

JPD-25
Ct No.01
Jalpaiguri
31.7.2024
S.Bag

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRA(DB) 42/2024
with
CRAN/1/2024

In the matter of: Jakir Sekh @Jakir Sk.

...appellant

Mr. Kunaljit Bhattacharjee, Adv.
Mr. Alok Sah, Adv.

...for the appellant

Mr. Vinod Agarwal, Adv.
Mr. Debayan Das, Adv.

...for the NIA

1. Affidavit of service filed in court today be kept on record.
2. Learned counsel for the appellant submits that the present appeal has been filed under Section 21(4) of the National Investigation Agency Act, 2008. It is contended, by placing reliance on the deposition of eight prosecution witnesses, that nowhere within the four corners of the said deposition, anything has transpired to implicate the present petitioner in the alleged offence of counterfeiting money. It is further submitted that the petitioner was refused bail on two earlier occasions, inter alia, on the ground that a separate criminal case was also registered against him. However, the petitioner submits that he has obtained bail in connection with the said criminal case as well.

3. Learned counsel for the NIA seriously opposes the appeal and the application. It is contended that a co-accused person was arrested in Patna and his trial is also going on at present.
4. It is further submitted that in view of the two previous rejections of bail and the one previous occasion when the petitioner did not press the bail application, the present prayer should also be dismissed.
5. We have gone through the evidence on record adduced till date on behalf of the prosecution. Out of the evidence of the eight prosecution witnesses who have been examined thus far, we do not find a single mention anywhere regarding the involvement of the petitioner in the alleged offence. Rather, in the evidence of PW1 (a member of the raiding team), particularly in his cross-examination, it has been stated that the entire amount of fake currency was recovered from one Golam Murtaja@Sajatul@Sahatul Rahman. It was categorically mentioned that he did not recover or seize anything from Jakir Sekh, that is, the present petitioner.
6. The allegation against the petitioner is that of a money trail having been traced to him. However, till date, neither any member of the raiding party nor any other prosecution witness has made a whisper in respect of such money trail in evidence.
7. Thus, the ground of money trail cannot be convincingly held against the appellant at this stage.

8. Insofar as the alleged antecedent is concerned, since the appellant has obtained bail in the previous case as well, we are not confident that the appellant ought to be indicted and refused bail on such ground alone.
9. In any event, even if bail is granted, we are inclined to impose strict conditions.
10. After substantial hearing of the matter, learned counsel for the NIA seeks an adjournment on the specious ground that the case diary is not available and the same is lying with his learned senior who has also been engaged in the case. We are of the opinion that such prayer for adjournment after the hearing is almost concluded and the Court expressed its opinion is itself mala fide and ought to be deprecated.
11. In such view of the matter, we refuse such belated prayer for adjournment, made after the court expressed its opinion on hearing both sides.
12. In view of the limited context of the appeal, the grant of bail to the petitioner is equivalent to final disposal of the appeal itself. As no further papers are necessary since all the relevant papers are annexed to the application and/or handed over by learned counsel, we dispose of the appeal itself along with the application.
13. In such view of the matter, CRA(DB)/42/2024 along with CRAN/1/2024 are allowed, thereby granting bail to the petitioner on condition of the petitioner furnishing bond of Rs.20,000/-, with two sureties of like amount each, one of

whom must be local, to the satisfaction of Special Judge under NIA Act, 1st Court, Siliguri. One of the said sureties must have landed property within the territorial jurisdiction of the trial court.

14. The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend each and every date of trial.
15. Further, the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)