



**HIGH COURT OF ANDHRA PRADESH**  
MONDAY ,THE THIRD DAY OF APRIL  
TWO THOUSAND AND TWENTY THREE

**PRESENT**

**THE HONOURABLE SRI JUSTICE A V SESA SAI**  
**THE HONOURABLE SMT JUSTICE VENKATA JYOTHIRMAI PRATAPA**  
**CRIMINAL APPEAL NO: 399 OF 2022**

**Between:**

1. Ashok Kumar Deg S/o. Sher Singh Deg,  
Hindu aged about 21 years R/o. Indali Old Bus Stand Jhunjhunu  
Rajasthan State, Presently in Judicial Custoddy since 19-12-219 at  
Central Jail Rajmundary East Godavari District Andhra Pradesh

**...PETITIONER(S)**

**AND:**

1. THE STATE OF ANDHRA PRADESH The State of Andhra Pradesh  
represented by its Special Public Prosecutor NIA High Court of Andhra  
Pradesh at Amarawati

**...RESPONDENTS**

**Counsel for the Petitioner(s): ANKALLA PRUDHVI RAJ**

**Counsel for the Respondents: HARINATH N (DEPUTY SOLICITOR  
GENERAL OF INDIA))**

**The Court made the following: ORDER**



**HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**

\*\*\*\*

**CRIMINAL APPEAL.No.399 OF 2022**

Between:-

Ashok Kumar Deg,

...Petitioner/Accused No.7

Versus

The State of Andhra Pradesh Rep.

by its Special Public Prosecutor, NIA,

High Court of Andhra Pradesh at Amaravati.

...Respondent/Complainant

\*\*\*\*

DATE OF JUDGMENT PRONOUNCED : 03.04.2023



**SUBMITTED FOR APPROVAL:**

**THE HON'BLE SRI JUSTICE A.V. SESA SAI  
&  
THE HON'BLE SMT JUSTICE VENKATA JYOTHIRMAI  
PRATAPA**

1. Whether Reporters of Local Newspapers  
may be allowed to see the Judgment? Yes/No
2. Whether the copy of Judgment may be  
marked to Law Reporters/Journals? Yes/No
3. Whether His Lordship wish to see the  
fair copy of the Judgment? Yes/No

---

**JUSTICE A V SESA SAI**

---

**JUSTICE VENKATA JYOTHIRMAI PRATAPA**



**\* THE HON'BLE SRI JUSTICE A.V. SESA SAI  
&  
THE HON'BLE SMT JUSTICE VENKATA JYOTHIRMAI  
PRATAPA**

**+ CRIMINAL APPEAL No.399 OF 2022**

**% 03.04.2023**

**# Between:**

Ashok Kumar Deg

...Petitioner/Accused No.7

Versus

The State of Andhra Pradesh Rep.

by its Special Public Prosecutor, NIA,

High Court of Andhra Pradesh at Amaravati.

...Respondent/Complainant

**! Counsel for the Petitioners : Sri Ankalla Prudhvi Raj**

**^ Counsel for the Respondent : Sri N.Harinath**

**< Gist:**

**> Head Note:**



**? Cases referred:**

- 1) AIR 2021 SC 712
- 2) (2022) 1 SCC 695
- 3) (1988) 3 SCC 609
- 4) (2019) 5 SCC 1
- 5) (2007) 9 SCC 387
- 6) (2017) 2 ALD (Cri) 197
- 7) (1984) 3 SCC 555



**THE HON'BLE SRI JUSTICE A.V. SESA SAI**  
**&**  
**THE HON'BLE SMT JUSTICE VENKATA JYOTHIRMAI**  
**PRATAPA**

**CRIMINAL APPEAL.No.399 OF 2022**

**JUDGMENT:** *(per A.V. Sesa Sai, J)*

Accused No.7 in Sessions case No.39 of 2020 on the file of the Court of the Metropolitan Sessions Judge-cum-Special Judge for Trial of NIA Act cases at Vijayawada is the appellant in the present Criminal Appeal, preferred under Section 374(2) of the Code of Criminal Procedure.

2. This appeal is directed against the order dated 10.06.2022 passed by the said Court, dismissing the Crl.M.P.649 of 2022, filed by the appellant under Sections 437 and 439 of Code of Criminal Procedure, praying to enlarge him on bail.

3. Heard Sri Pankaj Singh, learned counsel representing Sri Ankalla Prudhvi Raj, learned counsel for the appellant and Sri N.Harinath, learned Deputy Solicitor General for Union of India for the respondents, apart from perusing the material available on record.

4. Submissions/contentions of the learned counsel for the appellant:



1. Prosecution erroneously invoked Section 120 B IPC and no case is made out against Accused No.7-appellant herein under the aforesaid provision of law and though the charge sheet alleges a conspiracy on general presumption, the same is completely silent on the nature of role of Accused No.7 in the conspiracy. The prosecution is trying to prove the alleged conspiracy qua Accused No.7 by a few bits here and a few bits there without any evidence.
2. No case is made out against Accused No.7-appellant herein under Section 18 of the Unlawful Activities (Prevention) Act, 1967. There is absolutely no evidence to indicate *prima facie* case to bring Accused No.7-appellant herein within the four corners of Section 18 of the Unlawful Activities (Prevention) Act, 1967. The prosecution failed to indicate the involvement of Accused No.7-appellant herein in any incriminating act within the meaning of Section 15 of the Unlawful Activities (Prevention) Act, 1967, which defines Terrorist Act.
3. There are no reasonable grounds for believing that the accusation against the Accused No.7-appellant



herein under Section 18 of the Unlawful Activities (Prevention) Act, 1967 is *prima facie* true and rigors regarding grant of bail under Section 43 D (5) of the Unlawful Activities (Prevention) Act, 1967 is against the Accused No.7-appellant herein.

4. No classified information/document was shared by Accused No.7-appellant herein, even to imposters and no case under Sections 3, 4 & 5 of the Official Secrets Act, 1923 is made out against Accused No.7. The documents found from the mobile of Accused No.7-appellant herein are the documents taken from the internet, study material shared among the batch mates for half yearly routine departmental examinations and not a single document suggests that it is restricted in nature.
5. The appellant is languishing in prison for the last 34 months without any progress in the trial and the same is violative of the Fundamental Rights guaranteed to Accused No.7-appellant herein under Chapter III of the Constitution of India in general and also violative of Article 21 of the Constitution of India in particular. It is shocking that out of 52 hearings,





not a single one was effective hearings and in all 52 hearing, same order came to be passed by the trial Court.

6. The learned Judge had gone to the documents of other Accused No.9 i.e., Document No.151 and passed the impugned order erroneously on the basis of the said document by referring to the same as document of the appellant herein. The name of the Accused No.9 is also “Ashok Kumar”.
7. English translations for Whatsapp chats are essential to enable the trial Court to go through the same and the same is lacking till date.
8. In support of his submissions and contentions, learned counsel for the appellant placed reliance on the following judgments.

- 1) Judgment of the Hon’ble Supreme Court in case of ***Union of India (UOI) vs. K.A.Najeeb***<sup>1</sup>
- 2) Judgment of the Hon’ble Apex Court in Crl.A.No.11 of 2017 dated 03.01.2017 in the case of ***Sagar Tatyaram Gorkhe and Anr vs. The State of Maharashtra.***

---

<sup>1</sup> AIR 2021 SC 712



- 3) Judgment of the Hon'ble Apex Court in Crl.A.No.440 of 2016 dated 04.05.2016 in the case of **Angela Harish Sontakke vs. State of Maharashtra.**
- 4) Judgment of the Hon'ble Supreme Court in case of **Asim Kumar Haranth Bhattacharya vs. National Investigation Agency**<sup>2</sup>.
- 5) Judgment of Punjab and Haryana High Court in CRA-D-679 of 2022 dated 13.12.2022.
- 6) Judgment of the High Court of Kolkata in C.R.M.(DB).4490 of 2022 dated 11.01.2023.
- 7) Judgment of the Supreme Court of India in Crl.A.No.1571 of 2021 dated 07.12.2021 in the case of **Praveen vs. The State of Haryana.**
- 8) Judgment of Hon'ble Apex Court in the case of **Kehar Singh and others vs. State (Delhi Administration)**<sup>3</sup>.

---

<sup>2</sup> (2022) 1 SCC 695

<sup>3</sup> (1988) 3 SCC 609



5. Submissions/Contentions of Sri N.Harinath, learned Deputy Solicitor General for Union of India:

- 1) There is absolutely no error nor there exists any infirmity in the order passed by the NIA Court and in the absence of the same, the appellant herein is not entitled for any relief from this Court.
- 2) This appeal is not maintainable in view of the provisions of Section 43 D (5) of the Unlawful Activities (Prevention) Act, 1967.
- 3) Accused Nos.12, 16 & 19 also filed similar applications and no bail is granted in their favour.

6. In order to substantiate his stance, learned Deputy Solicitor General of India places reliance on the following judgments:

- 1. National Investigation Agency vs. Zahoor Ahmad Shah Watali<sup>4</sup>.**
- 2. Afzal Khan Alias Babu Murtuzakhan Pathan vs. State of Gujarat<sup>5</sup>**
- 3. State vs. Saddam Hossain<sup>6</sup>**

---

<sup>4</sup> (2019) 5 SCC 1

<sup>5</sup> (2007) 9 SCC 387

<sup>6</sup> (2017) 2 ALD (Cri) 197



**4. *State Deputy Commissioner of Police,  
Special Branch, Delhi vs. Jaspal Singh  
Gill*<sup>7</sup>.**

7. In the above background, now the issue that emerges for consideration in this Court in the present Criminal Appeal is:

“Whether, in the facts and circumstances of the case, Accused No.7-appellant herein is entitled for bail?”

8. Prior to entering into the merits and demerits of the case, it would be appropriate and apposite to refer to certain provisions of the relevant statutes. With an object to provide for more effective prevention of certain unlawful activities of individuals and associations and for dealing with terrorist activities and for matters connected therein, the Parliament enacted “The Unlawful Activities (Prevention) Act, 1967”. The Parliament made the said legislation pursuant to the adoption of Resolution 1373 of the United Nations by the Security Council of United Nations, requiring all the States to take measures to

---

<sup>7</sup> (1984) 3 SCC 555



combat International Terrorism. The provisions of this enactment are also applicable to:

- a) Citizens of India, outside India
- b) Persons in the service of the Government, wherever they may be and
- c) Persons on ships and aircrafts, registered in India, wherever they may be as per Section 2 (5) of the Unlawful Activities (Prevention) Act, 1967.

9. According to Clause (a) of Section 2, association means any combination or body of individuals. Clause (g) of Section 2 explains the term “Proceeds of terrorism” in the following manner:

*“(i) all kinds of properties which have been derived or obtained from commission of any terrorist act or have been acquired through funds traceable to a terrorist act, irrespective of person in whose name such proceeds are standing or in whose possession they are found; or  
(ii) any property which is being used, or is intended to be used, for a terrorist act or for the purpose of an individual terrorist or a terrorist gang or a terrorist organisation.”*

10. The term property is defined under Clause (h) of Section 2 as follows:



*“(h) “Property” means property and assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and legal documents, deeds and instruments in any form including but not limited to electronic or digital, evidencing title to, or interest in, such property or assets by means of bank credits, travellers’ cheques, bank cheques, money order, shares, securities, bond, drafts, letters of credit, cash and bank account includes fund, however acquired;”*

11. Clauses (k) and (l) of Section 2 of the Act explains the terms “Terrorist Act” and “Terrorist Gang” in the following manner:

*“(k) “terrorist act” has the meaning assigned to it in Section 15, and the expressions “terrorism” and terrorist” shall be construed accordingly;*

*(l) “terrorist gang” means any association, other than terrorist organisation, whether systematic or otherwise, which is concerned with, or involved in, terrorist act;”*

12. Clauses (o) and (p) of Section 2 of the Act, which deal with the terms “unlawful activities” and “unlawful association”, read as follows:

*“(o) “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 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;*  
*(p) “unlawful association” means any association:*
- i. which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or*
- ii. which has for its object any activity which is punishable under Section 153A or Section 153B of the Indian Penal Code (45 of 1860), or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity;*  
*Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir.”*

13. Chapter III of the Act which includes Sections 10 to 14 deals with the offences and penalties. Section 13 of the Act deals with the punishment for unlawful activities and the same reads as follows:

**“13.Punishment for unlawful activities-** (1) *Whoever:*  
*(a)takes part in or commits, or*  
*(b)advocates, abets, advises or incites the commission of any unlawful activity, shall*



*be punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine.*

*(2) Whoever, in any way, assists any unlawful activity of any association declared unlawful under Section 3, after the notification by which it has been so declared has become effective under sub-*

*section (3) of that section, shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both*

*(3) Nothing in this section shall apply to any treaty, agreement or convention entered into between the Government of India and the Government of any other country or to any negotiations therefor carried on by any person authorise in this behalf by the Government of India.”*

14. In the instant case, the NIA filed charge sheet against Accused No.7-appellant herein for the offence punishable under Section 18 of the Act also which deals with the punishment for conspiracy etc., and the said provision of law reads as follows:

**“18. Punishment for conspiracy, etc.-**  
*Whoever conspires or attempts to commit, or advocates, abets, advises or [incites, directs or knowingly facilitates] the commission of, a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.”*





15. Holding proceeds of terrorism is punishable under Section 21 of the Act and the same reads as follows:

**“21.Punishment for holding proceeds of terrorism** – *Whoever knowingly holds any property derived or obtained from commission of any terrorist act or acquired through the terrorist fund shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.”*

16. Section 43 (D) (5) of the Act stipulates as follows:

*“(5) Notwithstanding anything contained in the Code, no person accused to an offence punishable under Chapter IV and VI of this Act shall, if in custody be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity being heard on the application for such release:*

*Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under Section 173 of the Code is opinion that there are reasonable ground for believing that the accusation against such person is prime facie true.”*

17. Adjudication of issues that arise for consideration of the Courts under these provisions, having regard to the scheme of enactments are required to be undertaken with lot of care, caution and circumspection. The aspects of National Integrity and Sovereignty of the country also should necessarily be borne in mind by the Courts,



because there cannot be any compromise with regard to the said twin aspects. Obviously, the same being the legislative object in incorporating proviso to Section 43(D)(5) which bars grant of bail in the event of existence of *prima facie* case, in the case of the prosecution.

18. In this context, it may be appropriate to refer to certain paragraphs of the charge sheet filed by the NIA. Para Nos.17.6, 17.7, 17.8, 17.23, 17.25(b), 17.27.5 and 17.28.4 read as follows:

*“17.6. Investigation has revealed that as per the solicitation made by above said foreign nationals accused Navy personnel Sunny Kumar (A-6), Ashok Kumar Deg (A-7), Sanjay Kumar Das (A-8), Ashok Kumar (A-9), Somnath Sanjay Ikade (A-10), Sanjay Kumar (A-11), Vikash Kumar (A-12), Sonu Kumar (A-13), Adarsh Singh Rajawat (A-16), K.Konda Babu (A-17) and Avinash Somal (A-18), shared a lot of sensitive official secrets with said foreign nationals/spies such as location/movement of Indian Navy Ships/Submarines, training exercises with Foreign countries, Overseas Deployment (OSD) of Indian Navy Ships/Submarines, transfer/posting details of Navy officials/officers, technologies used in Indian Navy Ships/Submarines, maintenance/refit of Indian Navy Ships etc. through Whatsapp & Facebook. The said information was collected by accused Navy personnel from their Navy batch-mate/friends without revealing the actual purpose of asking such information and also by taking photographs and videos of restricted/prohibited areas of naval*



*establishments where mobile phones are strictly prohibited for such activities.*

*17.7. Further, said foreign nationals/spies initially contacted the accused Navy personnel over Facebook/Facebook messenger and later switched to WhatsApp for end-to-end encrypted communications after befriending them to hide their identity over network. Accused navy personnel were in regular contact with foreign agents/spies over end to end encrypted messaging system WhatsApp and they added the said foreign agents/spies' WhatsApp numbers in various WhatsApp groups of Navy personnel which helped the said agents/spies to obtain most of the sensitive information related to Indian Navy establishments and posting details of navy officials across the country effortlessly without any suspicion. It also helped the foreign agents/spies recruit more navy personnel as their agents. Investigation revealed that senior officers/concerned units used to issue advisory/guidelines from time to time to their staff, not to befriend or interact with unknown persons over any social media platforms such as Facebook & WhatsApp etc. and share any official secret information with any persons whoever may be. In-spite advisories issued by Indian Navy from time to time, accused Navy personnel clandestinely and voluntarily passed on the classified and sensitive information to said foreign agents/spies for monetary gains.*

*17.8. It is also revealed that accused Navy personnel deleted most of their conversation with their foreign agents/ spies over Facebook and WhatsApp as per the directions of said foreign agents/spies, to hide their identity over network and culpability in crime, if they were apprehended. Some of the accused Navy personnel either deactivated their WhatsApp/Facebook accounts or deleted*



WhatsApp/Facebook application from their mobile phone to escape from the clutches of law.

**17.23.INVESTIGATION ON SOCIAL MEDIA ACCOUNTS:** During investigation, it is revealed that accused Navy personnel were contacted by the following foreign nationals over Facebook and WhatsApp:-

**a) Ashi Rajput @ Harish Rajput @ Harish** used different fictitious identities or pseudonyms to contact and chat with accused Navy personnel. He used WhatsApp accounts with fraudulently obtained Indian mobile numbers +919824638754, +918347101135, +919898606736, +919726177846, +916230044871 and +916230031106. This foreign agent/spy used Facebook account **Facebook ID 100022766604282** to contact initially with accused Navy personnel before switching to WhatsApp. **Facebook ID 100022766604282** was in the name of Ashi Rajput at IP address 103.228.156.138 and registered on 06.11.2017 with mobile number +923353682285(Pak). Pakistan based IP addresses were used for accessing this account. This Facebook ID was closed on 23.01.2020. Investigation revealed that this foreign agent/spy is using two Gmail accounts [anikapatel075@gmail.com](mailto:anikapatel075@gmail.com) and [pyarimahi9@gmail.com](mailto:pyarimahi9@gmail.com) which are registered with Whatsapp accounts -916230044871 and +916230031106 respectively.

- i. During investigation information about above mentioned WhatsApp mobile numbers used by Ashi Rajput @ Harish Rajput was obtained from WhatsApp Inc. and it was revealed that WhatsApp account with mobile number 9898606736 was created on 28.09.2018. WhatsApp account with mobile number 9726177846 was created on 25.06.2018 with Push Name Harish Rajput. WhatsApp account



*with mobile number 9824638754 was created on 27.11.2019. Two common Pakistan based Internet Protocol (IP) address viz. 43.248.12.19 & 202.5.141.164 were used for accessing these three WhatsApp accounts.*

- ii. WhatsApp account with mobile number 6230044871 was created on 29.11.2019 and registered mail address is [anikapatel075@gmail.com](mailto:anikapatel075@gmail.com). Apart from Indian mobile numbers one UK number 447983922361 is found in symmetric WhatsApp contacts. WhatsApp account with mobile number +916230031106 was created on 29.11.2019 and registered mail address is [pyarimahi9@gmail.com](mailto:pyarimahi9@gmail.com). Both the SIM cards were provided by accused Avinash Somal (A-18).*
- iii. During investigation, information about above mentioned two Gmail accounts was collected from Google Compliance Team, Google Inc and revealed that mail address [pyarimahi9@gmail.com](mailto:pyarimahi9@gmail.com) having Google Account ID 42006043943 was created on 04.12.2019 in the name of "Mahi Pyari" with IP address 182.182.118.76 having ISP of Triple Pay Projects, South (Pakistan Telecommunications Ltd) whereas mail address Account [anikapatel075@gmail.com](mailto:anikapatel075@gmail.com) having Google Account Id 957505018423 was created on 05.12.2019 in the name of "Anika Patel" with IP address 196.194.26.57 having ISP of African Network Information Centre (Afrinic Limited, Pakistan). Pakistan based F addresses were used for accessing these Gmail accounts.*
- iv. Following are the details of his contact with accused Navy personnel:-*



<b>Name &amp; mobile number of accused</b>	<b>WhatsApp Mobile no of Ashi Rajput @ Harish</b>
Sunny Kumar (A-6) 7796525431	98998606736, 9726177845 & 9824638754
Ashok Kumar Deg (A-7) 9928029612	9898606736
Ashok Kumar (A-9) 7232867581	9898606736 & 9726177846
Sanjay Kumar (A-11) 7831977936	9898606736
Vikash Kumar (A-12) 6769852828	9898606736
Adarsh Singh Rajawat (A-16) 7974309536	9898606736
Avinash Somal (A-18) 8629012239	9898606736

**b) Sonakshi Gupta** used WhatsApp account with mobile number +971503605685 (Dubai), Facebook ID 100023068216017 and Gmail ID [iamsonakshi21@gmail.com](mailto:iamsonakshi21@gmail.com). She was in contact with Somnath Sanjay Ikade (A-10)'s WhatsApp mobile number 7083463879. She was introduced to him by another online identity namely 'Shankar'. Contact number +971503605685 of Sonakshi was saved by Somnath Sanjay Ikade (A-10) as Sonali in his Facebook contacts and Sonali/Love/Sonuu etc. WhatsApp contacts. Foreign agent/spy Sonakshi contacted Sonu Kumar (A-13) who met her in Pattaya, Thailand while his ship INS Satpura was sailing in Thailand on OSD/POP, over Facebook and started conversation with Sonu Kumar (A-13) over Facebook messenger. Later switched to end-to-end- encrypted messaging services WhatsApp. Sonu Kumar (A-13) was using WhatsApp number 9634507897.



*The contact number of Sonakshi Gupta was saved as 'Dubai Gupta' by Sonu Kumar (A-13) in his Facebook contacts. Further, Sonakshi Gupta introduced Somnath Sanjya Ikade (A-10) and Sonu Kumar (A-13) to another foreign agent/spy 'Pooja Gupta' and both the navy accused were in touch with Pooja Gupta over WhatsApp with mobile number +96566394632 (Kuwait).*

- i. During investigation, information about **Facebook ID 100023068516017** of Sonakshi was collected from Facebook Inc. and it was revealed that the said Facebook account was registered on 21.11.2017 in the name of 'Sonakshi Gupta' with IP address 45.116.233.27 having ISP CM Pak, Pakistan and mail address [sonakshi99@protonmail.com](mailto:sonakshi99@protonmail.com).*
- ii. During investigation, information about WhatsApp mobile number +971503605685 used by 'Sonakshi Gupta' was collected from WhatsApp Inc. and it was revealed that the said WhatsApp account was created on 09.06.2013 and mail address registered with said WhatsApp account is [iamsonakshi21@gmail.com](mailto:iamsonakshi21@gmail.com). UAE based IP address 31.218.25.80 was used for accessing the WhatsApp account.*
- iii. During investigation, information about Gmail account [iamsonakshi21@gmail.com](mailto:iamsonakshi21@gmail.com) was collected from Google Inc. and it was revealed that the said mail address having Google Account ID 888494914012 was created on 28.08.2018 in the name of 'Sonakshi Sharma' at IP address 122.8.109.173 having ISP Connect Communications, Pakistan. Pakistan based IP addresses were used for accessing this Gmail account.*

**c) Pooja Gupta** who was using WhatsApp with mobile number +96566394632 (Kuwait).



*'Sonakshi Gupta' introduced foreign agent/spy Pooja Gupta to Somnath Sanjay Ikade (A-10) and Sonu Kumar (A-13) over WhatsApp. The said foreign agent/spy elicited secret & sensitive information of Navy establishments from both the accused Navy personnel. Further, 'Pooja Gupta' was also introduced to K. Konda Babu (A-17) by foreign agent/spy 'Vidya Lakshman' (using WhatsApp with Indian mobile number 9512296597).*

- i. *During investigation, information about WhatsApp mobile number +96566394632 (Kuwait) used by 'Pooja Gupta' was collected from WhatsApp Inc. and it was revealed that the said WhatsApp account was created on 28.12.2018. Kuwait based IP address 188.70.52.202 was used for accessing this WhatsApp account.*

**d) Diya Gupta @ Deepa Prakash** was using **Facebook ID 100034165730721** (URL:[www.facebook.com/jasveen.khurana.7](http://www.facebook.com/jasveen.khurana.7)), and WhatsApp with mobile numbers **+919714572065**. Diya Gupta @ Deepa Prakash was introduced to Vikash Kumar (A-12) by 'Ashi Rajput @ Harish Rajput' over WhatsApp and this foreign agent/spy also came in contact with Ashok Kumar Deg (A-7) over Facebook and later switched to WhatsApp. Vikash Kumar (A-12) was using WhatsApp with mobile number 7568303268 and Ashok Kumar Deg (A-7) was using WhatsApp with mobile number 9928029612. Information about WhatsApp mobile number +919714572065 of Diya Gupta @ Deepa Prakash is not made available by WhatsApp Inc. as it was deactivated. Now Diya Gupta @ Deepa Prakash is using WhatsApp with Pakistan Mobile number +923302267334 (Pak).





- i. During investigation, information about **Facebook ID 100034165730721** was collected from Facebook Inc. and it was revealed that the said Facebook account was registered 25.02.2019 in the name of **Deepa Prakash** (account identifier '**jasveen.khurana.7**) with Pakistan mobile number +923302267334 and IP address 137.59.218.194 (**Cyber Internet Services Pakistan, Karachi, Sindh, Pakistan**). Pakistan based IP addresses were used for accessing this Facebook account.
- ii. During investigation, information about WhatsApp mobile number +923302267334 used by 'Diya Gupta @ Deepa Prakash' was collected from WhatsApp Inc. and it was revealed that the said WhatsApp account was created on 19.11.2018 and Pakistan based IP addresses 103.7.60.236 & 103.93.216.45 were used for accessing this WhatsApp account.  
  
**e) Preeti Sharma @ Pawan Kumar** who used Facebook account ID **100025050461652** contacted Sanjay Kumar Das (A-8) over Facebook and later they exchanged their WhatsApp numbers. Sanjay Kumar Das (A-8) was in touch with said foreign agent/spy over WhatsApp and later, another foreign agent/spy came in contact 'Pawan Kumar' who was using WhatsApp with mobile numbers 9638372902 and 8849739373. Sanjay Kumar Das (A-8) was using WhatsApp with mobile number 9867038815.
- i. During investigation, data regarding above mentioned Facebook account was collected from Facebook Inc. and it was revealed that Facebook ID 100025050461652 was registered on 23.03.2018 in the name of Preeti Sharma` with mail address **chaudasmart@gmail.com** and IP address



182.182.126.231 (Triple Play Project SOUTH, Karachi, Sindh, Pakistan). Mobile number 8849739373 is associated with the account, Pakistan based IP address was used for accessing this FB account.

- ii. During investigation, information about Gmail account chavdasmart@gmail.com was collected from Google Compliance Team, Google Inc, and it was revealed that said mail address having Google Account ID 620282212500 was created on 01.04.2017 in the name of 'smart chavda` with IP address 45.116.233.53 having ISP of CMPak Limited, Pakistan. Pakistan based IP addresses were used for accessing this Gmail account.
- iii. During investigation, information about WhatsApp mobile numbers 9638372902 and 8849739373 used by Preeti Sharma @ Pawan Kumar was collected from WhatsApp Inc. and it was revealed that WhatsApp account with mobile number 8849739373 was created on 05.01.2017 and IP address 39.42.69.224 was used for accessing this account. WhatsApp account with mobile number 9638372902 was created on 28.06.2018. Pakistan based IP address 39.42.91.71 was used for accessing the account.

**f) Vidya Lakshman** used Whatsapp with ;mobile number +919512296597, and Facebook account ID **100007077121279** having profile name 'Rakesh Babu'. The foreign agent/spy contacted Kalavalapalli Konda Babu (A-17) over Facebook initially. Later, they both switched to WhatsApp. K.Kondababu (A-17) was using WhatsApp with mobile number 9061877656. Subsequently, this foreign agent/spy 'Pooja', working as journalist. Vidya Lakshman also used mobile numbers +917203006276 (India), +923121085088 (Pakistan) and +447448731249,



+447415998840 and +447440446396 (UK). Social media profiling reveals that Facebook account & WhatsApp account are in the name of Rakesh Babu.

- i. During investigation, information about **Facebook ID 100007077121279** (Vanity name rakesh.babu.547389) was collected from Facebook Inc. and it was revealed that the said Facebook account ([rakesh.babu.547389@facebook.com](mailto:rakesh.babu.547389@facebook.com)) was registered on 07.11.2013 in the name of 'Rakesh Babu' with IP address 117.203.80.109. Mail address [rakeshbabudon@gmail.com](mailto:rakeshbabudon@gmail.com) and mobile numbers +447448731249, +447415998840 and +447440446396 and +917203006276 are associated with this Facebook account. United Kingdom based IP address were used for accessing this Facebook account.
- ii. During investigation, information about Gmail account [rakeshbabudon@gmail.com](mailto:rakeshbabudon@gmail.com) was collected from Google Compliance Team, Google Inc. and it was revealed that the email address having Google Account ID 91961707236 was created on 07.11.2013 in the name of 'Rakesh Bariya' with IP address 117.203.80.109. Mobile number +447448731249 is associated with this Gmail account. United Kingdom based IP addresses were used for accessing this Gmail account.
- iii. During investigation, information about WhatsApp mobile number +919512296597 used by Vidya Lakshman was collected from WhatsApp Inc. and it was revealed that the said WhatsApp account was created on 26.09.2018 and mail address [priyasharma1085088@gmail.com](mailto:priyasharma1085088@gmail.com) and mobile number +917203006276 are registered with the said WhatsApp number 447983922361 is found in symmetric WhatsApp contacts which



- is also found in whatsApp account of Ashi Rajput (+916230044871)
- iv. Mail address [priyasharma1085088@gmail.com](mailto:priyasharma1085088@gmail.com) having Google Account ID 344309192522 was created on 29.03.2019 in the name of 'Priya Sharma' with Pakistan mobile number +923121085088, IP address 45.116.233.11 having ISP of CMPak Ltd, Pakistan. Pakistan based IP addresses were used for accessing this Gmail account.
- v. WhatsApp with mobile number +917203006276 created on 05.05.2017 and apart from Indian WhatsApp accounts two UK WhatsApp accounts viz. 447414908909 & 447448638649 are found in the Symmetric WhatsApp accounts.
- g) Md Rizwan** is using WhatsApp with Pakistani mobile number +923343654065 and Facebook ID **100003205377840**(vanity name rizwan.siddiaq.39) having **Inter Service Intelligence** logo as profile/cover picture. He was in WhatsApp account with Mohd Haroon Lakdawal (A-5), Shaista Qaiser (A-15) & her husband Abdul Rahaman (A-4). Md Rizwan is an associate of 'Ali Akbar' who is using WhatsApp with Pakistani mobile number +923243428487 who was also in contact with A-5, A-15, A-4 and others.
- i. During investigation, information about WhatsApp mobile number +923343654065 used by 'Rizwan' was collected from WhatsApp Inc. and it was revealed that the said WhatsApp account was created on 23.09.2014 with Pakistan based IP address 191.96.202.250 used for accessing the WhatsApp account. 10 symmetric Indian WhatsApp contacts including WhatsApp number 9930064187 of Shaista Qaiser (A-15) and WhatsApp number 9820242786 of Mohd



*Haroon Lakdawala (A-5) are found apart from Pakistan and Dubai/UAE WhatsApp numbers.*

- ii. During investigation, information about **Facebook ID 100003205377840** was collected from Facebook Inc. and it was revealed that the said Facebook account ([rizwan.siddiq.39@facebook.com](mailto:rizwan.siddiq.39@facebook.com)) was registered on 14.12.2011 in the name of 'Rizwan Siddiq' with mail address [rzkhan.32@yahoo.com](mailto:rzkhan.32@yahoo.com) and mobile number +923343654065. The ISPs of IPs used by Rizwan for his Facebook and WhatsApp accounts are based in Pakistan.

**h) Akbar:** is using WhatsApp number +923243428487 which was created on 07.11.2017 with Pakistan based IP address 45.116.232.24 and 8 symmetric Indian WhatsApp contacts including WhatsApp number 9930064187 of Shaista Qaiser (A-15) are found apart from **100007642178160** ([ammar.hussain.716533@facebook.com](mailto:ammar.hussain.716533@facebook.com)) was registered on 29.01.2014 in the name of 'Ammar Hussain' with vanity name ammar.hussain.716533 and Pakistan mobile number +923089074069. (The ISPs and IPs used by Akbar for his Facebook and WhatsApp accounts are based in Pakistan.)

- i. During investigation information about one UK WhatsApp number 447983922361 which is found as common contact between foreign agents Ashi Rajput (+916230044871) and Vidhya Lakshman (+919512296597) and it was revealed that the account was created on 06.11.2019 and two Pakistan based IP addresses 45.116.232.24 & 45.116.232.43 having ISP CMPak Limited, Pakistan.

**17.25(b) SBI A/C no 36559077663 of Ashok Kumar Deg (A-7)**



<b>Sr. No.</b>	<b>Transaction Date</b>	<b>Amount Received (Rs.)</b>	<b>Deposited by</b>
<b>1.</b>	21.08.2019	4501	Mohd Haroon (A-5) using his own mobile number 9820242786 from the shop of Interzar Sayyad.
	<b>Total</b>	<b>4,501</b>	

**17.27.5 Role of Mohammed Haroon Haji Abdul Rehman Lakdawala (A-5):** He was arrested by NIA on 15.05.2020 from Mumbai. He did multiple business between Pakistan and India and he was also caretaker of shop premises in Mumbai where Intezar Sayyad (A-2) was running online money transfer shop by name 'A1-Johfa Tour & Travels'. He used to visit the shop of Intezar Sayyad (A-2) often for collecting shop rent and transfer of money. Investigation revealed that A-5 used to visit Karachi, Pakistan to meet his relatives as his wife hails from Pakistan and for his illegal business. During his visit to Karachi, Pakistan in 2018, he met Pakistani national/spy Rizwan Siddiq and started illegal cloth business with him. During another visit to Karachi, Pakistan in 2019, he came in contact with 'Ali @ Akbar' who introduced himself as Foreigners Registration Officer(FRO), Pakistan and enquired A-5 about his personal details and purpose of visit to Pakistan. Later 'Ali @ Akbar' recruited him as agent and asked him to deposit money into some Indian bank accounts. 'Rizwan' was supplying clothes to both A-5 & A-15 by illegal channel via Dubai through passengers to adjust the amount deposited in the accounts of Navy personnel. Further, 'Ali @ Akbar' sent the bank account details accused Navy personnel to A-5 over WhatsApp and asked him to deposit different amounts of



money into those accounts. Accordingly, A-5 got transferred money into bank accounts of accused Navy personnel from money transfer shop of Intezar Sayyad (A-2) and others. It is revealed from the scrutiny of AP SFSL examination report of A-5's mobile phones & SIM cards that Rizwan's mobile number was saved in his mobile. Some images that contain bank account details of A-8, A-10, A-11, A-18 and money transfers made therein are found. Thereby, accused Mohd Haroon Lakdawala (A-5) has committed offences under section 120B & 201 of Indian Penal Code 1860 and sections 17 & 18 of the Unlawful Activities (Prevention) Act, 1967.

**Apart from the evidences discussed above, other oral, documentary and material evidence collected and included in Annexure A, Band C establishes the complicity of Mohd Haroon Lakdawala (A-5) in the instant case.**

**17.28.4 Scrutiny report of Ashok Kumar Deg (A-7)'s mobile phone:-** It is revealed that he was in contact with online identity 'Diya Gupta', over Facebook and later she shared her WhatsApp mobile number 9714572065 with the accused. Ashok Kumar Deg(A-7) used to exchange WhatsApp calls (audio/video) with 'Diya gupta @ Deepa Prakash'. On many occasions, he shared his photographs to the said handler. Further, on 24.09.2019, 'Diya Gupta @ Deepa Prakash' asked the accused to show ship towing and the accused agreed for it. On the same day, 'Diya Gupta @ Deepa Prakash' shared a WhatsApp link with accused to download 'Zalo' video calling application and the accused downloaded that App and sent the screenshot to 'Diya Gupta @ Deepa Prakash' for confirmation. It is also revealed that mobile number 9898606736 was saved in the name of 'Harish Gun', who posed as Navy batch-mate of the accused. The accused made normal



*conversation with said 'Harish Gun' regarding his posting details. On 02.08.2019, the accused informed said 'Harish Gun' about 'INS Deepak' sailing for any foreign country. On 15.08.2019, said 'Harish Gun' thanked the accused and stated that 'INS Deepak' was going to Oman. On 20.07.2019 and 17.08.2019, he demanded Rs 20,000/- and Rs 6,000/- respectively from 'Harish Gun'. Accordingly, an amount of Rs 4,501/- was deposited into SBI account no 36559077663 of Ashok Kumar Deg (A-7) on 21.08.2019. Images of restricted documents, some hand written notes/pictorial drawings about functioning systems of various parts of ships/submarines, images of ships, handler/online character Deepa Prakash @ Diya's photographs, A-7's photograph clicked in the Arms Kote are found. He was in a WhatsApp group by name "Naval worries 1/17" in which handler Harish was member cum Admin and Harish number was added in the group by Ashok Kumar (A-9)."*

19. A perusal of the material filed by the appellant, including the translated version of the WhatsApp messages pertaining to Accused No.7-appellant herein, in the considered opinion of this Court, would indicate a *prima facie* case. It is also significant to note that the translated version of the said WhatsApp messages, at a number of places, refers to the defence ships. Therefore, at this stage it is neither advisable nor appropriate to record any final conclusions except recording the *prima facie* view which would have no effect on final adjudication. It is also





pertinent to mention in this context that earlier the appellant herein filed six (06) bail applications and they ended in dismissal vide orders dated 28.09.2020, 25.01.2021 27.02.2021, 09.07.2021, 03.09.2021 and one of such applications was dismissed for default on 18.5.2022. It is also not in dispute that five applications so filed were dismissed on merits. It is not the case of the appellant herein that there is change of circumstances now. It is also not in dispute that the discharge applications filed by certain accused are also pending consideration. Therefore, on the ground of delay in adjudication, in the considered opinion of this Court, the appellant herein is not entitled to be enlarged on bail.

20. When the liberty of an individual is pitted against the interest of the Nation, the National interest should always prevail and should be given utmost importance. Threadbare and microscopic appreciation and analysis of the evidence available on record cannot be undertaken at this stage and the same may impact the adjudication in the main case. In the considered opinion of this Court, having regard to the gravity of accusations made against the appellant and the contents of the charge sheet which are



extracted in the preceding paragraphs and the language employed in proviso to Section 43 D (5) of the Unlawful Activities (Prevention) Act, 1967 and the WhatsApp chat placed on record and *prima facie* information contained therein, the judgments cited by the learned counsel for the appellant referred to supra, would not render any assistance to the case of the appellant.

21. On the other hand the judgments cited by the learned Deputy Solicitor General are squarely applicable to the case on hand.

22. In this context, it may be appropriate to refer to the judgment of the Hon'ble Apex Court in the case of ***State Deputy Commissioner of Police, Special Branch, Delhi vs. Jaspal Singh Gill*** reported in 1984 3 SCC 555. Paragraphs Nos.9 to 11 of the said judgment read as follows:

*“9. The offence punishable under [Section 3](#) of the Official Secrets Act, 1923 with which the respondent is charged relates to military affairs and it is punishable with imprisonment which may extend to fourteen years. This Court in [State v. Captain Jagjit Singh](#) has indicated that the Court should exercise a greater degree of care in enlarging on bail an accused who is charged with the offence punishable under [Section 3](#) of the Official Secrets Act when it relates to military affairs. I have also gone*



through the decisions of this Court in *Gurcharan Singh & Ors. v. State (Delhi Administration)* and *Gudikanti Narasimhulu & Ors. v. Public Prosecutor, High Court of Andhra Pradesh* which deal with the principles governing the grant of bail. It may be mentioned here that in the last of the above cases, the accused had been acquitted by the trial court but convicted by the High Court on appeal. On a consideration of the above three decisions, I am of the view that the Court before granting bail in cases involving non-bailable offences particularly where the trial has not yet commenced should take into consideration various matters such as the nature and seriousness of the offence, the character of the evidence, circumstances which are peculiar to the accused, a reasonable possibility of the presence of the accused not being secured at the trial, reasonable apprehension of witnesses being tampered with, the larger interests of the public or the State and similar other considerations.

10. On going through the order passed by the High Court, I feel that its decision that the material collected by the prosecutions and the evidence to be adduced at the trial would not be sufficient to sustain a conviction appears to be a premature one in the circumstances of this case. Since the trial is yet to begin, I do not propose to say anything more at this stage lest it should prejudice either the accused or the prosecution than observing that on a perusal of the complaint and the other material available in the case, it cannot reasonably be stated that the prosecution case against the respondent is such that it can be thrown out at the threshold. It appears that a prima facie case is made out against the respondent. The gravity of the offences is quite obvious. They relate to the security of the State, Espionage and intelligence are utilised to pass on information regarding military plans, equipment, technical



*advances etc. of one country to another. Naturally passing on of such information from our country to a foreign country is bound to be most harmful to our country. The persons accused alongwith the respondent are admittedly ex- military men well versed in military affairs who are capable of establishing bridges with the sensitive sections of the defence services. The respondent is also alleged to be having some dealings with the defence department and Jasbir Singh is in the employment of the respondent. The allegations made by the prosecution which no doubt have still to be established at the trial suggest that the respondent and the persons accused alongwith him are persons of easy conscience in so far as the interests and security of the country are concerned. The current situation in the country is such that it can be easily be exploited by unscrupulous men to their own or to some foreign power's advantage. These aspects of the case do not appear to have been considered by the High Court. It is seen that while dismissing the bail application of Jasbir Singh on April 24, 1984, the learned Judge of the High Court had relied on the decision of this Court in Captain Jaqjit Singh's case (supra), he has not even referred to that decision while granting bail to the respondent on May 3, 1984. Some of the observations made by the High Court against the sustainability of the case of criminal conspiracy alleged by the prosecution at this stage were not called for. The circumstances of this case are such that the question whether the case of criminal conspiracy had been made out or not should have been left to be decided by the trial court at the end of the trial on a consideration of the entire evidence adduced in the case.*

*11. In the circumstances, I am of the view that the High Court should not have enlarged the respondent on bail in the larger interests of the state. It is urged that the respondent is a*



*person who has undergone a cardiac operation and needs constant medical attention. I am sure that the prison authorities will arrange for proper treatment of the respondent whenever the deed for it arises.”*

23. It is also pertinent to note in this context that the accused No.19 in the present case approached the Hon’ble Supreme Court by way of Special Leave Petition (Criminal) Diary No.41548 of 2022. The Hon’ble Apex Court, while referring to filing of charge sheet on 15.06.2020 and the filing of supplementary charge sheet on 15.03.2021, directed the trial Court to expedite the framing of charges and to pass orders in accordance with law within four months from 24.02.2023. It is also pertinent to note that when Accused Nos.19, 16 & 12 approached this Court by way of Crl.A.73 of 2021 and 311 of 2021, this Court dismissed the said applications.

24. Therefore, this Court has absolutely no scintilla of hesitation nor any traces of doubt to hold that the appeal filed by the appellant herein is completely devoid of merits.

25. For the aforesaid reasons, the appeal is dismissed. There shall be no order as to costs.



Miscellaneous petitions, if any, pending in this case,  
shall stand closed.

---

**JUSTICE A V SESA SAI**

---

**JUSTICE VENKATA JYOTHIRMAI PRATAPA**

Date: 03.04.2023

**Note: LR copy to be marked.**

B/o  
VTS