

Sandip Prasad vs State Of Jharkhand Through Ats on 26 September, 2022

Author: Rongon Mukhopadhyay

Bench: Rongon Mukhopadhyay, Ambuj Nath

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IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (D.B.) No. 756 of 2022

Sandip Prasad	Appellant
	Versus	
State of Jharkhand through ATS	Respondent

Coram: THE HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY THE HON'BLE MR. JUSTICE AMBUJ NATH

For the Petitioner	: Mr. Jay Shankar Tiwary, Advocate
For the State	: Mrs. Priya Shrestha, Special P.P.

04/26.09.2022 Heard the parties.

2. This appeal is directed against the order dated 25.05.2022, passed by Shri Prabhat Kumar Sharma, learned A.J.C.-XVIII cum Special Judge, ATS, Ranchi in Misc. Cr. Application No. 876 of 2022 (ATS Case No. 1 of 2022), whereby and whereunder the prayer for bail of the appellant has been rejected.

3. It has been alleged that a secret information was received that notorious criminal Aman Srivastava was receiving extortion money by threatening different industrialists and coal businessmen. It has further been alleged that Aman Srivastava with the aid of his brother Avik Srivastava, Manjari Srivastava, Chandra Prakash Ram, Sidharatha Sahu, Ashin Lakra, Prince Raj and other associates namely Vinod Pandey, Amjad Khan, Jahoor Ansari, Mahmood @ Nepali, Aslam were receiving extortion money through HAWALA. It has also been alleged that the accused persons were make conversation through WhatsApp., Telegram, Line App. etc. On account of their terror, no cases are lodged before the police. After making a station diary entry, a raid was conducted by the police at various places and from the possession of Sanjay Karmakar, who is the bodyguard of Prince Raj, a revolver and six bullets were recovered, for which an arms licence issued from the State of Jammu & Kashmir was produced. On 16.01.2022, a cash amount of Rs.28,88,000/- was seized from

the residence of Sidhartha Sahu, who had confessed that the amount is extortion money, which was to be sent to Aman Srivastava through HAWALA. On 16.01.2022 itself an amount of Rs. 5,42,000/- was seized from the residence of Binod Kumar Pandey, who is also an active member of Aman Srivastava gang.

4. Based on the aforesaid allegations, ATS Case No. 01 of 2022 was instituted for the offences punishable under sections 386, 387, 109/34/201 and 120B IPC and Sections 20 and 21 of the Unlawful Activities(Prevention) Act (hereinafter referred to as UAP Act). On conclusion of investigation, charge-

sheet was submitted under sections 386/387/109/34/120B/201 IPC and also under sections 20/21 of UAP Act.

5. It has been submitted by Mr. Jay Shankar Tiwary, learned counsel for the appellant that several co-accused persons have been granted bail by this Court including Siddhartha Sahu from whose house, Rs.28,88,000/- was recovered which was to be sent through HAWALA to Aman Srivastava and Avik Srivastava. It has further been submitted that Sections 20/ 21 of the UAP Act are not attracted so far as the present appellant is concerned. Mr. Tiwary has also stated that the implication of the appellant is on account of his confessional statement as well as the confessional statements of other co- accused persons.

6. Mrs. Priya Shrestha, learned Special P.P., has opposed the prayer for bail of the appellant and has submitted that the appellant used to transfer the extorted money through HAWALA and was in regular touch with Aman Srivastava.

7. We have considered the rival submissions and have also perused the affidavits as well as the case diary submitted by the learned Special P.P. in Cr. Appeal (D.B.). No. 667 of 2022.

8. It appears that on the confession of the appellant Rs. 32,08,300/- was recovered. The appellant has been attributed to have been involved in investment, transfer and utilization of extortion money collected from the coal traders and others and he was also a partner to the extent of 20% share in M/s A.S.M. Engicom of which co-accused-Avik Srivastava is the Director. Though the appellant has also been charge sheeted for committing an offence under sections 20/21 of the UAP Act but such allegation seems to have been diminished in absence of the appellant being made accused of committing offences under sections 16 and 17 of the UAP Act as well as Sections 20 and 21 of the UAP Act cannot be read in isolation. What remains therefore is the allegation of extortion and conspiracy, abetment and/or acting in furtherance of a common intention leading to such extortion so far as the present appellant is concerned. Moreover, several co-accused persons have been granted bail by this Court in B.A. No. 3701 of 2022, B.A. No. 4341 of 2022, B.A. No. 3713 of 2022, B.A. No. 3690 of 2022 and B.A. No. 4436 of 2022. The appellant is in custody since 17.01.2022. Since the entire facets of the case have not been appreciated by the learned trial court, we while setting aside the order dated 25.5.2022, passed by Shri Prabhat Kumar Sharma, learned A.J.C.-XVIII cum Special Judge, ATS, Ranchi in Misc. Cr. Application No. 876/2022(ATS Case No. 1/2022), direct that the appellant be released on bail on furnishing bail bond of Rs.10,000/-

(Rupees Ten Thousand only) with two sureties of the like amount each, to the satisfaction of learned A.J.C. XVIII cum Spl. Judge, ATS, at Ranchi in connection with ATS Case No. 01 of 2022.

9. This appeal stands allowed.

(Rongon Mukhopadhyay, J.) (Ambuj Nath, J.) Rakesh-Umesh/-