

Court No. - 1

Case :- CRIMINAL APPEAL No. - 1763 of 2022

Appellant :- Ansad Badruddin And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lucknow And 2 Others

Counsel for Appellant :- Amarendra Pratap Singh

Counsel for Respondent :- G.A.

Hon'ble Ramesh Sinha,J.

Hon'ble Mrs. Renu Agarwal,J.

- (1) Heard Shri A.P. Singh, learned Senior Advocate assisted by Shri Amarendra Pratap Singh, learned counsel for the appellants, Shri S.N. Tilahari, learned AGA for State-respondent and perused the material on record.
- (2) The brief facts of the case are that First Information Report was lodged against the petitioners by Anti-Terror Squad, Lucknow (hereinafter referred to as "ATS") on 16.12.2021 on the basis of a written report of informant namely, Shri Hemant Bhushan Singh, Inspector, Special Task Force (hereinafter referred to as "STF"). The two appellants were arrested by ATS, Lucknow on 16.02.2021 and a recovery of various items was made from their possession.
- (3) From Ansad Badruddin (appellant no.1) following items were recovered:-
 - (i) One pistol 32 bore along-with six live cartridges;
 - (ii) One mobile phone having BSNL SIM Card;
 - (iii) a purse containing voter card, PAN card, ATM Card of Federal Bank, Driving License, Rs 3,530/-;
 - (iv) two pocket diaries;
 - (v) one railway ticket dated 11.02.2021 and 11 printed tickets of IRCTC;
 - (vi) two receipts of Hotel Lee International and Silver Inn;
 - (vii) a bag containing five small pages of diary;
 - (viii) one big page diary;

- (ix) two pen drives;
- (x) nine rods of high quality explosives;
- (xi) two explosive devices (with electric battery detonator).

(4) From Firoz (appellant no.2) following items were recovered:-

- (i) one mobile phone having SIM of Idea Company;
- (ii) purse;
- (iii) Aadhar Card;
- (iv) ATM of Axis. Bank;
- (v) ATM of ICICI Bank;
- (vi) Metro Card;
- (vii) Driving License;
- (viii) Cash of Rs.1,270/-;
- (ix) Wrist watch and finger ring;
- (x) bag containing bank receipt of Nadakkuthazha Service Co-Bank Ltd.;
- (xi) seven rods of high-quality explosive;
- (xii) one bundle red color D.P. Wire.

(5) The Investigating Agency after thorough investigation has submitted charge sheet against the appellants for the offence under Sections 120-B, 121-A I.P.C., Sections 13, 16, 18, 20 of the Unlawful Activities (Prevention) Act, 1967, Sections 3/4/5 of the Explosive Substance Act, 1908 and Sections 3/25 Arms Act, 1959 and First Information Report was submitted under the same offences. The appellants are facing trial for the offences in question and the trial is for framing of charges against them.

(6) Learned counsel for the appellants has argued that instant appeal has been filed on behalf of the appellants under Section 21 of the National Investigation Act, 2008 against the impugned order dated 24.06.2022 passed by learned trial Court on the ground that the said order is illegal, unjust and improper. It has been further argued by learned counsel for the appellants that the appellants are the residents of State of Kerala and the members of Popular Front of India (hereinafter referred to as

"PFI"), which is a registered organization registered under the Societies Registration Act and not a banned organization, hence assembly of two or more than two persons is not unlawful. Further, the FIR lodged against the appellants is based on a recovery memo dated 16.02.2021 on the written complaint of the informant and so far as joint recovery of contraband articles, which has been made from the possession of the appellants, is concerned there appears to be no independent or public witnesses as all the eighteen witnesses as per the chargesheet are witnesses of police, hence the recovery is a false and planted one. Details of recovery memo is mentioned in paragraph no.22 to the bail application. Moreover, the appellants have no role to play in the commission of alleged offence as their role was of ferrying the passengers to their destination. It has been lastly submitted that the appellants are in jail since 17.02.2021 and though they have criminal history of five cases, but the same are registered at Kerela and are of minor offences. Thus, from the perusal of the statements and material recorded in case diary, no cognizable offence is made out against the appellants.

- (7) Learned AGA for the State-respondent submitted that a team was constituted and on the information of the informer that the members of the PFI will meet at Lucknow Kukrail Picnic Spot in order to commit the murder of people and Office Holders of Hindu Religious Organizations and for creating fear and terror in the Society and to commit blast in different programs of Hindu Religion and the Police team arrested the accused-appellants at 18:30 hours on 16.02.2021 and at the time of the arrest of the appellants, one pistol 32 bore, 6 live cartridges, 9 rods of high quality explosive, 11 IRCTC railway ticket, one mobile phones, 2 Explosive ER FO Devices with battery, electronic detonator, diary written in Malayalam language, drive etc. was recovered from accused appellant no.1- Ansad Badruddin and 7 rods of high quality explosive, one bundle of

red colour DP wire, one mobile phone and cash was recovered from the possession of accused appellant no.2- Firoz.

- (8) Further the appellants had admitted that they are active members of PFI and their aim and object is of giving training to the people for fighting against Hindu religious organizations and to promote the ideology of PFI. A diary written in Malayalam language was also recovered from the possession of accused appellants disclosing their aim, object and ideology. In the diary "attack", "burning", "US", "Ram Mandir" like words were mentioned in code words. Further the words "defense", "enemy know everything", "we should prepare", "Muslims are strong", "the root of coming our area leader", "conspiracy" like words were also written.
- (9) It was further pointed out that information was received by the ATS regarding a complaint made by the PFI to attack on the Senior Leader of different Hindu religious Organizations, important and sensitive places of Uttar Pradesh and on the said information the arrest of the accused appellants was made with huge quantity of explosives, etc. which shows that the appellants with an intent to achieve goal of PFI had made a conspiracy for committing the offences. It was further pointed out that explosives recovered from the appellants had been sent for examination, which were found to be high explosive PETN (Penta Erythritol Nitrate) in the report of the Forensic Science Laboratory, Agra. A copy of the same has been annexed as Annexure no. CA-4 to the counter affidavit.
- (10) Further, the bank statement of accused appellant no.1- Anсад Badruddin shows that transaction of amount from his account to the account of PFI on different dates. The statement of the appellants was also recorded during investigation under Section 161 Cr.P.C. and they have confessed their guilt.

- (11)** Learned AGA has next argued that appellants had earlier filed a bail application before the Courts below but the same was rejected on 15.07.2021 and after rejection of the bail application the appellants preferred bail application under Section 439 Cr.P.C. before this Court and the same was again rejected by Co-ordinate Bench of this Court vide order dated 06.05.2022 with liberty to file an appeal against the said order under Section 21 of National Investigation Agency Act, 2008. That after dismissal of the said bail application the appellants preferred second bail application before the lower Court and the same was dismissed vide order dated 24.06.2022. Thus, the instant appeal has been preferred against the order dated 24.06.2022. It is next stated that it is true that PFI was not a banned organization at the relevant point of time, but the same does not give to the appellants a liberty to indulge in any sort of antisocial activities.
- (12)** After having heard the submissions of learned counsel for the parties and considering the fact that the recovery being made from the appellants of seized objectionable articles including explosive substances, which was to be used by them to attack on Senior Leader of different Hindu Religious Organization and to blast different sensitive places of Uttar Pradesh, for which no satisfactory explanation has been given by the appellants, thus, it cannot be said that the involvement of the appellants in their nefarious designs could be ruled out and further looking into their criminal antecedents and the fact that the trial is in progress, which is fixed for framing charges against the appellants by the trial Court, we are not inclined to grant bail to the appellants and the same is accordingly refused.
- (13)** Accordingly, while affirming the impugned order dated 24.06.2022, the instant criminal appeal of the appellants- Anсад Badruddin and Firoz, involved in Case Crime No.04/2021, under Sections 120-B, 121-A I.P.C., Sections 13, 16, 18, 20 of

the Unlawful Activities (Prevention) Act, 1967, Sections 3/4/5 of the Explosive Substance Act, 1908 and Sections 3/25 Arms Act, 1959 at police station ATS Lucknow, District Lucknow, is **dismissed**.

- (14)** The trial court is directed to expedite the trial of the present case and conclude the same expeditiously preferably within a period of one year from the date of production of a certified copy of this order, if there is no legal impediment.
- (15)** The learned counsel for the parties shall place a copy of this order before trial Court for necessary information and compliance.

(Mrs. Renu Agarwal, J.) (Ramesh Sinha, J.)

Order Date :- 7.12.2022

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