

(2020) 11 JH CK 0013

Jharkhand High Court

Case No: Bail Application No. 6730 Of 2020

Maulana Kalimuddin Muzahiri

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision: Nov. 3, 2020

Acts Referred:

- Indian Penal Code, 1860 - Section 34, 120, 121, 121(A), 124(A)
- Arms Act, 1959 - Section 25(1-B)a, 26, 35
- Unlawful Activities (Prevention) Act, 1967 - Section 16, 17, 18, 18-B, 19, 20, 21, 23
- Criminal Law Amendment Act, 1932 - Section 17

Hon'ble Judges: Kailash Prasad Deo, J

Bench: Single Bench

Advocate: Amit Kumar Das, Arup Kumar Dey

Final Decision: Allowed

Judgement

Heard, learned counsel for the petitioner, Mr. Amit Kr. Das. Learned counsel for the petitioner has assured this Court that he will comply the order

dated 22.09.2020 with regard to removal of defects.

Learned counsel for the petitioner has submitted that the petitioner has prayed for grant of regular bail in connection with Bistupur P.S. Case No.

21/2016 corresponding to G.R. No. 246/2016, for the offence registered under Sections 121, 121(A), 124(A), 120-B, 34 I.P.C. read with Sections

25(1-B)a, 26, 35 of Arms Act, Sections 16, 17, 18, 18-B, 19, 20, 21, 23 of U.P.A. Act and Section 17 of C.L.A. Act.

Learned counsel for the petitioner has submitted that petitioner is not named in the F.I.R., rather during investigation, police has collected material that

co-accused Ahmed Masood Akram Sk. @ Masood @ Monu and co-accused Abdul Rahman @ Katki have met at the house of this petitioner at

Sakchi Madarsa as petitioner is a Moulana and subsequently, Investigating Officer has alleged that this petitioner got some money from Gujarat for committing anti-national work as petitioner is Jihadi.

Learned counsel for the petitioner has submitted that during investigation no criminal case has been found against the petitioner and petitioner is a

Maulana and no material was collected during investigation so as to prove guilt against the petitioner with regard to his involvement in anti-national

activities either with Abdul Rahman @ Katki or with Ahmed Masood Akram Sk. @ Masood @ Monu.

Learned counsel for the petitioner has further submitted that co-accused Nasim Akhtar @ Raju has also been made accused, but his case is different

from the case of the present petitioner and Nasim Akhtar @ Raju whose case was rejected by Coordinate Bench of this Court has been affirmed by

the Apex Court as there was material against him that Nasim Akhtar @ Raju went to Saudi Arabia for taking training.

Learned counsel for the petitioner has submitted that case of petitioner is entirely different from other co-accused persons. He has been made

accused on the ground, that in his house meeting was held and also on the ground that money was received by this petitioner from Gujarat, but

admittedly no investigation was done with regard to money sent to this petitioner for committing anti-national work nor any material was collected

with regard to both allegations.

Learned counsel for the petitioner has submitted that subsequently police has made

son of this petitioner as accused in this case as it appears from the

counter affidavit.

Learned counsel for the petitioner has submitted that petitioner went to Saudi Arabia thrice after taking permission from the Government for

performing Hajj and subsidy have been taken from the Government too. No material has been brought on record that this petitioner has ever met any

extremists outfit in Saudi Arabia.

Learned counsel for the petitioner has submitted that the petitioner has been arrested on 22.09.2019, as such, he may be enlarged on bail as petitioner

has no criminal antecedent.

Learned counsel for the State, Mr. Arup Kumar Dey has opposed the prayer for bail and has submitted that this petitioner has confessed his guilt that

Abdul Rahman @ Katki and Ahmed Masood Akram Sk. @ Masood @ Monu used to visit his house where they used to meet and discuss the issues

for expanding the network of Al- Qaeda, as such, this petitioner may not be enlarged on bail.

From perusal of counter affidavit, it appears that this case was not investigated by National Investigating Agency (NIA), rather being investigated by

the local police, no material has been collected with regard to involvement of the petitioner in any activities of Al- Qaeda outfit, the case of co-accused

Nasim Akhtar @ Raju is different as there was material against him that he went to different states for undergoing training, but no such material has

been collected against the petitioner nor Investigating Officer has collected any material with regard to the money given to this petitioner by any

Organization, who was involved in unlawful activities.

Considering the fact that petitioner is a Maulana having no criminal antecedent, this Court is inclined to enlarge the petitioner on bail. The petitioner is

directed to be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each in

connection Bistupur P.S. Case No. 21/2016 corresponding to G.R. No. 246/2016 to the satisfaction of learned Chief Judicial Magistrate, Jamshedpur

on the following conditions:

(i) One of the bailors shall be the deponent / pairvikar of the present case namely, Mohammad Ekram, son of Md. Ishlam, resident of 204, Road No.

11 Cross Road No. 13, Jawahar Nagar, Mango, Near Belal Masjid, P.O. - Mango, P.S. - Azadnagar, Town - Jamshedpur, District - East Singhbhum

(Jharkhand), who has furnished photocopy of his UID Card bearing number 3239 8497 7321 before this Court in the bail application.

Office is directed to send the photocopy of UID Card bearing no. 3239 8497 7321 of deponent alongwith this order to the court below so as to verify

the authenticity of the bailor.

(ii) Another bailor shall be Government Servant as son of the petitioner has also been made accused as it appears from the counter affidavit.

(iii) Petitioner shall not leave Jamshedpur without prior permission of the court below.

(iv) Petitioner will also inform the Officer-in-Charge Bistupur P.S. about any meeting with stranger or person having any criminal antecedent.

(v) Petitioner shall appear before the learned trial court on each and every date till conclusion of the trial.

(vi) Petitioner shall use only one mobile stands in his name and furnish his mobile number to the Officer-in-Charge Bistupur P.S. as well as to the learned trial court.

(vii) Petitioner shall also provide his financial account to the Officer-in-Charge, Bistupur P.S.

(viii) The petitioner shall also deposit his passport.

(ix) The Jail Authority shall release the petitioner only after his medical check-up.

(x) The Civil Surgeon, Jamshedpur is directed to medically examine the petitioner at the time of his release and if he is infected with corona virus, he shall be taken for quarantine, but if no such requirement is there, he shall be released forthwith, if not wanted in any other case.

(xi) The petitioner shall follow all the guidelines issued by the Government to meet the challenges of Covid-19, as presently Country is passing through pandemic of Covid-19.

Accordingly, the instant bail application is allowed.