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CRA-2776-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

&

HON'BLE SHRI JUSTICE DEVNARAYAN MISHRA

ON THE 17th OF MAY, 2025

CRIMINAL APPEAL No. 2776 of 2025

WASID KHAN

Versus

THE STATE OF MADHYA PRADESH

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Appearance:

Shri Mohd Tahir - Advocate for the appellant.

*Shri Bramhadatt Singh - Special Public Prosecutor for the
respondent-State.*

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ORDER

Per. Justice Vivek Agarwal

Shri Bramhadatt Singh, learned Special Public Prosecutor for the respondent is not ready with the matter.

2. Request of Shri Bramhadatt Singh to grant him short adjournment as State should not suffer because of his unpreparedness, is rejected.

3. Heard learned counsel for the appellant.

4. This Criminal Appeal is filed under Section 21 of the National Investigation Agency Act, 2008 against the impugned order dated 08.02.2025 passed by learned Special Judge, NIA Cases, Bhopal,



rejecting Regular Bail Application No. 322 of 2025 under Section 439 Cr.P.C. arising out of ST No. 224 of 2023, wherein appellant has been charged under Sections 121-A, 153-A, 120-B, 201 of Indian Penal Code read with Section 13 (1)(b), 18, 18-A, 18-B of the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as the Act of 1967).

5. It is submitted that, learned Special Judge has wrongly and on misreading of the provisions of the Act of 1967 has dismissed an application for grant of bail and therefore, this appeal is filed seeking bail for the appellant Shri Wasid Khan.

6. Mohd. Tahir, learned counsel for the appellant submits that, as per the allegations, case of the prosecution is that, appellant is part of one Human Right Organization and extends legal assistance in his capacity. He has also taken part in the membership classes of the Organization and is working for promotion of Organizational Agenda. His memorandum was drawn under Section 27 of the Evidence Act and on the basis of that memorandum, he has been falsely implicated. It is submitted that, charge-sheet was filed by the SIT on 19.03.2023 under above Sections.

7. It is submitted that appellant is an enrolled Advocate, working as an Volunteer with Human Rights Organization and conduct legal awareness program. He has not caused any act which may fall within the definition of unlawful activities as defined under Section 2(o) of the Act of 1967, so also he is not a member of unlawful association defined in Section 2(p) of the Act of 1967. None of his acts can be said to be



Terrorist Act as defined in Section 3(a) and therefore, his detention and denial of bail is arbitrary and illegal.

8. It is submitted that, there is a property seizure memo dated 23.04.2023 which has no evidentiary value in as much as appellant was never taken to the place of seizure as he was already lodged in the jail. Reliance is placed on the judgment of Supreme Court in the cases of *Ramanand Vs. State of U.P. 2022 SCC On-Line SC 1396* and *Perumal Raja Vs. State 2024 SCC On-Line SC 12*, so also on the judgment of Supreme Court in the case of *Suresh Chandra Tiwari Vs. State of Uttrakhand 2024 SCC On-Line*.

9. It is submitted that, there is no unusual bank transaction found being carried out by the appellant, nor there is any procedure followed as prescribed under Section 45(2) of the Act of 1967 as per law.

10. Reliance is also placed on the judgment of the High Court of Judicature at Bombay, Criminal Appellate Jurisdiction in *Cr. Appeal No. 78 of 2024 Shaikh Sadique Ishaq Qureshi Vs. State of Maharashtra & another* decided on 28.03.2025.

11. Learned Dy. Advocate General Shri B.D. Singh, opposes the prayer and submits that, there is no material available to show indulgence.

12. After hearing learned counsel for the parties and going through the records.

13. Section 2(o) of the Act of 1967 defines “unlawful activity”,



in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise) :—

(i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession; or

(ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India; or

(iii) which causes or is intended to cause disaffection against India.

14. Similarly, Section 2(k) of the Act of 1967 defines “terrorist act” as the meaning assigned to it in section 15, and the expressions “terrorism” and “terrorist” shall be construed accordingly;

15. Section 15 of the Act of 1967 defines Terrorist Act. Sub-section (1) of Section 15 of the Act of 1967 provides that, "Whoever does any act with intent to threaten or likely to threaten the unity, integrity, security, economic security or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country".

16. We have gone through the seizure memo and the seizure



memo reveals that incriminating material like Books, CD, Computer, Pen-Drive, Bank-Account, Pamphlet, certain lectures and written materials have been seized from the house/office of the appellant which prima facie reveals that attempt is being made to cause disruption in the communal harmony amongst the members of the Society, so to achieve and object of establishing a Mughal Order as it existed prior to Britishers taking over Regim from the hands of the Mughals and started ruling the country before independence.

17. When we examined the material, then we are of the opinion that it is for the trial Court to decide it on the basis of the evidence as to what is the material available to prove or otherwise the charges which have been framed. But prima facie when examined, then the act of the appellant cannot be said to be such that calls for this Court's intervention without completion of the trial. Especially in view of the judgment of Hon'ble Supreme Court in the case of *Union of India represented by the Inspector of Police, National Investigation Agency, Chennai Branch Vs. Barkatulla etc.* 2024 SCC On-line SC 1019, wherein in para 23, Hon'ble Supreme Court has noted as under:

"23. This Court has often interpreted the counter terrorism enactments to strike a balance between the civil liberties of the accused, human rights of the victims and compelling interest of the state. It cannot be denied that National security is always of paramount importance and any act in aid to any terrorist act – violent or non-violent is liable to be



restricted. The UAPA is one of such Acts which has been enacted to provide for effective prevention of certain unlawful activities of individuals and associations, and to deal with terrorist activities, as also to impose reasonable restrictions on the civil liberties of the persons in the interest of sovereignty and integrity of India."

18. Since the trial is pending and parties are free to adduce their evidence, we restrain from making any further comments on the merits as it may have an adverse impact on the trial but at the same time, we feel that, for the present, application for grant of bail appears to be not matured. The judgment cited by the learned counsel for the appellant are distinguishable on their own facts.

19. Accordingly, this Criminal appeal is liable to be dismissed and is hereby dismissed.

20. It is made clear that, any observations advertently or inadvertently made herein, shall not come in the way of fair trial.

(VIVEK AGARWAL)
JUDGE

(DEVNARAYAN MISHRA)
JUDGE

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