

(2023) 11 JH CK 0038

Jharkhand High Court

Case No: Criminal Appeal (DB) No. 806 Of 2023

Irfan Mukhia @ Md. Irfan Ali

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision: Nov. 10, 2023

Acts Referred:

- National Investigation Agency Act, 2008 - Section 21(4)
- Arms Act, 1959 - Section 25(1AA), 25(1B)(a), 25(6), 26, 35
- Indian Penal Code, 1860 - Section 120B

Hon'ble Judges: Sujit Narayan Prasad, J; Navneet Kumar, J

Bench: Division Bench

Advocate: Shailesh Kr. Singh, Shiv Shankar Kumar

Final Decision: Disposed Of

Judgement

1. Heard the learned counsel for the parties.
2. The instant appeal, filed under Section 21(4) of the National Investigation Agency Act, 2008, is directed against the order dated 11.04.2023 passed in Bail Petition No. 289 of 2023 by the I/c Additional Sessions Judge-VI, Dhanbad in connection with Bank More P.S. Case No. 127 of 2022 registered under Sections 25(1-B) (a), 25(6), 26,35,25(1-AA) of the Arms Act and Section 120 B of the IPC whereby and whereunder the prayer for regular bail of the appellant has been rejected.
3. It is submitted on behalf of the appellant that the gist of the allegation as set out in the F.I.R is that on the basis of secret information that the goons of dreaded criminal gang run by Prince Khan and Gopi Khan, who were wanted in several cases, are hiding under a construction house situated near Matkuria road, Wassepur, Dhanbad, the Police conducted raid where several criminals had gathered and amongst them criminals two offenders namely Afridi Sidique @ Afridi Raja and Md. Sharique @ Md. Sharik were arrested on the spot while the other miscreants fled away.
4. It has further been stated that several arms and ammunitions were recovered from the possession of the aforesaid two co-accused persons, who in their respective confessional statements have disclosed the name of this appellant namely Irfan Mukhia @ Md. Irfan Ali and as such the name of this appellant has appeared in the case, although no incriminating material has been recovered from the possession of this appellant.
5. It has further been submitted that appellant is innocent and there is no evidence against him except the confessional statement of the co- accused persons namely Afridi Sidique @ Afridi Raja and Md. Sharique @ Md. Sharik, who were said to have been

apprehended on the spot.

6. It is further submitted that both the co-accused persons namely Afridi Sidique @ Afridi Raja and Md. Sharique @ Md. Sharik, who are said to have been apprehended on the spot and on whose confessional statement the name of the appellant has surfaced in the case, have been enlarged on bail by a co-ordinate Bench of this Court in Criminal Appeal(DB) No. 1179 of 2022 vide order dated 29.11.2022 and Criminal Appeal (DB) No. 902 of 2022 vide order dated 13.10.2022 respectively. One another co-accused Faisal Afridi @Md. Faisal Afridi has also been enlarged on bail by a co-ordinate Bench of this Court in Criminal Appeal (DB) No. 911 of 2022 vide order dated 10.10.2022.

7. Learned counsel for the appellant, based on the aforesaid premises, has submitted that since the case of the appellant also stands on similar footing to that of co-accused persons who have been granted bail, therefore, the appellant deserves to be enlarged on bail by setting aside the impugned order.

8. On the other hand learned A.P.P. has vehemently opposed the contentions raised on behalf of the appellant. It is submitted that appellant is a hard core criminal and he is one of the member of the organized criminal syndicate mainly run by Prince Khan and Gopi Khan and this appellant is a terror in his locality along with other co-accused persons. It has also been pointed out that the confessional statement of the appellant has been recorded in which he has confessed his guilt in the alleged crime.

9. It has further been submitted by the learned A.P.P. that the charge-sheet has been submitted and charge has been framed against the accused and the case is running for prosecution evidence.

10. Further, it has been stated that this appellant is having criminal history and 4 criminal cases pending against him in addition to the present case are as under:

i. Bankmore P.S. Case No. 307 of 2021, the charge sheet No. 162 of 2023 dated 12.06.2023 has been submitted.

ii. In Bankmore P.S. Case No. 310 of 2021, the charge sheet no. 129 of 2022 dated 03.05.2023 has been submitted

iii. In Bankmore P.S. Case No. 70 of 2022, the accused is on judicial remand from 23.09.2023

iv. In Bankmore P.S. Case No. 71 of 2022 investigation is going on.

11. Based upon these submissions, learned A.P.P. has submitted that the appellant does not deserve to be enlarged on bail.

12. Having heard learned counsel for the parties, perused the record of the case including the case diary.

13. In the light of the persuasive submissions advanced on behalf of the appellant and further taking into consideration the fact that no incriminating material has come in light except the confessional statement of the co-accused namely Afridi Sidique @ Afridi Raja and Md. Sharique @ Md. Sharik, who are said to have been enlarged on bail by a co-ordinate Bench of this Court in Criminal Appeal(DB) No. 1179 of 2022 vide order dated 29.11.2022 and Criminal Appeal (DB) No. 902 of 2022 vide order dated 13.10.2022 respectively and the case of the appellant also stands on similar footing and further taking into consideration that the charge-sheet in this case has been submitted, and, therefore possibility of tempering evidence is very remote, this Court finds it just and proper to enlarge the appellant on bail by setting aside the impugned order.

14. In view thereof, the order dated 11.04.2023 passed in B.P No. 289 of 2023 is hereby quashed and set aside.

15. Accordingly, the instant appeal stands allowed.

16. In consequence thereof, the appellant, above named, is directed to be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned District & Additional Sessions Judge-XVI, Dhanbad in connection with in connection with Bank More P.S. Case No. 127 of 2022 corresponding to S.T. No. 371 of 2023, subject to the condition that (a) one of the bailors would be the father of the appellant ;

(b) the appellant shall appear on each and every date before the Trial Court; (c) appellant is directed not to make any inducement or threaten to any person during course of trial in this case pending before the concerned trial court and (d) he will not temper with the evidence. If any of the above conditions are violated, the learned Trial Court will be at liberty to cancel the bail of the appellant.

17. Accordingly, the instant appeal stands disposed of.