

## Alemla Jamir vs Nia on 13 September, 2022

**Author: Mukta Gupta**

**Bench: Mukta Gupta**

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IN THE HIGH COURT OF DELHI AT NEW DELHI  
CRL.A. 397/2020  
ALEMLA JAMIR

..... App

Represented by: Mr. Ramesh Gupta, Sr. Adv.  
R.A. Worso Zimik, Mr. Shail  
Singh, Mr. Soreishang Khara  
Kahorngam Zimik, Advs.

versus

NIA

...

Represented by: Ms. Shilpa Singh, SPP  
Mr. Aquib Ahmed, Mr. F  
Advs. with Asstt. Supe  
Mr. Vivek Kumar, with  
Kumar.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% 13.09.2022

1. By this appeal the appellant seeks setting aside of the order dated 3rd July, 2020 whereby the application filed by the appellant seeking release on statutory bail under Section 167 (2) Cr.P.C. was dismissed.

2. The appellant was allegedly apprehended on her way from Delhi to Dimapur at the IGIA Airport-1 by CISF on the purported ground that she was in possession of cash amounting to 72 lakhs. Since the appellant could not explain her source of cash, the information was passed on to the Income Tax Department pursuant where to she was interrogated by the Income Tax Officers under Section 131(1A) of the Income Tax Act. It was revealed that the cash in question belonged to National Socialist Council of Nagaland-

Isak Muivah faction (in short NSCN-IM) and the same was handed-over to her by an associate of NSCN-IM at his residence to be taken over to Dimapur, Nagaland and hence FIR No. 228/19 under Sections 10,13,17,18,20&21 UAPA Act was registered at Special Cell for aiding and abetting NSCN-IM terrorist organization/ gang and their activities.

3. The issue raised by learned counsel for the appellant in this case was that on 11th June, 2020 charge-sheet was filed and thereafter no order was passed remanding the accused to custody even on the adjourned date.

4. After hearing learned senior counsel at length vide order dated 25th August, 2022 this Court passed the following order:

"1. The short issue raised by learned counsel for the appellant in this case is that on 11th June, 2020 charge sheet was filed and thereafter no order was passed remanding the accused to custody even on the adjourned date. Since the remand must have been passed on production warrant issued by the Court, Superintendent, Tihar Jail is directed to produce the personal file of the appellant along with all these necessary documents showing the production warrants qua the appellant, on the next date of hearing.

2. List on 13th September, 2022."

5. Today, Assistant Superintendent Tihar Jail is present along with the necessary orders from the Court and vide the order dated 11 th June, 2020 when the charge-sheet was filed, the learned Trial Court noted as under, copy whereof is also annexed as Annexure RA collectively at internal page 8 of the reply affidavit. The order dated 11th June, 2020 reads as under:

"NIA v. Alemla Jamir RC No. 26/2019/NIA/DLI U/s 10/13/17/18/20/21 UAPA 11.06.2020 Present: Sh. Abhishek Bagaria. Ld. Sr. PP for NIA through VC. Sh. Shankar B. Raimedhi; SP from NIA alongwith Sh. Ambrish Kr. Choubey, Inspector and Sh. Sanjay Kumar, Inspector.

Vide order no.5931-6021/D&S.J/NDD/2020 dated 01.06.2020 of Ld. District & Sessions Judge, Patiala house court, duty today in pursuance to the directions of Hon'ble High Court of Delhi vide order no. R-1347/DHC/2020 dated 29.05.2020, to combat the pandemic of covid-19.

Fresh charge sheet filed. It be checked and registered. Ahlmad is directed to check the complete list of documents filed along with the charge-sheet.

Put up for consideration on 18.06.2020. Accused shall be produced through VC. Counsel for accused shall also appear through VC on the next day of hearing.

(Parveen Singh) AS.I.03/NDD/PHC/New Delhi 11.06.2020 It is certified that video conferencing was held in an uninterrupted manner and during the proceedings, no objections were raised by either of the parties regarding the connectivity i.e. audio or visual quality.

Reader/11.06.2020"

6. Vide Order dated 18th June, 2020 the Alhmad of the Court informed that there were many discrepancies in pagination and documentation submitted by the NIA, so the list of the same have been prepared and the same was thus required to be filed within 15 days after removing the necessary objections.

7. Today learned senior counsel for the appellant takes the plea that since 180 days were expiring on 14th June, 2020 and the charge-sheet was filed under 11th June, 2020, though he would have no right to seek a statutory bail under Section 167(2) Cr.P.C. even if the consideration of the charge-sheet was deferred for a few days but states that though the order sheet was signed by the learned Special Judge but the production warrant was not signed by the learned Special Judge, thus she is entitled to be released on bail. He further states that the Police remand was given by a Judge other than the Special Judge and hence it was invalid and entails the appellant to seek bail under Section 167(2) Cr.P.C. The third ground raised is that an interim charge-sheet was filed and hence the appellant is also entitled to statutory bail on this ground.

8. Learned Senior counsel for the appellant seeks time to address arguments on these issues.

9. Learned counsel for the appellant will file the written submissions on the three issues raised by him today, before the next date of hearing.

10. List on 19th October, 2022.

11. Order be uploaded on the website of this Court.

MUKTA GUPTA, J.

ANISH DAYAL, J.

SEPTEMBER 13, 2022 'ga'