

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3288 of 2017**

1. Ch. Prabhakar S/o Rammaya Aged About 48 Years R/o Chikadpalli, Hyderabad, Telangana.
2. B. Durga Prasad S/o Ilaiah Aged About 35 Years R/o Beghumburpet, Hyderabad, Telangana
3. K. Rajendra Prasad S/o K, Badrayya Aged About 28 Years R/o Uppal, Hyderabad, Telangana.
4. D. Prabhakar S/o Thirupalu Aged About 52 Years R/o Uppal, Hyderabad, Telangana.
5. B. Ravindranath S/o B. Somayya, Aged About 42 Years R/o Bagh Amburpet Hyderabad, Telangana.
6. Md. Nazir S/o Md. Yakub, Aged About 27 Years R/o Oligunda, Hyderabad, Telangana.
7. R. Laxmayya S/o R. Sitayya, Aged About 45 Years R/o Elandu, District Khammam Telangana.

--- **Applicants****Versus**

- State of Chhattisgarh through : Station Incharge, Police Station- Kistaram, District- Sukma, Chhattisgarh.

--- **Respondent**

For the applicants	:	Mr. Kishore Narayan, Advocate
For the Respondent	:	Mr. Suryakant Mishra, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri**CAV ORDER****Reserved on 22.06.2017****Delivered on 30.06.2017**

1. This is second bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No.09/2016 registered at P.S. Kistaram, Distt. Sukma (C.G) for the offence

punishable under Sections 8(1)(2)(3) of Chhattisgarh Vishesh Jan Suraksha Adhiniyam (The applicants have been discharged from Section 8(5) by the trial Court.

2. The first bail application was dismissed on 22.03.2017.
3. As per the prosecution case, on 01.12.2016 certain information was received by the Police that some suspicious persons were roaming in the forest on motorcycles within the jurisdiction of Police station Kistaram at village Dharampeta to propagate Naxalism who were supporters of Maoist. The information was again repeated on 12.12.2016, 20.12.2016 and lastly on 24.12.2016. The information was also to the fact that they were distributing certain literature and were asking support for "*Jantana Sarkar*". After such information having received by the surveillance of State, continuously they were followed and on 25.12.2016 while they were moving near village Dharmapenta near a canal they were intercepted. On search being made, from their possession Naxalite literature, certain pamphlets, old currency notes of Rs. 1 lakh and motorcycles were seized. On further inspection of seized property, it was found that they were promoting Naxalite activities in this region as the publication and propagation of such books have been prohibited by the State Government. Further investigation and pamphlets recovery revealed that they were highlighting the people who died in encounter with the police and their names were projected as sacrificers of the movement and were illuminating the killing of the security forces of the State.
4. Learned counsel for the applicant would submit that after rejection of the first bail application, the charges have been

framed against the applicants and the applicants have been discharged under subsection (5) of section 8 of the Chhattisgarh Vishesh Jan Suraksha Adhiniyam, 2005 (for short "the Act of 2005"). It is submitted that now against the applicants the charges u/s 8(1)(2) & (3) of the Act 2005 have been framed wherein the maximum punishment has been prescribed to 3 years and even less. Learned counsel contended that the Applicant no.1 is a practicing advocate in the High Court of Andhra Pradesh and referred to the order sheet of High Court of A.P., Hyderabad and submitted that the applicant was before the High Court on 1st December, 2016. He further submitted that Applicant No.6 appeared in the University examination on 24.12.2016, therefore, the *Rosnamcha* itself was fake and falsely prepared and the applicants who are in jail since 25.12.2016 may be enlarged on bail as the substantial charges u/s 8(5) of the Act, 2005 has not been framed against them.

5. Per contra, learned State Counsel opposes the bail.
6. Perused the order sheet of the Chief Judicial Magistrate dated 12.04.2017. The order sheet would show that the applicants have been discharged u/s 8(5) of the Act 2005, however, the charges have been framed u/s 8(1) (2) & (3) of the Chhattisgarh Vishesh Jan Suraksha Adhiniyam, 2005, therefore, as on date the charges have been considerably appears to have been amended. Section 8(1)(2) & (3) of the Act prescribes the maximum punishment which may extend to 3 years, 2 years and 3 years respectively and shall also liable to fine.
7. Considering the fact that the applicants are in jail since

25.12.2016 i.e., more than 6 months; charges have also been framed and looking to the period of detention already undergone by the applicants as against the charges framed against them u/s 8(1)(2) & (3) of the Act and further taking into the entire facts situation of the case, I am inclined to allow this bail application.

8. Accordingly, the bail application is allowed and the applicants are directed to be released on bail on each of them furnishing a personal bond in sum of Rs.25000/- with one surety each in the like sum to the satisfaction of the trial Court. They shall also appear before the trial Court as and when directed by the said Court.

**Sd/-
GOUTAM BHADURI
JUDGE**