



2025:AHC-LKO:68825-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL No. - 3464 of 2025

Bikram Roy

.....Appellant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko. And
Another

.....Respondent(s)

Counsel for Appellant(s) : Arun Sinha, Ram Chandra Singh,
Siddhartha Sinha

Counsel for Respondent(s) : G.A.

Court No. - 9

**HON'BLE RAJESH SINGH CHAUHAN, J.
HON'BLE ABDHESH KUMAR CHAUDHARY, J.**

1. Heard Sri Taha Chisti, Advocate holding brief of Sri Arun Sinha, learned counsel for the applicant-appellant and Sri Umesh Verma, learned A.G.A for the State.

2. This criminal appeal has been filed under Section 21(4) of the National Investigation Agency Act, 2008 challenging the orders dated 24.07.2024 and 06.02.2025 passed by the learned Special Judge, N.I.A., Lucknow and Special Judge, N.I.A./Additional Session Judge, Court No.3, District-Lucknow in Case Crime No.12 of 2023, under Sections 120-B, 419, 420, 467, 468, 471 & 370 I.P.C., 14 C of the Foreigners Act, 1946, Police Station-A.T.S. (Gomti Nagar), District-Lucknow by which the learned Special Judge N.I.A./ ADJ Court No.3, District-Lucknow has rejected the bail application of the appellant-applicant.

3. At the very outset, learned counsel for the appellant-applicant has stated that while allowing the appeal as well as the bail to co-accused person, namely, Adil Ur Rahman vide order dated 13.10.2025 in Criminal Appeal No. 2541 of 2025, the reference of the order of other co-accused persons has been indicated in the said order, who have been granted bail.

4. The aforesaid order dated 13.10.2025 passed in Criminal Appeal No. 2541 of 2025 in Re: Adil Ur Rahman Vs. State of U.P., reads as under:-

"1. Heard Sri Sandeep Kumar Pal, learned counsel for the appellant and Sri Pradeep Tiwari, learned counsel, holding brief of Sri S.N. Tilhari, learned Additional

Government Advocate for the State.

2. This criminal appeal has been filed under Section 21(4) of the National Investigation Agency Act, 2008 against the order dated 19.07.2025 passed by the learned Special Judge, N.I.A./ ADJ Court No.3, District-Lucknow in Case Crime No.12 of 2023, under Sections 120-B, 419, 420, 467, 468, 471 & 370 I.P.C., 14 Foreigner Act and 12 (1A) of Passport Act, Police Station-A.T.S. (Gomti Nagar), District-Lucknow by which the learned Special Judge N.I.A./ ADJ Court No.3, District-Lucknow has rejected the Bail Application No.5233 of 2025 of the appellant.

3. Learned counsel for the appellant has filed rejoinder affidavit, today in the Court, the same is taken on record.

4. This Court has passed the order dated 24.06.2025 in four criminal appeals bearing Criminal Appeal No.3720 of 2024 (Abu Saleh Mandal vs. State of U.P.), Criminal Appeal No.1592 of 2024 (Abdul Awal vs. State of U.P.), Criminal Appeal (Defective) No.92 of 2025 (Abdulla Gazi vs. State of U.P.) and Criminal Appeal No.199 of 2025 (Kafiluddin vs. State of U.P. & another) granting bail to the co-accused persons, namely, Abu Saleh Mandal, Abdul Awal, Abdulla Gazi and Kafiluddin, which reads as under:-

"1. Heard Sri Sameer Singh, Sri Amitesh Pratap Singh, Sri Sandeep Kumar Pal and Sri Arjun Singh Kalhans, learned Counsel appearing on behalf of the appellants as well as learned A.G.A. and Sri S.N. Tilhari, learned Counsel for the opposite party.

2. The Criminal Appeal No.3720 of 2024 under Section 21 (4) of the National Investigation Agency Act, 2008 has been filed challenging the orders dated 01.02.2024 whereby, the bail application filed by the appellant was rejected. Similarly, Criminal Appeal No.1592 of 2024, Criminal Appeal No.199 of 2025 and Criminal Appeal Defective No.92 of 2025 have been filed challenging the orders dated 07.03.2024, 12.12.2024 and 09.08.2024 along with 02.12.2024 respectively whereby, the bail applications were rejected.

3. All the appeals have been filed along with delay condonation application. The delay condonation application filed in Criminal Appeal No.3720 of 2024, Criminal Appeal No.1592 of 2024 and Criminal Appeal No.199 of 2025 have been allowed and the delay in filing the appeals were condoned.

4. For the brevity, the facts of Criminal Appeal No.3720 of 2024 is being noted. It appears from the record that against the bail rejection order dated 01.02.2024, the appellant had preferred a regular bail before this Court, however, on a preliminary objection being raised that an appeal lies against the rejection of bail order, the bail application was withdrawn with liberty to prefer an appeal. In view thereof a slight delay had occurred in filing the appeal.

5. *Considering the mandate of Section 21 (5) of the National Investigation Agency Act, 2008 (hereinafter referred to as the NIA Act) and the proviso to the said sub-section and also considering the fact that the appeals in question raises the issue of life and liberty, the delay in filing Criminal Appeal Defective No.92 of 2025 is condoned. The delay condonation application is allowed.*

6. *The FIR in question was lodged with FIR No.12 of 2023, under Sections 120B, 419, 420, 467, 468, 471, 370 IPC read with Section 14 of the Foreigners Act, 1946 and Sections 12(1) and 12(2) of the Passport Act, 1967 alleging that the accused appellants were involved in helping the Rohingya/ Bangladeshi to settle in India by taking illegal money from them. It was also alleged that the accused were involved in creation of various mosques and were funding money for Anti India activities. In short, the allegations were helping the citizen of Bangladeshi for settling in India and after taking money, the same were used for Anti India activity. It was also alleged in the FIR that for the acts being allegedly done, there involvements in Anti India activity cannot be ruled out. It was also recorded in the FIR that on the basis of the information received, the accused were arrested and a search was carried out and certain documents were recovered from them. Based upon the said allegations, the FIR in question was lodged.*

7. *The submission of the Counsel for the appellants is that after the rejection of the bail application, the charge-sheet has been filed and the appellants are not being tried for any offences under NIA Act. It is also argued that the charges have also been framed. The appellants are in custody for almost 2 years and have no criminal antecedents except for the offences alleged.*

8. *The Counsel for the opposite party on the other hand strongly opposes the bail application by arguing that a co-ordinate Bench of this Court had dismissed the appeal bearing Criminal Appeal No.2255 of 2024 filed by one of the co-accused Shekh Nazibul Haque vide order dated 11.04.2025. Extensive reliance has been placed by the learned Counsel for the opposite party specifically in paras 12, 13, 14 and 15 of the order dated 11.04.2025, which are as under:*

"12. This Court has gone through the material filed along with the affidavit filed in support of the appeal and finds that the Income Tax Returns that have been filed as Annexure-3 to the affidavit only show gross income on an average of only Rs.3 to 5 lakhs per year of the appellant. It is pertinent to note that his bank statements have been found to show transactions of more than one and a half crore rupees.

13. We have also gone through the impugned order dated 24.06.2024, by which the Special Judge NIA/ATS has rejected the bail application of the appellant. The Trial Court has considered various transactions which were brought to light of money being transferred either through Hawala or through FCRA accounts into the account of the appellant, which was later used to help illegal immigrants in procuring forged

Indian documents. The data extracted from the mobile phone of the appellant by the Forensic Science Laboratory, Lucknow, and the audio transcripts showed use of IMO App and Vikaas App to avoid being monitored. During interrogation, the appellant had not revealed any such use of IMO App and Vikaas App to talk to Bangladeshis or to transfer money to them.

14. IMO App is a free and secure international calling, messaging and chatting app, which allows the users to share even files with non-IMO app users and offers end to end encryption and disappearing messages making it secure private conversation app, difficult to be monitored. Similarly, Vikaas App is a bundle of apps which has been developed by Google, which also includes apps like â??bKashâ?? which is an online payment app, which is used by Bangladeshi citizens. Through â??bKashâ?? accounts, Bangladeshi expatriates can transfer money Internationally by using a Bangladeshi National Identity Card (NID) and registering an account with NID Number, and use their foreign mobile numbers to easily transfer money.

15. The Trial Court has prima facie found the appellant being actively involved in supporting Anti-National Activities by financially helping illegal infiltrators from Bangladesh and Myanmar into procuring forged Indian identity documents and has rejected the bail application. We do not find the said finding of learned trial Court to be erroneous having regard to the material available on record."

9. In the light of the abovesaid, it is argued by the Counsel for the opposite party that prima facie, the appellants were indulging in Anti India activity, as such, they are not entitled for bail. It is, however, not denied that the appellants are not being prosecuted under the NIA Act and the charge-sheet has only been filed in respect of the offences as argued by the Counsel for the appellants. It is also not denied that the appellants have no criminal antecedents.

10. Considering the submissions made at the Bar, prima facie, in terms of the rival submissions as recorded above, it is relevant to mention that the NIA Act was enacted in the year 2008 for constituting an investigating agency at the national level to investigate and prosecute offences affecting the sovereignty, security and integrity of India. The schedules of the NIA Act prescribe for 8 offences which can be tried. Although, the Court investigating the offences, is empowered to try all the offences even if not mentioned in the schedule, however, it cannot be ignored that the offences for which, the appellants are proposed to be tried do not find mention in the schedule of the NIA Act, 2008. It also transpires that prima facie, the material to suggest the involvement and implication of the appellants in the offences, in which they are proposed to be tried and in which a charge-sheet has been filed, do not disclose any person, who has been cheated for trying the offences under Sections 419, 420 IPC and prima facie, there does not appears to be any material to implicate the appellants for â??forgeryâ??. It is also relevant to notice that Section 14 of the Foreigners Act, 1946 provides for punishment upto 5 years.

11. Without going into the merits of the allegations levelled against the appellants at this stage, the facts remain that a charge-sheet has already been filed; no offence as scheduled under the NIA Act is alleged against the appellants; the charges have already been framed by the court concerned as argued by both the counsel for the parties, as such, considering the mandatory provisions, under which the appellants are proposed to be tried and the punishment prescribed upto 5 years especially under the Foreigners Act and further there being no material on record to suggest that the appellants, if enlarged on bail at this stage can have any adverse effect to trial, the appellants, who are proposed to be tried under the offences, which are otherwise triable by a Magistrate, are liable to be enlarged on bail.

12. The judgment dated 11.04.2025 of the co-ordinate Bench, as argued by the Counsel for the opposite party, would not be of much avail as by then, the charge had not been framed and reliance to the averment made in para 14 of the said judgment, are apparently missing, as the appellants are not even proposed to be tried under any of the offences scheduled in the NIA Act, as such, the facts being prima facie missing particularly as noted in paras 13 and 14 of the said judgment dated 11.04.2025 cannot be relied upon for deciding the present case.

13. In view of above, the impugned orders dated 01.02.2024, 07.03.2024, 12.12.2024 and 09.08.2024 along with 02.12.2024 are quashed. All the criminal appeals are allowed.

14. Let the appellant Abu Saleh Mandal involved in FIR No.12 of 2023, under Sections 120B, 419, 420, 467, 468, 471, 370 IPC read with Section 14 of the Foreigner Act and Section 12(1) and (2) of the Passport Act; the appellant Abdul Awal involved in FIR No. 12 of 2023, under Sections 120B, 419, 420, 467, 468, 471, 370 IPC read with Section 14 of the Foreigner Act; the appellant Abdulla Gazi involved in FIR No.12 of 2023, under Sections 120B, 419, 420, 467, 468, 471, 370 IPC read with Section 14-C of the Foreigner Act and the appellant Kafiluddin involved in FIR No.12 of 2023, under Sections 120B, 419, 420, 467, 468, 471 IPC read with Section 14 of the Foreigner Act, Police Station ATS (Gomti Nagar), District Lucknow on their furnishing personal bonds and two reliable sureties of the like amount each to the satisfaction of the court concerned with the following conditions:

(a) The appellants shall execute a bond to undertake to attend the hearings;

(b) The appellants shall not commit any offence similar to the offence of which they are accused or suspected of the commission; and

(c) The appellants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence." 5. Learned counsel for the appellant has fairly submitted that the present appellant is a citizen of Bangladesh. He has further submitted that one co-accused,

Kafiluddin, who has been granted bail by this Court vide aforesaid order, is also a citizen of Bangladesh. Though the present appellant is a citizen of Bangladesh but after getting married with one lady of Mursheedabad, West Bengal he is presently residing there as the deponent is his wife and has given her address of Mursheedabad, West Bengal, India.

6. Learned counsel for the present appellant is having no criminal history of any kind whatsoever. He undertakes on behalf of the present appellant that he shall not misuse the liberty of bail and shall abide by all terms and conditions of bail order and shall cooperate in the trial proceeding properly, therefore, on the basis of principles of parity, he may also be enlarged on bail.

7. Learned Additional Government Advocate could not dispute the fact that the co-accused, Kafiluddin, who is a citizen of Bangladesh, has already been granted bail by this Court.

8. Considering the aforesaid submissions of learned counsel for the parties, we are of the view that on the basis of principles of parity the present appellant is entitled to be released on bail on the same terms and conditions which have been imposed by this Court in the order dated 13.10.2025 (supra) while granting bail to four accused person.

9. Let the present appellant (Adil-Ur-Rahman) involved in Case Crime No.12 of 2023, under Sections 120-B, 419, 420, 467, 468, 471 & 370 I.P.C., Police Station-A.T.S. (Gomti Nagar), District-Lucknow be released on bail on his furnishing personal bond of Rs.3,00,000/- each and two reliable sureties of the like amount with the following conditions: Out of two sureties, one surety should be local surety so that the presence of the present appellant may be ensured as he is a citizen of Bangladesh.

(i) The appellant shall execute a bond to undertake to attend the hearings;

(ii) The appellant shall not commit any offence similar to the offence of which he is accused or suspected of the commission; and

(iii) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

(iv) The appellant shall surrender his passport, if any, to the Special Court at the time of furnishing sureties.

10. Accordingly, the appeal is allowed. "

5. Learned counsel for the appellant-applicant has further stated that the role attributed to the present appellant-applicant is of a rickshaw puller of e-

rickshaw thereby, he has brought some unauthorized persons from border of Bangladesh to West Bengal. He is having no criminal history of any kind whatsoever and, therefore, he may be given parity with the other co-accused persons.

6. Learned counsel for the appellant-applicant has further submitted that the Hon'ble Apex Court has granted bail to co-accused person, namely, Shekh Nazibul Haque while allowing his appeal vide order dated 08.10.2025 in Criminal Appeal No. 12185 of 2025 (order Annexed as S.A.1 to the supplementary affidavit), which is observed as under:-

"1. Leave granted.

2. The appellant, seeks enlargement on bail in FIR No.12/2023 registered at Police Station ATS Gomti Nagar, Lucknow under Sections 120B, 419, 420, 467, 468, 471 and 370 of the India Penal Code, 1860 (in short, the "IPC") and Section 14 of the Foreigners Act, 1946.

3. The appellant was arrested on 11.10.2023. The chargesheet was, filed on 05.01.2024, alleging the FIR offences other than Section 370 of IPC. The appellant applied for bail, which was declined firstly by the Trial Court and thereafter by the High Court vide the impugned order.

4. During the course of hearing, it is pointed out that in the main chargesheet, there are 32 witnesses cited. Subsequently, supplementary chargesheets nos.1, 2, 6 and 7 have also been filed. With the addition of witnesses in these supplementary chargesheets, the prosecution now proposes to examine than more 100 witnesses. It is also a matter of record that only one witness (PW-1) has been examined so far.

5. The appellant has been in custody for almost two years. Even if the list of witnesses is substantially pruned, it will take some reasonable time to examine and consider the entire evidence. The trial will, thus, take reasonable time to conclude.

6. Taking into consideration all the attending circumstances and the period spent by the appellant in custody, but without expressing any opinion on the merits, the instant appeal is allowed and the appellant is directed to be released on bail on the terms and conditions that may be imposed by the Trial Court.

7. Keeping in view the nature of allegations re: alleged human trafficking, it is directed that in addition to the conditions that may be imposed by the Trial Court, the appellant shall continue to stay within Saharanpur and/or Lucknow Districts during the pendency of the trial and will not leave that place without prior permission of the Trial Court. As and when such permission is sought and granted, the appellant

shall be required to furnish his contact number to the local police station to enable the Police Authorities to have access to him."

7. In view of the above impugned orders dated 24.07.2024 and 06.02.2025, whereby the appeal of the present appellant- applicant was rejected, are hereby quashed.

8. Accordingly, the bail application is **allowed**. It is made clear that the present appellant-applicant is entitled to be released on bail on the same terms and conditions which have been imposed by this Court in the order dated 13.10.2025 (supra) while granting bail to four co-accused persons as well as the condition of order dated 08.10.2025 in Re: **Shekh Nazibul Haque** (supra) on the same terms and conditions.

9. Let the present appellant-applicant **Bikram Roy** involved in Case Crime No.12 of 2023, under Sections 120-B, 419, 420, 467, 468, 471 & 370 I.P.C. and Section 14 C of Foreigners Act, Police Station-A.T.S. (Gomti Nagar), District-Lucknow be released on bail on his furnishing personal bond of Rs.3,00,000/- and two reliable sureties of the like amount with the following conditions:-

- (i) The appellant shall execute a bond to undertake to attend the hearings;
- (ii) The appellant shall not commit any offence similar to the offence of which he is accused or suspected of the commission; and
- (iii) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.
- (iv) The appellant shall surrender his passport, if any, to the Special Court at the time of furnishing sureties.

10. Accordingly, the present appeal is **allowed**.

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(Abdhesh Kumar Chaudhary,J.) (Rajesh Singh Chauhan,J.)

November 3, 2025
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