent

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Mr. Niranjan Mundargi with Mr. Subhash Jadhav, Mr. Chandansingh Shekhawat a/w. Mr. Niranjan Pachupate and Ms. Keral Mehta i/b. Parinam Law Associates, Advocates for the Appellant

Mr. Anil Singh, Additional Solicitor General with Mr. Chintan Shah, Special Public Prosecutor, Mr. Mihir Govilkar, Ms. Rama Gupta, Mr. Adarsh Vyas, Mr. Krishnakant Deshmukh, Mr. Rajdatt Nagre and Sumanthini Mohite, Advocates for Respondent-NIA

Mrs. M. M. Deshmukh, In-charge Public Prosecutor with Mr. J. P. Yagnik, Additional Public Prosecutor for Respondent No.2-State.

Ms. Dhanashree Chauhan, PI NIA, Mumbai
Mr. Akhilesh Singh, PI NIA, Mumbai

CORAM : SHREE CHANDRASHEKHAR, CJ &
SUMAN SHYAM, J.

DATE : 10th MARCH 2026

Per, Shree Chandrashekhar, C.J.:

This Criminal Appeal has been filed under section 21 of the National Investigation Act, 2008 to challenge the order dated 15th February 2025 in NIA Special Case No.1090 of 2021 by which the petition under Section 227 of the Code of Criminal Procedure, 1973 filed by the appellant has been dismissed.

2. The main ground urged on behalf of the appellant seeking his discharge in NIA Special Case No.1090 of 2021 is that mere

knowledge about the criminal conspiracy entered into between a few accused persons and that the appellant was at times found in the company of an accused, namely, Sachin Waze shall not form a foundation for framing charges against him in a criminal case. To lay support to this argument, Mr. Niranjan Mundargi, the learned counsel for the appellant referred to the statement of some of the witnesses and the stand taken by the National Investigation Agency (in short, NIA) in its counter-affidavit vide paragraph nos.9.3.8, 9.3.9 and 9.3.10 and submitted that the entire prosecution evidence taken together at face value do not make out a case against the appellant, who can be forwarded to face the rigors of a criminal trial.

3. On the other hand, Mr. Anil Singh, the learned Additional Solicitor General submits that there is abundance of materials against the appellant as also the other co-accused persons to proceed against them in NIA Special Case No.1090 of 2021. The Investigating Officer has collected the materials prior to the incident, around the time of the incident and after the incident which *prima facie* make *a* very strong case indicating involvement of the appellant in the crime.

4. This is the case of the prosecution that a criminal conspiracy was hatched between the appellant, Sachin Waze and the other co-accused persons. In furtherance of this conspiracy, the accused persons attempted to rope in Mansukh Hiran who, however, refused to be a part of the conspiracy. This is the further case of the prosecution that the appellant and other accused persons conspired to finish Mansukh Hiran who could have exposed the conspiracy entered into between the accused persons. The appellant had meetings with Sunil More and Sachin Waze at different places and in the compound of the office of the Commissioner of Police in

connection to execution of the conspiracy. Sachin Waze provided huge cash to the appellant for the murder of Mansukh Hiran. After the murder of Mansukh Hiran, he tried to project a case of suicide by circulating fake news in the media.

5. In the background of these facts, we observe that there was a common object in connection to which different crimes were committed. To begin with there was a plan to trigger an explosion at a prominent place. A First Information Report No.47 of 2021 was registered at the instance of Mansukh Hiran at Vikhroli Police Station on 18th February 2021 for stealing his vehicle Mahindra Scorpio. Later on, the said vehicle with gelatin sticks was found parked opposite Shikhar Kunj Building and the First Information No.35 of 2021 was registered at Gamdevi Police Station. It is stated that the police found 20 gelatin sticks in a blue coloured backpack with a logo of Mumbai Indian IPL Team and a threat note to Mukesh Ambani and his wife. The vehicle had forged number plate MH-01-DK-9945 and was left abandoned. The case was transferred to Crime Intelligence Unit and it was re-registered as C.R. No.40 of 2021. But soon thereafter, the investigation of this case was handed over to Anti-Terrorism Squad, Maharashtra (ATS) and it was re-numbered as ATS FIR No. 10 of 2021. It seems that considering the seriousness of the matter, the investigation of this case was transferred to the NIA by an order of the Ministry of Home Affairs, Government of India and it was re-registered as RC-01/2021/NIA/MUM. Simultaneously, the investigation of the FIR No.47 of 2021 which was previously transferred to the Crime Intelligence Unit and then to ATS was also transferred to the NIA by an order dated 21st May 2021.

6. In the meantime, the dead body of Mansukh Hiran was found around the creek area of Retibundar by Mumbai Police and an

Accidental Death Report was lodged which was also transferred to the ATS and then to NIA by an order dated 20th March 2021. The wife of Mansukh Hiran made allegations against Sachin Waze that he killed her husband.

7. It is in this background that the NIA has filed charge-sheet against 10 accused persons including the appellant who is arrayed as accused no.10.

8. The appellant has been accused of committing the offence under sections 120-B, 201, 302, 364 and 403 of the Indian Penal Code; section 25 of the Arms Act; and sections 16, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967.

9. In course of the investigation, the investigating agency collected Call Detail Records (CDRs) and recorded the statement of Mahesh Shetty, Sameer Dewoo Gavkar, Pankaj Bhosle and API Prakash Howal in support of the prosecution case. The prosecution has relied on the statement of witnesses such as Ulhas Gulabrao Shirsole, who was the driver of the appellant and Vikash Kashinath Bangar and Prasanjeet P. Sawdekar, who were the PSOs of the appellant. The prosecution collected materials to establish another incriminating circumstance that the accused no.1 visited the office premises at PS Foundation on 3rd March 2021 and transferred a bag containing currency notes of Rs.500 in denomination in the vehicle of the appellant. This is also the case of the prosecution that there are witnesses who made statements before the investigating officer to the effect that the appellant had helped the accused nos.6, 8 and 9 to flee from India. They had gone to Nepal and then Dubai and it was appellant who had provided funds to them. He asked the accused no.6 to arrange sim cards in the fake name and mobile phones for communication during the planning and execution of the

murder of Mansukh Hiran. It was on his direction that the accused no.6 flew from Mumbai to Nepal with the henchman to avoid arrest. The appellant made arrangements for stay of the accused no.9 at Sai Leela Grand Hotel, Andheri (East) and organized the escape of accused no.9 from Mumbai to Dubai.

10. This is the case of the prosecution that the appellant entered into a criminal conspiracy for the murder of Mansuk Hiran. On 17th June 2021, the NIA found one iPhone 12 Pro Max with a Jio sim card on the personal search of the appellant. It was in the name of Vijay Atmaram Thakare (Patil). The said person stated before the NIA that he purchased the said mobile number at the instance of the appellant and handed over the same to him. The co-accused Manish Soni gave his confessional statement under section 164 of the Code of Criminal Procedure before the Magistrate. There are other disclosure memos prepared on the confessional statement of the accused no.5 who had shown the places which he visited with the accused no.9 and then all of them together. He has also shown the place where the dead body of Mansukh Hiran was dumped. The accused no. 6 further stated that after committing the murder of Mansuk Hiran, he made call to the appellant.

11. The NIA Court has held as under:-

> *"63. In sum and substance as per the charge-sheet it is seen that the entire case of the prosecution against the applicant is based on the circumstantial evidence. It is also seen that the accused no.1 and the applicant were in contact with each other since 17.02.2021 i.e. prior to laying of the Gelatin sticks. For that purpose the best evidence with the prosecution is in the form of IPDR. Thereafter the statements of the witnesses and the confessional statement of the accused no.9 are the material pieces of evidence and those cannot be thrown away. The court has to consider the broad probabilities of the case and the total effect of the materials on record. To establish the charge of conspiracy, knowledge about indulgence in either an illegal act or legal act by illegal means is necessary. In some cases, intent of unlawful use being made of the goods or services in question may be*

*inferred from the knowledge itself. This apart, the prosecution has not to establish that a particular unlawful use was intended, so long as the goods or service in question could not be put to any lawful use. Finally, when the ultimate offence consists of a chain of actions, it would not be necessary for the prosecution to establish, to bring home the charge of conspiracy, that each of the conspirator had the knowledge of what the collaborator would do, so long as it is known that the collaborator could put the goods or service to an unlawful use. This principle is evolved in the case of **Som Nath Thapa (Supra).** In the present case in hand there is a larger conspiracy hatched by the accused persons. It is true that conspiracy is hatched in the secrecy. But to prove the same it is not necessary for the prosecution to prove each fact independently. At this juncture it cannot be said that the witness and the documentary evidences are fabricated with a view to implicate the accused. It is settled law that it is only at the stage of the trial that truthfulness, sufficiency and acceptability of the evidence can be adjudged. Hence, I pass the following order:-*

ORDER

Discharge Application (Exh.293) is rejected and disposed of accordingly."

12. Section 120-B of the Indian Penal Code provides punishment for criminal conspiracy. It is well remembered that a criminal conspiracy is hatched in secrecy and direct evidence to a criminal conspiracy is hard to find. The gist of the offence of criminal conspiracy is an agreement or understanding between two or more accused persons to commit a crime or to commit a certain act through illegal means. The physical presence of an accused at the place of occurrence or the accused being in the company of all other accused persons all the times till the object is accomplished, is not necessary. What is the role played by the co-conspirators and whether the incriminating circumstantial evidence collected against the appellant are sufficient to rope in him for the offence alleged against him shall be a matter for trial. At this stage, when an accused who has been charge-sheeted for the aforementioned offence cannot contend that a charge cannot be framed against him because his direct involvement is not established. The test in law at

this stage is of *prima-facie* case and the Court is not required to assess the evidence whether the materials collected against the appellant in course of the investigation are sufficient for his conviction. This is also not a plea available to the appellant that the incriminating circumstances projected against him by the prosecution do not form a complete chain of circumstances so as to rope in him in the alleged crime.

13. At the stage of considering the petition for discharge, the Court has to proceed on the assumption that the materials brought on the record by the prosecution are true. It is on this premise that the Court evaluates the materials in order to determine whether the facts emerging from the materials taken on their face value disclose involvement of the accused in the crime. However, in the process of such evaluation and scrutiny the Court has merely to sift the evidence in order to find out whether there is sufficient ground for proceeding against the accused. The truthfulness, sufficiency and acceptability of the materials collected by the prosecution cannot be examined. At the stage of charge, the Court has to satisfy that a *prima facie* case is made out against the accused person. If the materials against the accused *ex facie* disclose that there are suspicious circumstances to frame a charge against him, the Court shall not weigh and balance the evidence and proceed to examine the probabilities emerging from the facts sought to be proved by the prosecution. In "*State of T.N. v. N. Suresh Rajan*" (2014) 11 SCC 709, the Hon'ble Supreme Court held as under: -

> *"29. …. At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the*

> *court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage."*

14. After having examined the materials on record, we do not find any ground to interfere in this matter and the criminal appeal challenging the order dated 15th February 2025 in NIA Special Case No.1090 of 2021 is dismissed.

[SUMAN SHYAM, J.] [CHIEF JUSTICE]

PRAVIN DASHARATH PANDIT
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