

**IN THE HIGH COURT OF JHARKHAND AT RANCHI  
Criminal Appeal (DB) No. 89 of 2020**

[Against the Order dated 25<sup>th</sup> of November, 2019, passed by the learned Judicial Commissioner-cum-Special Judge, NIA, Ranchi, in Misc. Criminal Application No. 1081 of 2019].

Pradeep Ram ..... Appellant  
Versus  
Union of India through  
National Investigating Agency ..... Respondent

For the Appellant : M/s R.S. Mazumdar, Sr. Advocate  
& Kumar Basant Narayan, Advocate.  
For the Respondent-NIA : Mr. Rohit Ranjan Prasad, Spl.P.P.

**CORAM : HON'BLE MR. JUSTICE H. C. MISHRA  
: HON'BLE MR. JUSTICE RAJESH KUMAR**

**C.A.V. on 08.09.2020**

**Pronounced on 14.09.2020**

**H.C. Mishra, J.:-** Heard learned senior counsel for the appellant and learned counsel for the NIA.

2. This appeal, preferred under Section 21(4) of the National Investigation Agency Act, 2008, is directed against the order dated 25.11.2019, passed by the learned Judicial Commissioner-cum-Special Judge (NIA), Ranchi, (herein after referred to as the 'NIA Court'), in Misc. Cr. Application No. 1081 of 2019, in connection with Special (NIA) Case No. 03 of 2018, RC-06/2018/NIA/DLI, arising out of Tandwa P.S. Case No. 2 of 2016, whereby the bail application of this appellant was rejected by the NIA Court.

3. The case was originally instituted for the offences under Sections 414, 384, 386, 387 and 120-B of the Indian Penal Code, Sections 25(1-B)(a), 26 & 35 of the Arms Act and Section 17(1)(2) of the CLA Act, on the basis of secret information, received by the police, regarding realization / extortion of levy by the banned terrorist organization *Tritya Prastuti Committee* (for short 'TPC'), in the coal region of Amrapali / Magadh Project of Central Coalfield Ltd., from the contractors, transporters, D.O. holders and coal traders. On such information, the house of one Binod Kumar Ganjhu was raided on 11.1.2016, from where, an amount of Rs. 91,75,890/- and two mobile

phones were recovered. Two other persons, viz., Birbal Ganjhu and Munesh Ganjhu were also found there in suspicious condition, and loaded firearms and cartridges were recovered from them. All the three were apprehended by the police, who confessed their proximity with the banned terrorist organization TPC. On the basis of disclosure made by Binod Kumar Ganjhu, the house of the present appellant Pradeep Ram was raided, from where Rs. 57,57,710/- and four cell phones were recovered. Accordingly, Tandwa P.S. Case No. 2 of 2016 was instituted for the aforesaid offences and investigation was taken up. Subsequently, taking into consideration the gravity of the offence, the Central Government, by order dated 13.2.2018, directed the NIA to take over the investigation of the case, and Sections 16, 17, 20 and 23 of the Unlawful Activities (Prevention) Act were also added.

4. During investigation by the NIA, the *modus operandi* of TPC was found that they initially blocked the mining process in Amrapali / Magadh Project areas as a part of conspiracy, they formed the village committees with their own men for starting the process and they imposed levy on coal transportation and realized the levy which used to be distributed amongst the various stake holders.

5. Learned senior counsel for the appellant has submitted that the appellant has been falsely implicated in this case and he has sufficient means, as he was engaged in a business of transportation. Learned senior counsel also submitted that considering this fact, the appellant was earlier granted bail by this Court, while the investigation was not taken up by the NIA. Subsequently when the NIA added the offences, under the Unlawful Activities (Prevention) Act, the appellant was again taken into custody and was remanded to judicial custody. It is submitted by learned senior counsel, that since he appellant was already on bail for the same occurrence / offence, he ought to have been enlarged on bail.

6. Learned senior counsel for the appellant has also submitted that the appellant is innocent and has not committed any offence. It is also submitted that the money recovered from the appellant was the amount relating to his business, the turn over which was more than rupees one crore, even on the date of his arrest. Learned senior counsel has accordingly, submitted that the appellant is entitled to the privilege of bail

and impugned order, passed by the NIA Court cannot be sustained in the eyes of law.

7. Learned counsel for the NIA, on the other hand, has opposed the prayer and has drawn our attention towards the materials found during the investigation by the NIA against the appellant. It has been found that the appellant had been in close association with the leaders of the terrorist gang and he was also actively involved in the village committee, through which, the levy was being extorted by the terrorist organization. The involvement of the appellant in collecting the levy has also been found and his direct connection with the terrorist organization is established in the investigation made by the NIA, on the basis of the statements of the witnesses recorded by the NIA. Learned counsel has also drawn our attention towards the criminal antecedents of the appellant. It is pointed out by learned counsel for the NIA, that after the appellant was remanded in the case again after addition of the offences under the Unlawful Activities (Prevention) Act, the appellant challenged his remand in this Court in W.P.(Cr.) No. 277 of 2018, which was dismissed by this Court. The said order of this Court was also challenged before the Hon'ble Apex Court and his appeal was also dismissed by the Apex Court as well, by order dated 1.7.2019, passed in Criminal Appeal Nos. 816-817 of 2019, holding that the order of remand was correct and not illegal. Learned counsel, accordingly, submitted that the appellant does not deserve the privilege of bail.

8. Learned counsel for the NIA further submitted that there is a clear bar in granting bail, under Section 43-D (5) of the Unlawful Activities (Prevention) Act, once the accusation is found to be *prima facie* true and on this ground also the appellant does not deserve the privilege of bail. As such, there is no illegality in the impugned order passed by the NIA Court, rejecting the bail application of the appellant.

9. Having heard learned counsels for both the sides and upon going through the record and also considering the materials produced before us by the NIA, we find that the appellant was apprehended from his house and there was recovery of heavy amount of money from his house. Though the appellant claims this money to be the money related to his business, but there are materials to show that he was involved in terrorist

activities and extortion of levy by the terrorist organization. Though, this appellant was granted bail by this Court, but at that time, the offences under the Unlawful Activities (Prevention) Act were not alleged against him. Subsequently, when the NIA added the offences under the Unlawful Activities (Prevention) Act, the appellant was taken into custody and remanded in this case, which action has been upheld up to the Hon'ble Apex Court. As such, it cannot be a case for bail on the ground that the appellant was earlier granted bail by this Court. The materials collected by the NIA during the investigation, show that the accusation against the appellant are *prima facie* true.

10. Section 43-D (5) of the Unlawful Activities (Prevention) Act, 1967, reads as follows:-

***“43-D. Modified application of certain provisions of the Code. -***

*(1) to (4) -----.*

*(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 face true.”*

11. A plain reading of this provision clearly shows that once the accusation is found to be *prima facie* true, Section 43-D(5) of the UA(P) Act, acts as a clear bar for granting bail to the accused. The same view has been taken by the Hon'ble Apex Court in **National Investigation Agency Vs. Zahoor Ahmad Shah Watali**, reported in (2019) 5 SCC 1, holding that there is a high burden on the accused in terms of the special provisions contained in Section 43-D(5) of the UA(P) Act to demonstrate that the prosecution has not been able to show that there exist reasonable grounds for believing that the accusation against such person is *prima face* true (Para 47).

12. In view of the materials brought before this Court by the NIA, we find that the accusation against the appellant is *prima facie* true. Learned counsel for the appellant failed to demonstrate before us that the

accusation against the appellant may not be *prima facie* true. As such, in the facts of this case, the appellant is not entitled to the privilege of bail, and Section 43-D (5) of the Unlawful Activities (Prevention) Act is a clear bar in granting the relief, sought for, by the appellant.

13. For the foregoing reasons, we do not find any illegality in the impugned order dated 25.11.2019, passed by the NIA Court, in Misc. Cr. Application No. 1081 of 2019, rejecting the bail application of the appellant, worth any interference by this Court.

14. There is no merit in this appeal and the same, is accordingly, dismissed.

**(H.C. Mishra, J.)**

***Rajesh Kumar, J.:- I agree.***

**(Rajesh Kumar, J.)**

Jharkhand High Court, Ranchi.  
Dated the 14<sup>th</sup> of September, 2020.  
NAFR/ Amitesh/-