

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4995 of 2016

1. Katiyaram Nareti S/o Chamru Ram Aged About 41 Years R/o Village - Rengawahi, Police Station - Bande, Civil & Revenue District - Kanker Chhattisgarh
2. Rajesh Dhruva @ Raja S/o Dashru Dhurwa Aged About 23 Years R/o Village - Rengawahi, Police Station - Bande, Civil & Revenue District - Kanker Chhattisgarh

---- Applicants

Versus

State Of Chhattisgarh Through : Station House Officer, Police Station - Civil Line, Raipur, District - Raipur Chhattisgarh

---- Respondent

For Applicant	:	Shri K.K. Pandey, Advocate
For State	:	Shri D.R. Minj, Dy. Govt. Advocate

And

MCRC No. 6984 Of 2016

1. Babulal Sharma S/o Shrilal Sharma Aged About 52 Years R/o Bande Bus Stand, Police Station Bande, District Kanker, Chhattisgarh.
2. Tarak Kundu S/o Hare Krishna Kundu Aged About 42 Years R/o Near Bande Bazar Police Station Bande Bazar Police Station Bande District Kanker, Chhattisgarh.

---- Applicants

Vs

State Of Chhattisgarh Through Station House Officer, Police Station Civil Lines Raipur, Chhattisgarh.

---- Respondent

For Applicant	:	Shri R.S. Marhas and Ms. Anubhuti Marhas Advocates
For State	:	Shri D.R. Minj, Dy. Govt. Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

16/12/2016

Heard.

1. These two applications are being decided by this common order as the applicants in both the applications have been arrested in connection with Crime No.541 of 2013 registered in Police Station- Civil Lines, Raipur for the alleged commission of offence punishable under Sections 121, 121-A, 124 IPC, Sections 10 (a) (b) (ii), 13, 18, 38(2), 39 (a), 40 (1)(a)(b)(c) of Prevention of Unlawful Activities Act, Sections 4 & 5 of the Explosive Substances Act and Section 3 (8) (1) (2) (3) (5) of the Chhattisgarh Jan Suraksha Adhiniyam, 2005.
2. Earlier, the applications filed by all the applicants were considered by this Court on merits and upon perusal of the case diary and the material, the applications were rejected. These two applications have been repeated by the applicants mainly on the ground that they are in jail since long and the trial has not been concluded. Therefore, only on this ground, the applicants may be granted bail. The other submission is that the evidence of seizure witnesses is not reliable and liable to be disbelieved as they have not fully supported the case of the prosecution. Therefore, the case of the prosecution has become highly doubtful and there is all likelihood of applicants being acquitted.
3. Learned counsel for the State submits that though there is delay in conclusion of trial, looking to the nature of allegation levelled against the applicants who are alleged to be involved in supplying explosive and other material to be used in running naxellite operation in the State, if they are granted bail, they are likely to abscond which will hamper early and timely conclusion of trial. He further submits that vide memo dated 13.12.2016 of the Station House Officer, Police Station-Civil Lines, Raipur, it has been informed that 34 prosecution witnesses have already been examined and only 6 witnesses who are all official witnesses including the Investigating Officer remained to be examined and the trial is fixed for recording their evidence on 8 & 9th January, 2017, on which date, the prosecution evidence is likely to be concluded.
4. True it is that the applicants are in jail for long time. However, the nature of

allegation against the applicants are very serious. They are alleged to be involved in supplying explosives, detonators and other articles for installation and establishment of camp for running naxellite operation, therefore, only on the ground of delay, I am not inclined to grant bail to the applicants because with this background, in case bail is granted to the applicants, they are most likely to abscond in which case, the conclusion of trial may be delayed and it may not be possible to again arrest the applicants.

At the same time, the applicants are also entitled to speedy trial. Therefore, striking balance between the applicants' right to speedy trial and at the same time to ensure that the bail granted to the applicants may not be misused in the peculiar background and taking into consideration that the trial is fixed for recording evidence of remaining 6 official witnesses of the prosecution on 8 & 9th January, 2017, I am not inclined to grant bail to the applicants at this stage.

5. The trial Court is directed to conclude the trial at the earliest without granting any unnecessary adjournment to any of the parties. The remaining prosecution witnesses shall be examined by the trial Court on priority basis as soon as they are produced by the prosecution and the trial shall as far as possible, continue on day-to-day basis, if the evidence is not concluded on 8th & 9th January, 2017. If the official witnesses do not appear, the trial Court shall take immediate steps to secure their presence by coercive steps of issuing warrants. The trial Court shall report to this Court, status of trial after 60 days.
6. The applications are accordingly rejected with the direction and observation as above.

Sd/-
(Manindra Mohan Shrivastava)
Judge