HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 117 of 2018

Lokesh Sahu S/o Puniram Sahu Aged About 24 Years R/o Sethi Nagar, Charkradhar Nagar, Raigarh, Police Station Chakradhar Nagar, Raigarh, Tahsil And District- Raigarh, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Principal Secretary Home Department, Mahanadi Bhawan New Raipur, Chhattisgarh.
2. The District Magistrate, Raigarh, District- Raigarh, Chhattisgarh.
3. The Superintedent Of Police, Raigarh, District- Raigarh, Chhattisgarh.

---- Respondents

For petitioner - Shri Rakesh Pandey, Advocate.
For State- Shri Ashish Shukla, Dy.A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order

14/05/2018

1. Heard on admission as also on application for grant of interim relief.

2. Instant petition is against the order dated 30/01/2018 passed under section 5 of the Chhattisgarh Rajya Suraksha Adhiniyam, 1990.

3. Learned counsel for the petitioner would submit that entire incident was prior to 2014 and notice was lastly given in 2014 and thereafter no offence has been committed by the petitioner and eventually order passed on 30/01/2018 wherein removal of persons about to commit offence is contemplated under section 5 of Chhattisgarh Rajya Suraksha Adhiniyam, 1990 and there is no ground exist that petitioner is going to commit any offence. Learned counsel submits that therefore order dated 30/01/2018 is required to be stayed. He relies in a case law reported in **(2005) 2 MPJR 106** in between **Krishna Datt Upadhyay Vs. State of Chhattisgarh & Ors.** and would submit that when there is stale complaint and proceeding

have take place, court can interfere in such order. He submits that petitioner is not sole accused in all the alleged offence which finds place in the order

4. Learned State counsel opposes the argument and submits that alternate remedy is provided under section 9 of the Act.

5. Perusal of the order shows that as many as 11 cases were registered against the petitioner and 6 times preventive action were registered against the petitioner. Perusal of the order shows that in most of the cases witness do not depose against the petitioner and also in some cases compromise was effected. Without any observation on the merits of case as would be relevant that Section 9 of the Chhattisgarh Rajya Suraksha Adhiniyam, 1990 provides for appeal which contemplates that any person aggrieved by an order under Section 3, 4, 5 or 6 made by the District Magistrate or any other officer specially empowered under Section 13 may appeal to the State Government within thirty days from the date of such order. Prima facie I do not find any reason to bypass said appellate power of statutory alternate appellate remedy to invoke power u/s 482 of Cr.P.C. Taking into reasons assigned in the order it prima facie do not reflect that there has been fundamental breach of any right. Petition is dismissed being alternate appellate remedy is available to the petitioner.

Sd/-

(Goutam Bhaduri)

JUDGE

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