

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (DB) No.704 of 2021**

Arising Out of PS. Case No.-31 Year-2018 Thana- NIA District- Patna

BAJRANG SHANKAR Son of Late Brahma Nand Singh @ Bramha Singh  
Resident of Village - Dhanaw English, P.S.- Nasariganj, District - Rohtas

... .. Appellant/s

Versus

The National Investigation Agency, Patna Bihar

... .. Respondent/s

**Appearance :**

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Advocate Mr. Ritwik Thakur, Advocate Smt. Vaishnavi Singh, Advocate Mr. Shivam, Advocate
For the Respondent/s	:	Dr. K. N. Singh, A.S.G. Mr. Manoj Kumar Singh, CGC Mr. Shivaditya Dhari Sinha, JC to ASG Mr. Arvind Kumar, Spl. P.P./NIA Mr. Ankit Kumar Singh, Advocate

**CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI  
and  
HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA  
C.A.V. JUDGMENT  
(Per: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)**

**Date : 29-08-2023**

The present appeal has been filed under Section-21(4) of the National Investigation Agency Act, 2008 (hereinafter referred to as the NIA Act) for release of the appellant on bail.

2. The prosecution case, in brief, is that one Inspector Bindeshwari Yadav has lodged a written report dated 07.09.2018 stating therein *inter alia* that the Central Government has received information regarding registration of



F.I.R. No.323 of 2018 dated 07.09.2018 at Muffasil Police Station in the District of Munger, Bihar under Sections-121, 379, 414 and 120B/34 of Indian Penal Code, Sections-25(1A), 25(1AA), 25(1-B)(a) and Sections- 26 and 35 of the Arms Act read with Section-39 of Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as U.A.P.A.) relating to recovery of 3 A.K.-47 weapons and arrest of two persons who were involved in supply of A.K.-47 weapons to Maoists and other criminals in various States from Army Armory, Jabalpur, Bhopal. Accordingly, the case is being registered as RC-31/2018/NIA/DLI dated 05.10.2018.

3. It is evident from the format of the First Information Report that all together 26 persons were named in the category of accused in the F.I.R. It is the case of the appellant that he is not named in the F.I.R. However, during course of investigation, he has been implicated and arrested and thereafter he is in custody since 06.01.2019.

4. Appellant filed bail application in the pending trial being Special Case No.4 of 2019 before the learned Special Judge, NIA Act, Patna. However, the said application filed by the appellant came to be dismissed vide order dated 28.09.2021 and, therefore, the appellant has preferred the present appeal



wherein the appellant has requested that he may be released on bail in connection with the aforesaid case.

5. Heard learned advocate Mr. Ajay Kumar Thakur, assisted by Mr. Ritwik Thakur and Smt. Vaishnavi Singh and Dr. K.N.Singh, learned A.S.G. assisted by Mr. Arvind Kumar, learned Spl. P.P. appearing for the respondent-National Investigation Agency.

6. Learned advocate Mr. Ajay Kumar Thakur appearing for the appellant mainly submitted that appellant is not named in the F.I.R. in question and he has been implicated on the basis of the confessional statement of co-accused namely Purushottam Lal Rajak. It is further submitted that the confessional statement of the appellant was also recorded under duress after subjecting him to torture, mental and physical, and, therefore, the appellant filed an application retracting from the said statement allegedly made by the appellant before the learned Magistrate by filing a petition dated 15.10.2019. Learned advocate would further submit that there is no incriminating material which has been recovered either from the possession of the appellant or from his house and the so called confessional statement is also not materially being corroborated from the Investigation Agency report. At this stage, learned



counsel submitted that as per the confessional statement of the appellant, he allegedly sold the so called weapon to Hulas Pandey or to Santosh Pandey and one Shyamji. However, the aforesaid persons have not been made an accused in the case although the charge-sheet has been submitted against the present appellant. It is also submitted that even no incriminating material was allegedly recovered from the respective houses of the aforesaid persons.

7. Learned counsel Mr. Thakur would further submit that the Investigation Agency has called for a report from the Central Ordinance Depot, C/o 56 APO as to whether any weapon/A.K.-47 is missing or not and on the said letter Lt.Col. OIC HQ for Commandant of Central Ordinance Depot vide his letter dated 25.02.2019 informed the respondent Agency that there is no shortage of any A.K.-47 and a detailed chart was submitted. Learned counsel has referred to the said chart, copy of which is produced on record.

8. Learned counsel, therefore, submitted that from the material collected by the respondent Agency, no offence punishable under Section-39 of U.A.P.A. is made out against the appellant and it cannot be said that appellant has given support to any terrorist organization. Learned counsel would further



submit that appellant is in jail since 06.01.2019 i.e. for more than four and a half years and till today the prosecution has examined approximately five to six witnesses and, therefore, the trial of the present case would not be over in near future. He, therefore, urged that the appellant be enlarged on bail.

9. Learned counsel Mr. Thakur would further submit that as per provisions contained in Section-19 of NIA Act, the trial under the said Act of any offence by Special Court shall be held on day to day basis on all working days and have precedence over the trial of any other case against an accused in any other Court and shall be concluded in preference to the trial of such other case. It is submitted that the concerned Special Court has not followed the aforesaid provision contained in Section-19 of the NIA Act.

10. Learned advocate Mr. Thakur has placed reliance upon the decision rendered by the Hon'ble Supreme Court in the case of **Union of India Vs. K. Najeeb**, reported in **(2021) 3 SCC 713**, particularly para-17 and 18 of the said judgment.

11. Learned advocate Mr. Thakur has also placed reliance upon the decision rendered by the Hon'ble Supreme Court in the case of **Mohd Muslim @ Hussain Vs. State (NCT**



**OF DELHI) in Special Leave Petition (Crl.) No(s). 915 of 2023.** Learned counsel has more particularly placed reliance on para-14 of the said decision.

12. Learned counsel thereafter submitted that the Investigating Agency has already collected the documents and investigation is over, trial is already commenced and there are no chances that the appellant will tamper or hamper with the evidence or witnesses. There is no apprehension that appellant would not be available during the course of trial. He, therefore, urged that this appeal be allowed and the appellant be released on bail.

13. On the other hand, learned A.S.G. Dr. K.N. Singh appearing for the respondent, at the outset, submitted that pursuant to the materials collected during investigation of Case Crime No.258 of 2018 dated 29.08.2018 P.S. Jamalpur, District-Munger, the local police searched the house of accused Rijwana Begum on 07.09.2018 on disclosure of her brother Shamsheer Alam. During the search, 3 A.K.-47 rifles along with other weapons like SBBL, DBBL. and one empty magazine of A.K.-47 were recovered. Consequent upon recovery of the aforesaid weapons from the house of Rijwana Begum, a case Crime No.323 of 2018 dated 07.09.2018 was registered at P.S.



Muffasil, District- Munger, Bihar under Sections-121, 379, 414, , 120B, 34 of I.P.C. and Sections-25(1A), (1AA), (1-B)(a), 26 & 35 of the Arms Act and Section- 39 of U.A.P.A., 1967. Thereafter, M.H.A. vide its order dated 04.10.2018 directed the National Investigation Agency (N.I.A.) to take up the investigation of the said case. Accordingly, RC-31/2018/NIA-DLI was re-registered at P.S. NIA, Delhi on 05.10.2018. It is also pointed out that during investigation the recovery of A.K.-47 rifles were made from different places which had been stolen from Central Ordinance Depot, (C.O.D.), Jabalpur in connivance with the accused persons. It is contended that one Purushottam Lal Rajak was posted as a Constable Armourer at C.O.D., Jabalpur, is the kingpin of whole racket in supply of A.K.-47 with the help of other accused persons. The present appellant Bajrang Shankar who had also been working at C.O.D., Jabalpur, with Purushottam Lal Rajak was also a co-conspirator in dealing in the said prohibited sophisticated military weapons stolen from C.O.D. stores.

14. It is also pointed out by learned A.S.G. that the investigation revealed that one of the co-accused, namely Suresh Thakur, the Senior Store Superintendent of C.O.D., Jabalpur took out several S.L.R. and A.K.-47 rifles from C.O.D.,



Jabalpur premises and provided to Purushottam Lal Rajak. Out of the same, 5 S.L.R's. and 22 A.K.-47 rifles were handed over to the appellant herein on different occasions. The said fact has been admitted in the confessional statement of Suresh Thakur, Purushottam Lal Rajak and the present appellant. Their confessional statements are recorded under Section-164 of the Code before the concerned Magistrate. Learned A.S.G. has referred to the confessional statement of the appellant as well as the other co-accused.

15. At this stage, learned A.S.G. further submitted that during investigation it was also revealed that the accused persons of the present case were using mobile phones whose C.D.R. analysis establishes the inter connection of the appellant herein with accused Purushottam Lal Rajak. It is also revealed that the present appellant used two different mobile numbers and was in contact with the other accused. The said fact is also reflected from the statement of protected witness. It is also contended that the evidence collected during the course of investigation further revealed the chain of supply of sophisticated arms from C.O.D., Jabalpur to the appellant, Shamsher Alam and Imran Alam who, in turn, supplied these weapons to other accused persons. It is further revealed that the



accused persons supplied arms to C.P.I. (Maoist), Naxals and criminals for carrying out subversive activities. It is pointed out that C.P.I. (Maoist) is a terrorist outfit which is a proscribed organization under the U.A.P.A. The said fact is confirmed by protected witness.

16. Learned A.S.G. further submitted that the confessional statement of the appellant was recorded on 17.01.2019 by the learned Magistrate, Patna after complying with the mandatory provision under Section-164 of Cr.P.C. and while recording the said confession, the concerned Magistrate was fully satisfied about the voluntariness of the confessional statement of the appellant. It is pointed out that, for the first time, the appellant retracted his confessional statement by filing a petition on 15.10.2019. It is after a period of 9 months. In the meantime, the appellant personally appeared before the learned Special Judge, N.I.A., Patna on several occasions. Thus, he had ample opportunity to retract the same during the period of 9 months. However, the appellant chose not to prefer any petition for retraction and, therefore, the attempt on the part of the appellant to retract his confessional statement is nothing but an afterthought.

17. Learned A.S.G. would further submit that the



contention taken by the learned counsel for the appellant that not even a single firearm was missing from C.O.D., Jabalpur is misconceived. It is contended by learned A.S.G. that A.K.-47 rifle bearing No.R-7967 is found to be mentioned in the list provided by C.O.D. which has been recovered from the house of Rijwana Begum on 07.09.2018, the said A.K.-47 along with other weapons were sent to F.S.L., Patna for its forensic examination. The F.S.L. submitted its report on 26.02.2019 wherein it has been confirmed that A.K.-47 bearing No.R-7967 is a regular foreign make A.K. family rifle. Similarly, A.K.-47 rifle bearing No.R-9182 is found mentioned in the list provided by the C.O.D. which has been seized in connection with Sohail P.S. Case No.2 of 2016 dated 14.01.2016.

18. Learned A.S.G., therefore, submitted that involvement of the appellant in the crime is duly established through the material collected during the course of investigation and there is a *prima facie* case made out by the prosecution against the appellant and, therefore, in view of proviso to Section-43D(5) of U.A.P.A., appellant accused is not entitled for any bail. It is further submitted that now the cognizance has been taken by the Special Court N.I.A., Patna and trial is already commenced and the prosecution has examined 5



witnesses. Therefore, the present appeal may not be entertained.

19. Learned A.S.G. further pointed out from para-13 of the 2<sup>nd</sup> supplementary counter affidavit filed on behalf of the respondent that in the present case 5 charge-sheets have been filed. The concerned accused persons used to file discharge petitions one after another. Thus, filing of back to back discharge petitions by the various accused persons caused delay in framing of charges against the concerned accused. First discharge petition was filed by Rijwana Begum on 20<sup>th</sup> June, 2019 and the last discharge petition was filed by accused Chandrawati Devi on 12.07.2022 and all the discharge petitions were rejected by the concerned Trial Court on 20<sup>th</sup> September, 2022. Thus, delay of more than three years was caused due to the aforesaid reason. However, now the charges were framed on different dates and thereafter on 18.10.2022 all the five special cases were amalgamated by the learned Special Judge. Thus, in fact, there is no delay on the part of the prosecution. It is also pointed out at this stage that for some time the learned presiding officer was not available as he was transferred. However, now another learned Judge has taken over the charge and thereafter three witnesses have been examined. Learned A.S.G., therefore, urged that merely because the appellant is in jail since last more



than five and a half years, he may not be enlarged on bail in such a serious case.

20. Learned A.S.G. has placed reliance upon the decision rendered by the Hon'ble Supreme Court in the case of **National Investigation Agency Vs. Zahoor Ahmad Shah Watali**, reported in **(2019) 5 SCC 1**. Learned A.S.G., therefore, urged that the present appeal be dismissed.

21. Having heard learned counsel for the parties and having gone through the material placed on record, it would emerge that the investigating agency collected the material during investigation of Case Crime No.258 of 2018, P.S. Jamalpur, District- Munger, the local police searched the house of accused Rijwana Begum on 07.09.2018 on disclosure of her brother Shamsheer Alam and during the search, 3 A.K.-47 rifles along with other weapons and one empty magazine of A.K.-47 were recovered. Thereafter, on the basis of the said recovery of the weapons, a Case Crime No.323 of 2018 dated 07.09.2018 was registered with P.S. Muffasil, District- Munger and thereafter upon the direction issued by M.H.A., N.I.A. took over the investigation of the said case and the same was re-registered at P.S. N.I.A., Delhi. During the course of investigation, it was revealed that A.K.-47 rifles had been stolen from C.O.D.,



Jabalpur in connivance with the accused persons. The investigating agency arrested Purushottam Lal Rajak, who was posted as Constable Armourer at C.O.D., Jabalpur. Confessional statement of the said accused was recorded under Section-164 of the Code before the concerned learned Magistrate. Thereafter, the appellant, who was working at C.O.D., Jabalpur, was arrested and his confessional statement was also recorded under Section-164 of the Code by the concerned learned Magistrate. Statement of co-accused Suresh Thakur, who was also working as Senior Store Superintendent of C.O.D., Jabalpur, was recorded. We have perused the confessional statement made by the aforesaid persons.

22. It is also pertinent to note that during investigation it was revealed that all the aforesaid accused persons, including the appellant, were using mobile phones and the investigating agency has collected the C.D.R. from which it is established that all the aforesaid accused were in contact with each other. The statement of the protected witness has also been recorded by the investigating agency. It is the specific case of the respondent N.I.A. that during the course of investigation, it is revealed that the accused persons supplied the arms to C.P.I. (Maoist), naxals and criminals for carrying out subversive



activities and C.P.I. (Maoist) is a terrorist outfit which is a proscribed organization under U.A.P.A.

23. It is further revealed that the confessional statement of the appellant was recorded on 17.01.2019 by the learned Magistrate after complying with mandatory provisions under Section-164 Cr.P.C. At that time, the concerned Magistrate was fully satisfied of the voluntariness of the confessional statement of the appellant. It is further revealed that, for the first time, the appellant retracted the confessional statement by filing a petition on 15.10.2019, i.e. after a period of 9 months. It is pertinent to note at this stage that during the period of 9 months, the appellant personally appeared before the concerned Special Judge on several occasions and, therefore, he had ample opportunity to retract the confessional statement during the aforesaid period. However, he chose not to prefer any application for retraction. Thus, we are of the view that the said retraction is nothing but an afterthought and, at this stage, the benefit of the same cannot be given to the appellant.

24. So far as the submission canvassed by the learned counsel for the appellant that even a single fire-arm was not missing from C.O.D., Jabalpur, from the various affidavits filed by the respondent in the present proceedings, it transpires



that A.K.-47 rifle bearing No. R-7967 was recovered from the house of accused Rijwana Begum and the said weapon was sent to F.S.L., Patna for necessary examination. Further, A.K.-47 bearing No. R-9182 which has been seized in connection with Case No.2 of 2016 registered with Sohail P.S.

Thus, from the aforesaid material collected by the investigating agency and produced along with the charge-sheets filed against the appellant and the other accused persons, we are of the view that a *prima facie* case is made out by the prosecution.

25. In view of the aforesaid, we are of the view that the accusation levelled against the appellant/accused is *prima facie* true.

26. At this stage, we would like to refer to the provisions contained in **Section-43D(5) of U.A.P.A.** which provides as under:

“(5) 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:

Provided 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.”

27. At this stage, we would also like to refer to the decision rendered by the Hon’ble Supreme Court in the case of **Mohd. Muslim @ Hussain (supra)**, upon which reliance is placed by the learned counsel for the appellant, wherein the Hon’ble Supreme Court has observed in **para-14** as under:

“14. In a recent decision, while considering bail under the Unlawful Activities Act (Prevention) Act, 1967, this court in *Union of India v. K.A. Najeeb* observed that:

“12. Even in the case of special legislations like the *Terrorist and Disruptive Activities (Prevention) Act, 1987* or the *Narcotic Drugs and Psychotropic Substances Act, 1985* (“the NDPS Act”) which too have somewhat rigorous conditions for grant of bail, this Court in *Paramjit Singh v. State (NCT of Delhi)*, (1999) 9 SCC 252], *Babba v. State of Maharashtra*, (2005) 11 SCC 569 and *Umarmia v. State of Gujarat*, (2017) 2 SCC 731 enlarged the accused on bail when they had been in jail for an extended period of time with little possibility of early completion of trial. The constitutionality of harsh conditions for bail in such special enactments, has thus been primarily justified on the touchstone of speedy trials to ensure the protection of innocent civilians.”

The court concluded that statutory restrictions



like Section 43-D(5) of the UAPA, cannot fetter a constitutional court's ability to grant bail on ground of violation of fundamental rights.”

In the case of K. Najeeb (supra), upon which reliance is placed by the learned counsel for the appellant, wherein the Hon'ble Supreme Court has observed in para Nos.-17 and 18 as under:

“17. It is thus clear to us that the presence of statutory restrictions like Section 43-D(5) of the UAPA per se does not oust the ability of the constitutional courts to grant bail on grounds of violation of Part III of the Constitution. Indeed, both the restrictions under a statute as well as the powers exercisable under constitutional jurisdiction can be well harmonised. Whereas at commencement of proceedings, the courts are expected to appreciate the legislative policy against grant of bail but the rigours of such provisions will melt down where there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. Such an approach would safeguard against the possibility of provisions like Section 43-D(5) of the UAPA being used as the sole metric for denial of bail or for wholesale breach of constitutional right to speedy trial.

18. Adverting to the case at hand, we are conscious of the fact that the charges levelled against the respondent are grave and a serious threat to societal harmony. Had it been a case at the threshold, we would have outrightly



turned down the respondent's prayer. However, keeping in mind the length of the period spent by him in custody and the unlikelihood of the trial being completed anytime soon, the High Court appears to have been left with no other option except to grant bail. An attempt has been made to strike a balance between the appellant's right to lead evidence of its choice and establish the charges beyond any doubt and simultaneously the respondent's rights guaranteed under Part III of our Constitution have been well protected.”

28. At this stage, we would like to examine the contention taken by learned counsel for the appellant that there is a delay in proceeding with the trial and since the appellant is in jail since five and a half years, he may be enlarged on bail. The respondent has filed 2<sup>nd</sup> supplementary counter affidavit wherein it has been specifically stated that in the present case, from time to time, five charge-sheets have been filed against the appellant and other accused and the concerned accused persons used to file discharge petitions one after another. 1<sup>st</sup> discharge petition was filed by Rijwana Begum on 20<sup>th</sup> June, 2019 and the last one by accused Chandrawati Devi on 12.07.2022. All the discharge petitions were rejected by the concerned Special Court on 20<sup>th</sup> September, 2022. Thus, it transpires that because of the filing of the back to back discharge petitions by various accused, delay in framing of the charges against the concerned accused is caused. However, now the charges were framed on



different dates and on 18.10.2022, all the five special cases have been amalgamated.

Thus, we are of the view that for the delay caused in proceeding with the trial cannot be attributed to the prosecution or the Court. Thus, in the facts of the present case, we are of the view that the appellant cannot be enlarged on bail merely because he is in jail since five and a half years.

Thus, we are also of the view that in the facts and circumstances of the present case, the decisions upon which reliance is placed by learned counsel for the appellant would not render any assistance to him.

29. At this stage, we would also like to refer to the decision rendered by the Hon'ble Supreme Court in the case of **Zahoor Ahmad Shah Watali (supra)**, upon which the reliance is placed by learned A.S.G., wherein the Hon'ble Supreme Court has observed in **para Nos.26, 27 and 52 to 56** as under:

“26. Be it noted that the special provision, Section 43-D of the 1967 Act, applies right from the stage of registration of FIR for the offences under Chapters IV and VI of the 1967 Act until the conclusion of the trial thereof. To wit, soon after the arrest of the accused on the basis of the FIR registered against him, but before filing of the charge-sheet by the investigating agency; after filing of the first charge-sheet and before the filing of the supplementary or final charge-



sheet consequent to further investigation under Section 173(8) CrPC, until framing of the charges or after framing of the charges by the Court and recording of evidence of key witnesses, etc. However, once charges are framed, it would be safe to assume that a very strong suspicion was founded upon the materials before the Court, which prompted the Court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged against the accused, to justify the framing of charge. In that situation, the accused may have to undertake an arduous task to satisfy the Court that despite the framing of charge, the materials presented along with the charge-sheet (report under Section 173 CrPC), do not make out reasonable grounds for believing that the accusation against him is prima facie true. Similar opinion is required to be formed by the Court whilst considering the prayer for bail, made after filing of the first report made under Section 173 of the Code, as in the present case.

27. For that, the totality of the material gathered by the investigating agency and presented along with the report and including the case diary, is required to be reckoned and not by analysing individual pieces of evidence or circumstance. In any case, the question of discarding the document at this stage, on the ground of being inadmissible in evidence, is not permissible. For, the issue of admissibility of the document/evidence would be a matter for trial. The Court must look at the contents of the document and take such document into account as it is.

52. The learned Attorney General, relying on the underlying principle in *Khoday Distilleries Ltd. v. State of Karnataka* [*Khoday Distilleries Ltd. v. State of Karnataka*, (1995) 1 SCC 574, para 60] , would contend that there cannot



be business in crime and, as such, Section 34 of the Evidence Act will have no application. He further submits that the prosecution may use the facts noted in the said document and prove the same against the respondent by other evidence. This argument need not detain us. For, we find force in the argument of the learned Attorney General that the issue of admissibility and credibility of the material and evidence presented by the investigating officer would be a matter for trial. Furthermore, indubitably, the prosecution is not solely relying on Document No. D-132(a) recovered from the residence of Ghulam Mohammad Bhatt (W-29). There are also other incriminatory documents recovered from respondent (Accused 10) himself during the search, including other independent evidence, which, indeed, will have to be proved during the trial.

**53.** The appellant has relied on the exposition in *Salim Khan* [*Salim Khan v. Sanjai Singh*, (2002) 9 SCC 670 : 2003 SCC (Cri) 1524] , to contend that in cases where the High Court adopted a totally erroneous approach, as in the present case, discarding the crucial material/evidence which is referred to in the report under Section 173 CrPC and presented before the Designated Court, then the order granting bail by the High Court cannot be countenanced. The argument of the respondent is that the said decision would make no difference as it is concerning an application for cancellation of bail made by the informant. However, we find force in the argument of the appellant that the High Court, in the present case, adopted an inappropriate approach whilst considering the prayer for grant of bail. The High Court ought to have taken into account the totality of the material and evidence on record as it is and ought not to have discarded it as being inadmissible. The High Court clearly overlooked the settled legal position that, at the



stage of considering the prayer for bail, it is not necessary to weigh the material, but only form opinion on the basis of the material before it on broad probabilities. The court is expected to apply its mind to ascertain whether the accusations against the accused are *prima facie* true. Indeed, in the present case, we are not called upon to consider the prayer for cancellation of bail as such but to examine the correctness of the approach of the High Court in granting bail to the accused despite the materials and evidence indicating that accusations made against him are *prima facie* true.

**54.** In a decision of this Court in *Chenna Boyanna Krishna Yadav* [*Chenna Boyanna Krishna Yadav v. State of Maharashtra*, (2007) 1 SCC 242 : (2007) 1 SCC (Cri) 329] , to which reference has been made, the Court has restated the twin conditions to be considered by the Court before grant of bail in relation to MCOCA offences. We are of the view that in the present case, the Designated Court rightly opined that there are reasonable grounds for believing that the accusation against the respondent is *prima facie* true. As we are not inclined to accept the prayer for bail, in our opinion, it is not necessary to dilate on other aspects to obviate prolixity.

**55.** A fortiori, we deem it proper to reverse the order passed by the High Court granting bail to the respondent. Instead, we agree with the conclusion recorded by the Designated Court that in the facts of the present case, the respondent is not entitled to grant of bail in connection with the stated offences, particularly those falling under Chapters IV and VI of the 1967 Act.

**56.** Accordingly, this appeal succeeds. The impugned judgment and order [*Zahoor Ahmad Shah Watali v. NIA*, 2018 SCC OnLine Del 11185] is set aside and, instead,



the order passed by the Designated Court rejecting the application for grant of bail made by the respondent herein, is affirmed.”

30. Keeping in view the aforesaid decision to the facts of the present case, as discussed hereinabove and upon examining the facts of the present case, we are of the view that the appellant is not entitled to be released on bail.

31. Hence, the appeal filed by the appellant is dismissed.

**(Vipul M. Pancholi, J)**

**( Chandra Shekhar Jha, J)**

K.C.Jha/-

AFR/NAFR	
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