

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION**

APPELLATE SIDE

CRA (DB) 132 of 2024

Manoj Ghosh

Vs.

National Investigation Agency

Before: The Hon'ble Justice Arijit Banerjee

&

The Hon'ble Justice Apurba Sinha Ray

For the Appellant : Mr. Milan Mukherjee, Sr. Adv.
Mr. D. Sen, Adv.
Mr. A. Dalai, Adv.
Ms. Ledia Dasgupta, Adv.

For the NIA : Mr. Arun Kumar Maiti, Adv.
Mr. Bhaskar Prosad Banerjee, Adv.
Mr. D. Tandon, Adv.

CAV On: 19.12.2024

Judgment On: 11.02.2025

Apurba Sinha Ray, J. :-

1. The present bail application has been filed by the petitioner, Manoj Ghosh contending, inter alia, that on 29.06.2022 a team of Special Task Force, West Bengal Police intercepted a vehicle having registration number WB-44D-5761 along with its driver namely Ashish Keora near Mohammad Bazar Bus Stand and seized 81,000 numbers of electronic detonators. After

the seizure the said driver was arrested and a police case being Mohammad Bazar P.S. Case no. 209 of 2022 was started on 30.06.2022 under Section 120B of I.P.C. read with Section 4, 5 and 6 of Explosives Substance Act, 1908 against Ashish Keora, Rintu Sk. Mukesh Singh, Mokhtar Khan. The other accused persons were also arrested and subsequently they were granted bail. However, on 19.09.2022 as per direction of the Ministry of Home Affairs the National Investigation Agency (referred to hereinafter as NIA) took up the investigation of the said Mohammad Bazar Police Station Case No. 209 of 2022 dated 30.06.2022 after re-registration of the FIR and submitted charge sheet on 26.04.2023. Furthermore, on 28.06.2023 NIA submitted their first supplementary charge sheet containing names of two other accused persons namely, Merajuddin Ali Khan and Mir Mohammad Nuruzzaman. Furthermore, on 28.06.2023 NIA also conducted a raid at Rajlaxmi Stone Works, Kalipur, P.S. – Nalhati, District – Birbhum, West Bengal which belongs to the present appellant. NIA had seized one country made pistol along with four 7.65 mm Ammunitions, one bag of Ammonium Nitrate weighing 50 kg, 130 Gelatin Sticks weighing around 16.25 kg and other documents including one diary mentioning various transactions relating to purchase of explosives, therefrom.

2. It is also contended that the NIA issued a notice on 01.07.2023 to the petitioner under section 160 of the Code of Criminal Procedure (hereinafter referred to as Cr.P.C.) directing him to attend before them on 02.07.2023 at 11 a.m. The said notice was challenged by the petitioner in a writ petition being WPA 15792 of 2023 before this Hon'ble Court and the Hon'ble Court

vide its order dated 07.07.2023 has directed the petitioner to attend the Nalhati Police Station for meeting the investigators on 10.07.2023 at 11:00 a.m. and till then the NIA authorities will not take any coercive measure against the petitioner in this regard.

3. It has further alleged that on 10.07.2023 when the present petitioner appeared before the NIA in terms of order dated 07.07.2023 he was arrested. The second supplementary charge sheet was filed on 07.10.2023 revealing the alleged involvement of the appellant/petitioner in the instant case.

4. The learned counsel for the petitioner has submitted the driver of the vehicle carrying 81000 detonators and other accused namely Mokhtar Khan, Mukesh Singh, Rintu Sk. who were involved in the alleged illegal supply of gelatin sticks were granted bail. Moreover, the two license holders namely Merajuddin Ali Khan and Mir Mohammad Nuruzzaman who had allegedly supplied explosives to Rintu Sk. were also granted bail on 17.10.2023 by this Court. The learned counsel has submitted that the source of the said 130 Gelatin Sticks allegedly recovered from the godown of the present petitioner and consequently the connection of the petitioner with Gelatin Sticks illegally procured from Rintu Sk. and all other accused persons involved, is not established. It is also submitted that gelatin sticks found from the appellant's godown were used for stone crushing business involving mining activities. No other purpose for the use of the said Gelatin Sticks could be attributed to the appellants by the NIA authorities during the entire course of investigation over a period of one year. There is no

criminal antecedent of the present petitioner. Moreover, the petitioner has a fundamental right of speedy trial under Article 21 of the Constitution and if the trial is prolonged the prosecution cannot oppose the prayer for bail. The petitioner was never interrogated by the NIA authority. It goes to show that he has been purposefully arrested for political reasons. The learned counsel has submitted that the petitioner may be granted bail on any condition. He has cited the judicial decision reported in **(2024) 8 Supreme Court Cases 293 (Sheikh Javed Iqbal Alias Ashfaq Ansari Alias Javed Ansari Vs. State of Uttar Pradesh)** in support of his contention.

5. Opposing the prayer for bail, the learned counsel appearing for National Investigation Agency (NIA) Mr. Maiti has submitted that the petitioner along with others were engaged in storing, possessing huge quantities of explosive articles in violation of law of the land. So far as the present petitioner is concerned, a huge quantity of Gelatin Sticks, Ammonium Nitrate etc. was recovered from his godown and further a diary showing transactions of huge quantity of explosive items was also recovered. Subsequently, a search was conducted at the house of Manoj Ghosh, the petitioner, and three mobile phones along with other incriminating documents were seized. The petitioner was served with a notice under Section 160 of Cr.P.C. to produce the records regarding storage of explosives but he did not comply. On 07.07.2023 arrest warrant was obtained against him from NIA Special Court. In compliance of such court order NIA team arrested the instant appellant Manoj Ghosh on 10.07.2023 from Nalhati Police Station at 2:10 pm and was examined in police custody. It is further

contended that prior to the arrest, the petitioner filed a writ application before this Hon'ble Court seeking interim protection and quashing of NIA case vide WPA No. 15792 of 2023 and the matter was heard before the Hon'ble Single Bench on 07.07.2023. The above mentioned writ was disposed of with the direction upon the petitioner to co-operate with the investigation. Statements of witnesses recorded under section 164 Cr.P.C. show that the present petitioner is involved in illegal business of explosives and mining. The said statements further corroborated the fact that seized country made pistol along with four 7.65 mm Ammunitions, one bag of Ammonium Nitrate weighing 50 kg, 130 Gelatin Sticks belonged to the petitioner. There are several materials showing that the appellant used his crusher for crushing the ore stone from his illegal mines into smaller pieces. He did not have any license from Petroleum Explosive Safety Organization to produce and/or sell and/or possess and/or use explosive substances. There is a gross violation of Section 4(1A) of the Mines and Minerals (Development and Regulation) Act, 1957 read with rules 7, 8 and 10 of the Explosives Rules, 2006.

6. The learned counsel has also harped on the point that investigation reveals that the petitioner used to procure illegal explosives from Rintu Sk., a non-license holder, possess and use them illegally. It is also pointed out that when the case was taken up by NIA the license dealers having authority to give huge quantity of explosives and various other persons died under mysterious circumstances. The learned counsel for the NIA has further submitted that mere alleged possession of trade license cannot legitimize the

holding and dealing of explosive materials. If the petitioner is released on bail there is every possibility that he will again carry on the business of explosives and also the purpose of the trial will be frustrated. The delay caused, if any, is due to the role of the petitioner along with other accused persons. Charges could not be framed by the Special Court since various frivolous applications are being filed by the accused persons including the present petitioner.

7. We have considered the rival submissions of the parties.

8. The record prima facie reveals that the petitioner was carrying on his business of or in possession of explosives without relevant license from Petroleum Explosive Safety Organization. During hearing there is nothing on record from the side of the petitioner to dispute such fact. Therefore, there are sufficient incriminating materials against the present petitioner that he had been in possession of huge number of explosive substances without any valid license under law of the land. But even if it is found that he was possessing huge number of explosive substances at the relevant time that does not mean that he can be incarcerated for an indefinite period without trial. The record shows that there are more than 117 prosecution witnesses to be examined during trial. A huge number of documents and articles are to be produced and proved before the court for substantiating the case against the present petitioner. The petitioner is already in custody for more than 1 year 6 months. Undoubtedly, the petitioner has his fundamental right to personal liberty and speedy disposal of criminal cases brought

against him and no other consideration can be higher than his personal liberty and right to speedy justice. Therefore, there is a least possibility of an early conclusion of the trial. Investigation is complete and the documents and articles have already been seized. As the investigation is complete there is no need for further custodial detention of the present petitioner. The record also reveals that the other accused persons who were dealing with explosives in connection with this case have already been granted bail. However, it is claimed by the NIA that the present petitioner is an influential political person and if he is enlarged on bail he may intimidate, threaten the witnesses and further damage the prosecution case. It is also contended that if he is enlarged on bail, he may again start his business of illegal explosives and that would frustrate the trial.

9. We think that though such contentions may have some merits but this court is well within its authority to impose certain restrictions upon the movement of the petitioner and also debar the petitioner from carrying on his business of explosives.

10. However, it is alarming that petitioner along with others are allegedly filing frivolous applications before the Learned Trial Court in such a manner so that the Learned Trial Court cannot frame charge against the petitioner along with other accused persons. If that be so, this court can take care of such allegation of the NIA.

11. Accordingly, we are inclined to enlarge the petitioner Mr. Manoj Ghosh on interim bail, and we do so. The petitioner Manoj Ghosh may find interim bail of Rs. 50,000/- with two sureties of Rs. 25,000/- each out of which one must be local subject to the satisfaction of Learned Court of Chief Judge, City Sessions Court (NIA Court) at Calcutta and also subject to following conditions:-

- (i) The petitioner shall remain within the jurisdiction of Bidhannagar, Salt Lake, Kolkata excepting for the purpose of attending court proceedings,
- (ii) The petitioner shall meet the Bench clerk of the Chief Judge City Sessions Court, Calcutta during office hours twice in a week until further order, and the concerned Bench clerk will record the attendance of the petitioner separately with endorsement and official seal, in the attendance register to be produced by the petitioner,
- (iii) The petitioner shall furnish his local address where he will reside presently to the I.O. of this case as well as to the learned Trial Court.
- (iv) The petitioner shall not make any attempt to intimidate, influence or tamper with evidence and shall attend the court on each date of hearing,
- (v) The NIA authority is at liberty to keep a vigil upon the petitioner and monitor his phone calls.

(vi) The petitioner shall be entitled to use only two mobile phone numbers after disclosing the same to the concerned I.O.

(vii) The petitioner shall not carry on any kind of business involving explosives and stone crushing until further order.

12. All parties are to co-operate with the Learned Trial Judge in furtherance of the trial including in the matter of framing of charge.

13. If the petitioner fails to comply with any of the conditions as imposed upon him, the instant interim bail order shall stand cancelled without any further reference to this court.

14. This interim bail shall continue till the end of March, 2025 or until further order, whichever is earlier.

15. The matter will appear again on 28.03.2025.

16. On the adjourned date, NIA shall file a report indicating, inter alia, whether or not the petitioner has been complying with the conditions of interim bail.

17. The Learned Registrar General is to communicate this order to the Learned Court of Chief Judge, City Sessions Judge, Calcutta immediately.

18. Urgent photostat certified copies of this judgment, if applied for, be supplied to the parties on compliance of all necessary formalities.

I Agree.

(APURBA SINHA RAY, J.)

(ARIJIT BANERJEE, J.)