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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 22.05.2025*+ **BAIL APPLN. 1356/2025**

MOHSIN KHAN

.....Petitioner

Through: Mr. Mujeeb Khan, Adv.

versus

THE STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for the
State along with Ms. Shreta
Shukla and Mr. Manik, Adv.**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. JUSTICE SWARANA KANTA SHARMA, J.**

1. By way of the present application, the applicant seeks grant of regular bail in FIR bearing no. 132/2021, registered at Police Station Crime Branch, Central Delhi, for the commission of offences under Sections 3/9 of the Officials Secret Acts, 1923 read with Sections 409/201/380/381/457/120B/34 of the Indian Penal Code, 1860 [hereafter 'IPC'].

2. Briefly stated, the facts of the case are that a secret information had been received regarding involvement of certain individuals based in Delhi, Rajasthan, and Uttar Pradesh, who had been carrying out anti-national activities and had been engaged in espionage for



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Pakistan. It had further come to the notice of the authorities that these individuals had also been visiting the Pakistan High Commission located at Chanakyapuri, Delhi. On 11.07.2021, secret intelligence had been received indicating that one Habib would provide secret/classified documents related to the Indian Army to Pakistan through some persons based in Delhi, at Pokhran. Acting upon the said input, the investigating team had proceeded to Pokhran, Rajasthan, and on 12.07.2021, accused Habibur Rehman, son of Mohd. Haneef, residing at Pokhran, Rajasthan, had been apprehended at Diatra, Bikaner Highway, Rajasthan. At the time of his apprehension, he was found in possession of highly secret/classified documents pertaining to the Indian Army, for which he had failed to provide any satisfactory explanation. The authenticity of the seized documents had been confirmed and verified by the Army Headquarters, Sena Bhawan, Delhi. The report received from Sena Bhawan reads as under:

“.....the documents are classified and sensitive in nature. Since the documents are classified, any unauthorized disclosure of content of these documents could be expected to cause damage to national security or could be prejudicial to the national interest or would embarrass the Government in its functioning.....”.

3. Upon receipt of the said report, the present case had been registered on 14.07.2021. During the course of investigation, it was revealed by co-accused Habibur Rehman that he had obtained the classified documents and information from co-accused Paramjeet Kumar, Naik Clerk, and had been passing them on to his handler



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Rana Muhammad Qasim Zia, an official of the Pakistan High Commission, either directly or through one Mohsin Khan (*the present applicant*), a resident of Turkman Gate, Delhi. It had further emerged that co-accused Habibur Rehman had been receiving payments either directly from the said official of Pakistan High Commission or through the present applicant, who had been receiving funds from the official and then transferring them to accounts belonging to friends of Habibur Rehman and Naik Clerk Paramjeet Kumar. Both these accused i.e. Paramjeet Kumar and present applicant Mohsin Khan were also arrested in the present case on 16.07.2021 and 25.07.2021 respectively. The investigation had further revealed that the documents recovered from the possession of co-accused Habibur Rehman were highly sensitive and confidential, and had been duly verified and confirmed by the Army HQ, Delhi. The co-accused Paramjeet Kumar was posted in the Supply Platoon of the Army Service Corps at Pokhran, Rajasthan from 2017 to 2019, during which period he had met co-accused Habibur Rehman, who had been supplying vegetables and fruits to the Platoon on the basis of Power of Attorneys granted by actual contractors. This had given him access to the area. He had also visited Pakistan in 2019 and, prior to that, had gone to the Pakistan High Commission, Delhi for visa procurement, where he had come in contact with Rana Muhammad Qasim Zia, who had lured him into sharing information related to the Army unit stationed at Pokhran. Thereafter, he had established a liaison with co-accused Paramjeet Kumar, who, due to financial constraints, had been induced to supply classified documents, which



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were subsequently transmitted to the Pakistani handler either directly or through the applicant Mohsin Khan. It had also come to light that the present applicant Mohsin Khan had been receiving money from Rana Muhammad Qasim Zia, which had been transferred to Habibur Rehman's contacts and to the bank accounts of Paramjeet Kumar and his family members. After being transferred from Pokhran, the co-accused Paramjeet Kumar was posted at a highly sensitive unit of the Indian Army in Agra, Uttar Pradesh, and during this period, he had continued to remain in contact with Habibur Rehman, who had visited him in Agra and collected classified documents from him. During his visit, Habibur Rehman had stayed at Mannat Hotel, Agra, and relevant documents relating to his stay had been collected. On the directions of the applicant Mohsin Khan, one money forwarding agent, Bablu Patel, had forwarded Rs.1,10,000/- in five transactions to Care Chemist, Bikaner, owned by Harun Rashid, a childhood friend of Habibur Rehman. The said amount had been transferred in lieu of the classified documents. Harun Rashid had further transferred the money to co-accused Habibur Rehman, and all relevant account details and trails had been traced. Additionally, Rs.70,000/- had been transferred by the applicant Mohsin Khan to the account of one Sameer Khilji, a chicken supplier from whom Habibur Rehman used to purchase poultry. Habibur Rehman had also facilitated the transfer of money into the accounts of Paramjeet Kumar, his sister Kavita Bhardwaj, father Rajesh Kumar, and wife Pooja through the present applicant Mohsin Khan. Money forwarding agents including Bablu Patel, Sunny Gupta, and Abid had confirmed during investigation



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that they had transferred money to associates of Habibur Rehman on the instructions of Mohsin Khan. Their statements had been recorded and corroborative materials had been seized during the course of investigation. It had been found that the confirmations of the money transfers had been shared with Mohsin Khan *via* WhatsApp and the same had been seized during the investigation. The mobile number '7881199805' had been used by Rana Muhammad Qasim Zia, and its CDR had revealed activity on two handsets bearing IMEIs 351632096679712 and 868502034468955. Further scrutiny of IMEI 868502034468955 revealed use of another number, 8905292448, which had been provided by Habibur Rehman to Rana Muhammad Qasim Zia, procured on the identity of one Omprakash of Bikaner, but with Habibur Rehman's number as the alternate contact. The number 8905292448 had been found saved in the contact list of Habibur Rehman. When posted at HQ AFSOD, co-accused Paramjeet Kumar had also been assigned Guard Room duties every Saturday, where the key box containing office keys had been kept. He had allegedly stolen the key, got a duplicate prepared at Agra Fort Market (as confirmed by the key maker), and during his guard duties, had accessed officers' offices, taken pictures of confidential documents, and transmitted them to Rana Muhammad Qasim Zia *via* WhatsApp. A mobile phone (iPhone 6) seized from his possession was found containing various top-secret, classified documents related to the Indian Army, which had been verified by the Directorate General of Military Intelligence, Army HQ.



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4. It has further been alleged that the present accused, Mohsin Khan, who had been in direct contact with Rana Muhammad Qasim Zia, official (visa officer) at the Pakistan High Commission, had been handed over cash for onward transfer to the accounts of co-accused persons Habibur Rehman and Paramjeet Kumar, as well as to the accounts of Paramjeet Kumar's family members. The money forwarding agents had confirmed that, under the directions of the present applicant, they had transferred money to the said accounts of Habibur Rehman, Paramjeet Kumar, and his family members.

5. The learned counsel appearing for the applicant submits that the charge-sheet filed in this case does not attribute any monetary or material benefit having been received by the applicant in connection with the alleged offence. It is contended that the only purportedly incriminating material against the applicant is the disclosure statement of a co-accused, which, in the absence of independent corroboration, is inadmissible in law. The learned counsel further submits that the applicant is a scrap dealer by profession and also runs a mobile repair and recharge shop, and has been falsely implicated in the present case on account of his routine commercial transactions. It is argued that the act of transmitting money or recharging a mobile phone, without any substantiated knowledge of the underlying illegality, cannot by itself amount to an offence. The learned counsel emphasizes that there is no direct or credible evidence establishing any nexus between the applicant and the core conspiratorial activities allegedly carried out by the co-accused



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persons. It is further submitted that the applicant has remained in judicial custody for over three years, and the trial is progressing at a slow pace, with charges having been framed only on 19.05.2025. In these circumstances, it is prayed that the applicant be released on bail, considering the prolonged incarceration and the absence of direct incriminating evidence.

6. The learned APP for the State, on the other hand, vehemently opposes the present bail application and submits that the bail application of the co-accused was earlier rejected by this Court *vide* order dated 04.02.2025. While disposing of that application, this Court had also directed the learned Trial Court to expedite the proceedings and pass an order on charge, which was duly complied with, and on 19.05.2025, charges were framed, including against the present applicant. It is submitted that the applicant has played an critical and active role in the espionage syndicate and had acted as a conduit for funds on behalf of an officer from the Pakistan High Commission. The applicant, though not himself a government official, functioned as a counterfeit contact person, facilitating the illicit transmission of classified military information obtained from co-accused Paramjeet Kumar, who was posted in the Indian Army at Pokhran. It is contended that the investigation has revealed that the applicant had received funds from an official of the Pakistan High Commission and subsequently routed the money to the co-accused Habibur Rehman and Paramjeet Kumar as well as to their family members. It is further contended that the applicant is an integral part



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of a tightly knit syndicate engaged in anti-national activities, and the material collected during investigation, including CDRs and WhatsApp chats, establish a continuous and coordinated pattern of communication between the applicant and the co-accused, thereby corroborating the prosecution's case. In this regard, the learned APP draws the attention of this Court to specific call records, chat transcripts, and banking transactions which clearly demonstrate the applicant's complicity in facilitating the unlawful flow of funds linked to the transmission of sensitive military information. It is also emphasized that the co-accused Paramjeet Kumar had visited Pakistan in 2018 and had maintained contact with handlers in the Pakistan High Commission, with the present offence having taken place in 2021, indicating a long-standing and ongoing conspiracy. Given the gravity of the allegations, the nature of the offence which concerns national security, and the evidence pointing to the applicant's active involvement, it is submitted that no grounds for bail are made out at this stage and thus, it is prayed that the present bail application be dismissed.

7. This Court has **heard** arguments addressed on behalf of both the parties and has perused the material placed on record.

8. In the present case, though the learned counsel for the applicant has contended that there is no incriminating material on record against the present accused and that he is entitled to be released on bail, the material placed before the Court suggests otherwise. The record reveals that the present accused Mohsin Khan,



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a resident of Delhi, had come into contact with one Rana Muhammad Qasim Zia, posted as Visa Officer at the Pakistan High Commission in Delhi, during his visit to the said High Commission in connection with a planned trip to Pakistan in the year 2018. Thereafter, he assumed a pivotal role as a key intermediary linking accused Habibur Rehman, Naik Clerk Paramjeet Kumar, and the official of High Commission of Pakistan. Rana Muhammad Qasim Zia, regularly entrusted cash to the applicant Mohsin Khan, with clear instructions to transfer the same to the bank accounts of co-accused Habibur Rehman and Paramjeet Kumar, as well as to the accounts of the latter's family members. The applicant Mohsin Khan is alleged to have operated as a covert financial conduit, facilitating the discrete movement of funds with the intent to conceal their origin and ultimate purpose, which was to aid the transmission of sensitive information to officials of Pakistan High Commission. The case record further includes statements of money forwarding agents, who have confirmed that, acting under the express instructions of present applicant Mohsin Khan, they had transferred funds to the bank accounts of the aforementioned co-accused and their relatives. These agents have specifically stated in their statements recorded by the investigating agency that upon executing the transfers, they would communicate transaction details to Mohsin Khan through WhatsApp messages. These communications, comprising screenshots, transaction references, and chat exchanges, have been collected and placed on record by the investigating agency, and *prima facie* corroborate the applicant's central involvement in facilitating



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financial transactions integral to the broader conspiracy of transmitting sensitive information pertaining to the Indian Army to Pakistan High Commission.

9. It was further revealed during the course of investigation that the mobile number 7881199805, which was actively used by Rana Muhammad Qasim Zia, Visa Officer at the Pakistan High Commission, was regularly recharged by the present applicant/accused Mohsin Khan. These recharges were carried out discreetly by the accused through local mobile recharge vendors operating in and around Turkman Gate, Delhi, where he resides. The investigating agency has collected detailed records of these recharge transactions, which form part of the evidence on record and further substantiate the accused's sustained and deliberate involvement in maintaining covert communication links with a foreign official engaged in activities inimical to national interest.

10. This Court also takes note of the fact that, during the course of investigation, four credit entries of ₹5,000/- each, dated 02.02.2021, were found to have been transferred *via* IMPS into the bank account of Kavita Bhardwaj, sister of co-accused Naik Clerk Paramjeet Kumar. The source of these transactions was traced to mobile number 9990114350, which, as per the Caller Application Form, was registered in the name of Smt. Sana Parveen, wife of the present accused Mohsin Khan. Upon inquiry, the applicant Mohsin Khan had allegedly disclosed that, following the arrest of co-accused Habibur Rehman and Paramjeet Kumar, he had destroyed both the mobile



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handset and the SIM Card associated with the said number on the instructions of Rana Muhammad Qasim Zia. This act, coupled with the financial transaction routed to the co-accused's family member, lends further credence to the allegation that the applicant herein was actively involved in the conspiracy and undertook deliberate steps to destroy evidence and conceal his association with the other co-accuseds.

11. This Court also cannot overlook the fact that, during the course of investigation, the present accused Mohsin Khan had positively identified Rana Muhammad Qasim Zia, officer of the Pakistan High Commission, as his handler. This identification was made from an official photograph of the said individual. Furthermore, the investigation reveals that Mohsin Khan had deliberately destroyed his mobile phone, which was believed to contain incriminating material, including evidence of communications and transactions relating to the conspiracy. This deliberate act of destruction of potential evidence further reinforces the prosecution's case regarding his conscious and active participation in the alleged anti-national activities.

12. The co-accused Paramjeet posted at Pokhran and later at a sensitive post in Agra had passed information to co-accused Habib-ur-Rehman, who had exploited his access as a vegetable vendor to collect secrets from Paramjeet, who had been lured by Habib-ur-Rehman. Habib-ur-Rehman, after obtaining a visa from the Pakistan High Commission, was influenced by the Pakistani visa officer and



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stayed in contact with Mohsin Khan. This completes the chain of how classified documents were stolen (verified by the Army HQ) and found both digitally on Paramjeet's phone and in hard copy with Habib-ur-Rehman.

13. Thus, the arguments advanced by the learned counsel for the applicant do not find favour with this Court, as they stand *prima facie* contradicted by the material available on record, as discussed in the preceding paragraphs.

14. The learned counsel for the applicant was also unable to offer any satisfactory explanation or justification as to how and why the the applicant Mohsin Khan was in regular contact with Habibur Rehman, Rana Muhammad Qasim Zia, Paramjeet Kumar, and various money forwarding agents. No cogent argument was advanced to clarify the applicant's role in facilitating the transfer of funds to the accounts of Habibur Rehman and Paramjeet Kumar through these agents. Furthermore, there was no reasonable explanation provided for the applicant's repeated recharging of a mobile number used by Rana Muhammad Qasim Zia, the official of Pakistan High Commission in Chanakyapuri, Delhi, from local recharge shops situated near Turkman Gate, Delhi. Notably, this mobile phone was allegedly used by the said official for the commission of the present offence, thereby raising serious and unanswered questions about the applicant's involvement in the larger conspiracy, though vociferously argued by the learned counsel for the applicant that he had nothing to do with the offence or the co-accused in the present case.



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15. This Court also cannot lose sight, at this stage, of the statements recorded under Section 161 of Cr.P.C. of the money forwarding agents, as well as the money transaction details and banking entries, as discussed in the preceding paragraphs, which specifically state that the transactions were carried out under the instructions of the present accused Mohsin Khan. The allegations and available material indicate that he used to collect cash from the official of Pakistan High Commission, Rana Muhammad Qasim Zia, and thereafter ensured its disbursement to Habibur Rehman, Naik Clerk Paramjeet Kumar, and members of Paramjeet's family. These facts assume further significance when viewed in the context of the material available against accused Paramjeet Kumar, who was found in possession of duplicate keys of the guardroom at a highly sensitive unit of the Indian Army posted at Agra, Uttar Pradesh (HQ AFSOD). It has also emerged during investigation that accused Paramjeet used to unlawfully access the office, photograph confidential military documents, and transmit them *via* WhatsApp to the handler Rana Muhammad Qasim Zia, thereby exposing the seriousness of the conspiracy and the coordinated roles played by the accused, including the present applicant.

16. The learned counsel for the applicant/accused has contended that the accused has been in judicial custody for a considerable period and that the trial is likely to take further time to conclude. It is, therefore, urged that, keeping in view the accused's right to personal liberty, he be released on bail. However, this Court is of the



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considered opinion that the grant of bail cannot rest solely on the duration of incarceration. While the right to personal liberty is indeed fundamental, the gravity, nature, and seriousness of the offence, as well as the potential impact on national security and the integrity of the investigative process, must also be taken into account. In cases involving alleged acts of espionage and transmission of sensitive information to foreign agencies, the threshold for grant of bail is necessarily higher, and the Court must be guided by the larger interest of justice and national security, rather than merely the passage of time in custody.

17. The offence in question in the present case is not merely one against a particular individual, institution, or group, but is an offence against the very integrity, sovereignty, and security of Bharat. Such acts, where sensitive and classified information concerning the Indian Armed Forces is allegedly transmitted to foreign handlers, strike at the heart of national security and cannot be treated with leniency. These are not conventional crimes – they are crimes that compromise the trust reposed in individuals who are either part of or have access to our military establishments.

18. It must be remembered that the nation rests peacefully because its armed forces remain vigilant. It is in their unconditional duty and commitment that the citizenry finds assurance of safety and continuity of the constitutional order. When individuals, driven by financial inducement or otherwise, seek to breach this trust by serving as conduits to foreign agencies, it



amounts to an act not only of grave criminality but of betrayal to the nation. The ramifications of such offences are far-reaching – they endanger the lives of countless individuals, compromise military preparedness, and threaten the sovereignty of the State, therefore, do not pass the test of conditions for grant of bail and by no stretch of imagination, though argued by the learned counsel for the applicant be termed as not grave, not being murder or dacoity.

19. In such circumstances, the judicial response cannot be guided solely by the passage of time in custody or procedural delays, but must be driven by the larger concern of national interest. The seriousness and gravity of such offences demand that they be dealt with utmost sternness, keeping in mind that the consequences of such actions extend beyond the immediate actors and strike at the very foundation of the security of the nation.

20. Considering that the offence in question involves the security of the entire nation and Indians, and the applicant herein was part of a syndicate, who were working against the security of the country, this Court does not find it a fit case to grant bail to the present applicant.

21. Accordingly, the present application stands dismissed.

22. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.

23. This Court *vide* its order dated 04.02.2025 has already passed directions for expeditious proceedings in this case. It is further directed that the learned Trial Court shall make every endeavour to



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expedite the trial in the present case.

24. A copy of this judgment be forwarded to the learned Trial Court for information.

25. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

MAY 22, 2025/A