

Chandra Shekhar Singh vs The State Of Jharkhand Through National ... on 19 February, 2025

Author: Rongon Mukhopadhyay

Bench: Rongon Mukhopadhyay

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (DB) No. 520 of 2020
Chandra Shekhar Singh, S/o Late Vishnudhari Singh, R/o Birla
Colony, P.O.- Phulwari Sarif, P.S.- Phulwari Sarif, Dist.- Patna,
Bihar. Appellant
Versus
The State of Jharkhand through National Investigation Agency,
CGO Complex, Lodhi Road, P.O. & P.S. Lodhi Road, New Delhi.
..... Respondent

CORAM : HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY HON'BLE MR. JUSTICE ARUN
KUMAR RAI

For the Appellant : Mr. Vikas Pandey, Adv.

For the Respondent : Mr. Amit Kumar Das, Spl. P.P.-NIA

14/19.02.2025 1. Heard Mr. Vikas Pandey, learned counsel for the appellant and Mr. Amit Kumar Das, learned Spl. P.P.-NIA.

2. This appeal is directed against the order dated 20-06-2020 passed by the learned Judicial Commissioner-cum-Special Judge, N.I.A. At Ranchi in Misc. Cr. Application No. 739/2019 corresponding to Special (N.I.A.) Case No. 02/2018 (RC- 02/2018/NIA/DLI) arising out of Bero P.S. Case No. 67/2016, whereby and whereunder, the prayer for bail of the appellant has been rejected.

3. The prosecution case arises out of a written report of Bindeshwari Das, Officer-in-Charge of Bero P.S. to the effect that a secret information was received on 10.11.2016 that the supremo of PLFI for the purpose of depositing his ill-gotten money of proceeds of crime realized as extortion had sent it through his associates for depositing in the Bank account for converting into white through a Safari vehicle bearing registration no. JH-01Y-2898 to SBI, Bero Branch. After making a station diary entry and on the basis of the directives of the superior authorities the informant along with other Police personnel went to SBI, Bero Branch for verification of the said information. It is alleged that

at about 3:15P.M. the informant and his associates waited in ambush and in the meantime having seen the Police party 3-4 persons attempted to flee away and while one of the persons was apprehended from the campus of the Bank three other persons were apprehended while boarding on the Safari vehicle bearing registration no. JH01Y2898. On query the apprehended accused persons disclosed their name as Binod Kumar, Chandra Shekhar Kumar, Nand Kishore Mahto and Mohan Kumar. A search was conducted in presence of independent witnesses and one bag having 16 bundles of currency note of Rs. 1,000/- total amounting to Rs. 16,00,000/- was recovered from the possession of Binod Kumar and a mobile phone was also recovered from him. It has been alleged that an amount of Rs. 38,000/- was recovered from the possession of co-accused Chandra Shekhar Kumar along with deposit slips of various dates and one deposit slip of Rs. 16,00,000/- along with two mobile phones. It has also been alleged that total currency of Rs. 9,00,000/- was recovered from the possession of co-accused Nand Kishore Mahto and two mobile phones were recovered from Mohan Kumar @ Rajesh Kumar. None of the apprehended accused persons could show any documents with respect to the recovered currency notes and co-accused Binod Kumar had confessed that PLFI Supremo Dinesh Gope had instructed him over mobile to deposit the extorted amount of Rs. 25,38,000/- in the name of the Petrol Pump of co-accused Chandra Shekhar Kumar. All the articles were seized in presence of independent witnesses and a seizure list was also prepared.

Based on the aforesaid allegations Bero P.S. Case No. 67/2016 was instituted for the offences punishable u/s 212, 213, 414, 34 of the I.P.C., Section 13, 17, 40 of the UA(P) Act, 1967 and Section 17(ii) of the CLA Act. On completion of investigation charge- sheet was submitted against Vinod Kumar @ Binod Kumar, Chandra Shekhar Kumar, Nand Kishore Mahto and Mohan Kumar @ Rajesh Kumar for the offences punishable u/s 212, 213, 414 and 34 of the I.P.C., Section 13, 17 and 40 of the UA(P) Act, 1967 and Section 17(ii) of the CLA Act.

Consequent to the order of the Government of India, Ministry of Home Affairs vide Order No. 11011/51/2017-IS, IV dated 16.01.2018, the National Investigation Agency had taken over the investigation of the case and consequently, the First Information Report was re-registered as RC-02/2018/NIA/DLI. In course of investigation a supplementary charge-sheet was submitted by the NIA against several accused persons including the appellant.

4. It has been submitted by Mr. Vikas Pandey, learned counsel for the appellant that the appellant has falsely been implicated and, in fact, none of the witnesses have been able to state as to in which manner the appellant was involved in committing the offence. It has been submitted that the materials collected by the National Investigation Agency does not make out a prima facie case under Section 43(d)(5) of the Unlawful Activities Prevention Act. It has further been submitted that the appellant is in custody since 31.05.2019. Learned counsel adds that one of the co-accused has been granted bail by this Court in Cr. Appeal (DB) No. 514 of 2020 while another co-accused, namely, Navinbhai Jayantibhai Patel @ Navin Patel has been granted bail by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No. 16179/2024.

5. Mr. A.K. Das, learned Spl. P.P. appearing for the N.I.A. has submitted that the appellant was part of a module which was responsible for channelizing illegitimate money through legitimate means

and was working for the PLFI Supremo Dinesh Gope. It has been submitted that investigation has revealed, on the basis of C.D.R. analysis as well as the disclosure of the co-accused persons and the statement of the witnesses, that there was a nexus between all the accused persons, who were frequently in touch with each other as there were 91 mobile calls between the appellant and Jitendra Kumar, 257 mobile calls between the appellant and Sumant Kumar, 228 mobile calls between the appellant and Navinbhai Patel and 58 mobile calls between appellant and Nandlal Swarnkar during the period 01-04-2018 to 02-05-2019. Reference has also been made to the statements of the two protected witnesses, namely, witness 'X-3' and witness 'X-4' in which they have categorically stated about the role played by the appellant in extorting a huge amount from them. Mr. Das has submitted that the trial is at its fag end and, therefore, he has prayed that the present appeal be dismissed.

6. We have heard the learned counsel for the respective sides and have also perused the various affidavits which have been filed by them.

7. The role of the appellant, who has been arrayed as (A-9) in the supplementary charge sheet has been demarcated in Para 17.19 which reads as follows:

"17.19 Role of A-9:- It is established that A-9 was well acquainted with the facts that Dinesh Gope (A-6) was a terrorist and chief of PLFI (People's Liberation Front of India) and collected/raised funds through extortion/levy. He was further acquainted with the fact that Sumant Kumar (A-7) is close associate of Dinesh Gope (A-6), who collected/raised funds on the behest of Dinesh Gope (A-6) and further channelized the funds through legitimate means. Chandra Shekhar Singh (A-9), as per the directions of A-6 and A-7, used to collect/extort levy from the road contractors and the other businessmen, engaged in developmental projects. Besides collection of money through extortion, accused A-9, along with A-7, had meetings several times with A-6 in the forest near Garai. A-9 with the association of A-7, A-11 and other associates were deeply involved in the larger conspiracy in channelizing the extorted amount as part of conspiracy of PLFI. A-9, extorted money on behalf of PLFI and screened A-6 from legal punishment and in lieu of screening the A-6, A-9 received restitution and knowingly held the amount which was derived or obtained by the operatives of PLFI and Dinesh Gope from commission of terrorist act (levy, extortion) or acquired through the terrorist fund and further channelized the extorted money through legitimate means."

8. What would transpire from the above is that the appellant is said to have been involved in a larger conspiracy in channelizing the extorted money collected on behalf of PLFI to make it legitimate.

9. In the case of Union of India versus K.A. Najeeb, reported in (2021) 3 SCC 713, it has been held as follows:

"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.

19. Yet another reason which persuades us to enlarge the respondent on bail is that Section 43-D(5) of the UAPA is comparatively less stringent than Section 37 of the NDPS Act. Unlike the NDPS Act where the competent court needs to be satisfied that prima facie the accused is not guilty and that he is unlikely to commit another offence while on bail; there is no such precondition under UAPA. Instead, Section 43-D(5) of the UAPA merely provides another possible ground for the competent court to refuse bail, in addition to the well-settled considerations like gravity of the offence, possibility of tampering with evidence, influencing the witnesses or chance of the accused evading the trial by absconsion, etc. Conclusion

20. In light of the above discussion, we are not inclined to interfere with the impugned order. However, we feel that besides the conditions to be imposed by the trial court while releasing the respondent, it would serve the best interest of justice and the society at large to impose some additional conditions that the respondent shall mark his presence every week on Monday at 10 a.m. at the local police station and inform in writing that he is not involved in any other new crime. The respondent shall also refrain from participating in any activity which might enrage communal sentiments. In case the respondent is found to have violated any of his bail conditions or attempted to have tampered the evidence, influence witnesses, or hamper the trial in any other way, then the Special Court shall be at liberty to cancel his bail forthwith.

The appeal is accordingly dismissed subject to the abovestated directions."

10. The judgment of Union of India versus K.A. Najeed (supra) has been followed in the case of Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya versus National Investigation Agency reported in (2022) 1 SCC 695, wherein it has been held as follows:

"9. We have to balance the nature of crime in reference to which the appellant is facing a trial. At the same time, the period of incarceration which has been suffered and the likely period within which the trial can be expected to be completed, as is informed to this Court that the statement of PW 1/de facto complainant has still not been completed and there are 298 prosecution witnesses in the calendar of witness although the respondent has stated in its counter-affidavit that it may examine only 100 to 105 witnesses but indeed may take its own time to conclude the trial. This fact certainly cannot be ignored that the appellant is in custody since 6-7- 2012 and has

completed nine-and-half years of incarceration as an undertrial prisoner.

10. This Court has consistently observed in its numerous judgments that the liberty guaranteed in Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial is imperative and the undertrials cannot indefinitely be detained pending trial. Once it is obvious that a timely trial would not be possible and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge him on bail.

11. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. At the same time, timely delivery of justice is part of human rights and denial of speedy justice is a threat to public confidence in the administration of justice."

11. One of the co-accused, who has been arrayed as A-11 in the supplementary charge sheet has been granted bail by this Court in Cr.Appeal (DB) No. 514 of 2020. Another of the co-accused, namely, Navinbhai Jayantibhai Patel alias Navin Patel has been granted bail by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No. 16179 of 2024 vide order dated 03-02-2025. The appellant has remained in custody since 31-05-2019. Though, we are aware about the fact that the trial is at its fag end, so far as the prosecution witnesses are concerned, but regard being had to the period of incarceration of the appellant which is almost six years apart from the fact that some of the co-accused persons have been granted bail by this Court as well as the Hon'ble Supreme Court, we hereby set aside the impugned order dated 20-06-2020 passed in Misc. Criminal Application No. 739 of 2019 in Special (NIA) No. 02/2018 corresponding to RC-02/2018/NIA/DLI arising out of Bero P.S. Case No. 67/2016 and the appellant is directed to be released on bail on furnishing bail bond of Rs. 10,000/- only with two sureties of the like amount each to the satisfaction of learned Judicial Commissioner-cum-Special Judge, N.I.A., Ranchi corresponding to Special (N.I.A) No. 02/2018 arising out of Bero P.S. Case No. 67/2016 with a further direction that the appellant shall remain physically present before the learned trial court on each and every date till the conclusion of the trial.

12. This appeal stands allowed.

(Rongon Mukhopadhyay, J.) (Arun Kumar Rai, J.) Preet/-