

PARVEEN SINGH
Addl. Sessions Judge-03
New Delhi District,
Room No. 39 MEA Building
Patiala House Court, New Delhi

NIA RC No. 30/2021/NIA/DLI
NIA v. Khurram Parvez & Ors.

02.06.2022

Present : Sh. Rahul Tyagi, Id. Spl. PP for NIA through VC.

Sh. G.Siva Vikram, CIO/SP and Insp. Sonu Verma from
NIA.

Sh. Manohar Kumar, Id. Counsel for accused Ram
Bhawan Prasad and Chandan Mahato.

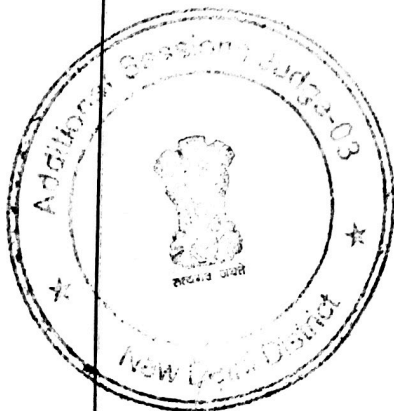
Sh. Madhav Khurana, Sh. Sang Rattan Negi and Ms. Riya
Arora, Id. Counsels for accused Arvind Digvijay Negi.

File taken up today on three applications for grant of bail
moved on behalf of accused Chandan Mahato, Ram Bhawan Prasad
and Arvind Digvijay Negi.

Arguments on bail applications have been heard.

Vide my separate order, bail applications have been
disposed of.

Matter be listed for 06.07.2022, the date already fixed.



(Parveen Singh)
Special Judge (NIA)
ASJ-03/NDD/PHC/ND/02.06.2022

Additional Sessions Judge-03
New Delhi District, N. D.

PARVEEN SINGH
Addl. Sessions Judge-03
New Delhi District,
Room No. 39 MEA Building
Patna House Court, New Delhi

NIA RC No. 30/2021/NIA/DLI
NIA v. Khurram Parvez & Ors.

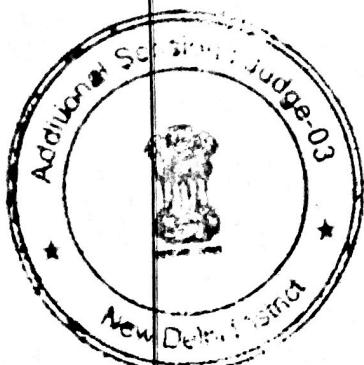
02.06.2022

ORDER ON BAIL APPLICATION OF ACCUSED ARVIND
DIGVIJAY NEGI

Q75T ✓
Vide this order, I shall dispose of bail application moved on behalf of accused Arvind Digvijay Negi.

In the bail application of accused Arvind Digvijay Negi, it is submitted that the applicant was arrested on 18.02.2022. On 19.02.2022, he was remanded to 07 days police custody. On 25.04.2022, applicant was sent to JC and since then, he is in judicial custody. Chargesheet against the applicant has been filed. It is further submitted that the applicant has been wrongly arraigned as an accused in this case. It is further submitted that on 04.10.2010, applicant joined NIA as ASP and was posted in Central Investigation Branch. Thereafter, in October 2013, applicant was made Superintendent of Police and then he was posted in Terror Funding and Fake Currency Division. It is further submitted that the applicant has diligently conducted and supervised investigations and participated in trial of numerous sensitive cases.

In the grounds taken for bail, it is submitted that the

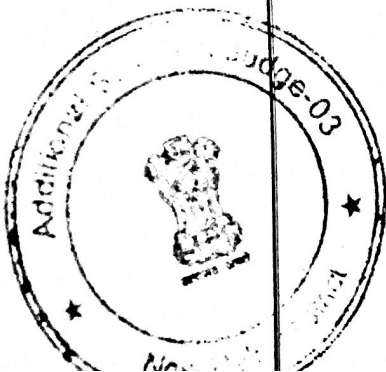


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investigation qua the applicant has been completed and charge sheet has been filed. All material evidence is already in custody of NIA and thus, no fruitful purpose will be served by keeping the accused in custody. The allegation qua the applicant in the charge sheet is that he had shared some secret documents with one Muneer Ahmad Kataria. Muneer Ahmad Kataria was the source/ informer of applicant who was introduced to the applicant by his senior officer i.e. IG Shri Anil Shukla. The services of this source were taken by the then IG and by the applicant in collection of some information regarding various terrorist activities as well as cross checking certain facts on ground. It is further submitted that NIA has already seized the mobile phone of applicant and has also extracted the alleged conversations between the applicant and accused Muneer Ahmad Kataria. It is further submitted that there is no likelihood of applicant influencing the witnesses as NIA has already recorded the statements of material witnesses. Further, there is no likelihood of accused tampering with the evidence and absconding. The applicant has deep roots in society. Applicant has a wife and two minor children. The applicant has an old mother to look after. Applicant is the sole bread earner of his family. It is further submitted that since the date of his arrest, applicant has never tried to evade the process of law. It is further submitted that the applicant has joined the investigation as and when called by the IO and has



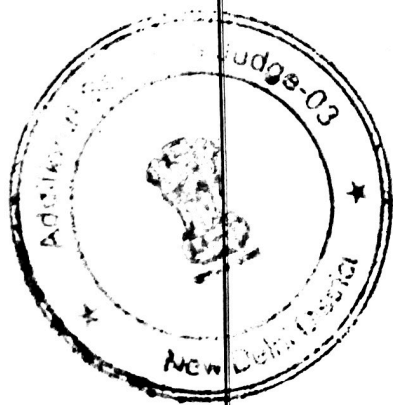
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cooperated during the search and seizure proceedings. It is further submitted that in 2017, applicant received a President Medal for his meritorious services for his investigation into the Hurriyat terror funding case. In 2019, in recognition of applicant's services, he was also presented with the Union Minister's medal for excellence in investigation. It is further submitted that the applicant has been in custody for 90 days and his further custody is not required. It is further submitted that the applicant is deemed to have been suspended from his services from 22.02.2022 and thus, he is not in a position to tamper with the evidence, intimidate any witnesses and influence the outcome of the trial.

In the reply filed by NIA, it is submitted that the contents of the bail application are false and concocted. With regard to para 5 and 8 of the grounds of bail, it is submitted that the applicant has not been wrongly arraigned as an accused. The investigation done so far has revealed that the applicant has played a pivotal role in passing the sensitive information and restricted documents to the accused persons. Further investigation against the other accused is still in progress. It is further submitted that the claim of the applicant is, that Muneer Ahmad Kataria was his source/ informer and that his senior officer was aware of the matter, does not absolve him of his culpability since his closeness with source does not entail him to demand or accept any



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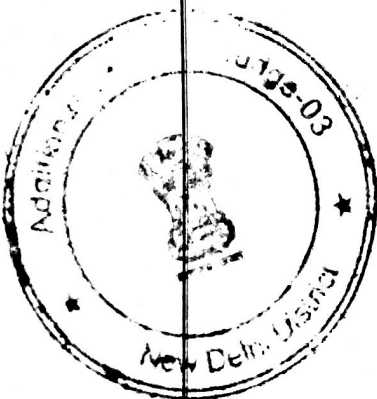
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illegal gratification for compromising his official duties. Further, there is no justification for handing over the secret official documents to an outsider. It is further submitted that the applicant being an IPS officer and having served in various capacities in different organizations, including the NIA, understand the nuance of investigation and trial and will use the same to intimidate witnesses. Thus, there is an apprehension that if enlarged on bail, the applicant would intimidate the witnesses and tamper with the evidence.

I have heard Sh. Madhav Khurana, Id. Counsel for applicant as well as Sh. Rahul Tyagi, Id. Spl. PP for NIA.

It has been contended by Id. Counsel for applicant that the accused/ applicant has been chargesheeted for the offences punishable u/s 120B IPC, 201 IPC, 5 Official Secrets Act and 7(a) and (b) of PC Act. With regard to sections 7(a) & (b) of PC Act, he has contended that the court has not taken cognizance of these offences for lack of sanction and thus, accused cannot be kept in custody for these offences. He has further contended that the offence u/s 201 IPC is a bailable offence and that leaves section 5 of OSA. Id. Counsel for applicant has further contended that the offence u/s 5 OSA is also a bailable offence as per the schedule of Cr.P.C because the punishment provided under that section is upto 03 years. He has further contended that even otherwise, what has been alleged against the accused is, that



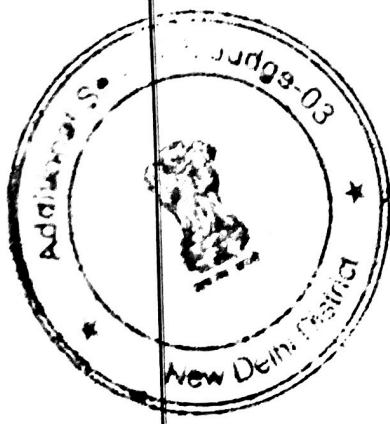
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he had shared three documents i.e. 'IR of Waheed Para' in RC no. 01/2020/NIA/JMU, 'JKCCS document' in RC No. 37/2020/NIA/DLI and 'Work done and Proposed Action from 28.01.2021 in RC No. 03/2020/NIA/JMU' with co-accused Muneer Ahmad Kataria in order to take undue advantages. It was further alleged that accused Muneer Ahmad Kataria had in turn passed those documents to a LeT handler through Whatsapp. He has contended that these documents in no manner can be said to be covered under Official Secrets Act as it has nowhere been stated or shown to the court that when and how these documents were declared as secret documents and thus, communication of these documents would amount to violation of section 5 of OSA. He has further contended that even otherwise, the entire evidence against accused is documentary in nature. Applicant/accused is in custody for more than three months and no fruitful purpose will be served by keeping the applicant in custody.

Per contra, Ld. Spl. PP for NIA has contended that a secret document is not defined in Official Secrets Act and it has to be decided by the court from the kind of the document and the effect its sharing has to find out whether the document is a secret document or not. He has further contended that the documents shared by this accused with co-accused Muneer Ahmad Kataria were in turn shared with a LeT handler which were used to harm the national security and



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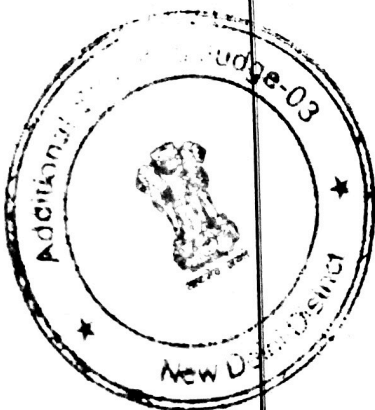
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thus, the said documents are secret documents and therefore, their communication is violation of section 5 of OSA. He has further contended that the offences u/s 5 OSA is not a bailable offence as has been contended by Id. Counsel for applicant. He has further contended that if released on bail, there is an apprehension that accused may influence the witnesses who are his subordinates and therefore, considering the seriousness of the offence and the chances of accused influencing the witnesses, the bail application is strongly opposed.

I have considered the rival submissions and gone through the record very carefully.

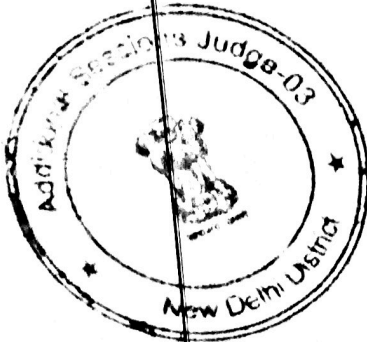
In the present case, charge sheet had been filed against the accused/ applicant for offences u/s 120B IPC, 201 IPC, 5 of Official Secrets Act and section 7(a) & (b) of Prevention of Corruption Act. On the basis of said charge sheet, the court had taken cognizance of the offences u/s 5 of Official Secrets Act, u/s 120B IPC and u/s 201 IPC.

Offence u/s 201 IPC is a bailable offence. With regard to section 5 of OSA, I find that what the prosecution needs to prove the commission of this offence is, that there was a secret document which was in possession of the accused/ applicant and that he communicated that document to his co-accused which is accused no. 2. The entire evidence to prove these facts, which has been relied upon by the



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prosecution, is documentary/ electronic in nature as it is the information retrieved from the phone of the accused that had allegedly established communication of these documents to his co-accused. Therefore, as far as the chances of influencing the witnesses with regard to this offence are concerned, I find that not much weightage can be given to this argument. Without getting into much controversy whether these documents were secret or not, I find that at this stage keeping in view the nature of the evidence, the fact that chances of accused tampering with the evidence or influencing the witnesses are very less and the period of incarceration of the applicant, the application at hand is allowed. Accused Arvind Digvijay Negi is admitted to bail on his furnishing a personal bond to the tune of Rs.1,00,000/- with one surety of like amount to the satisfaction of this court. Bail is granted subject to the condition that the applicant shall not leave India without prior permission of the court, shall not tamper with the evidence and shall not influence the witnesses. At request, copy of order be given dasti to ld. Counsel.



(Parveen Singh)
Special Judge (NIA)
ASJ-03/NDD/PHC/ND/02.06.2022

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