

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4209 of 2018**

Bazaru Gawade S/o Danu Gawade Aged About 28 Years R/o- Chhinari
Gotapara P.S. Farasgaon, District- Narayanpur, Chhattisgarh., District :
Narayanpur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through- The Police Station Benur District-
Narayanpur, Chhattisgarh., District : Narayanpur, Chhattisgarh.

---- Respondent

For the Applicant : Shri P.K. Tulsyan, Advocate.
For the Respondent/State : Shri Anil S. Pandey, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****07.08.2018**

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.5 of 2010, registered at Police Station – Benur, District Narayanpur, Chhattisgarh for the offence punishable under Sections 364, 147, 148, 149, 121, 121(A) and 122 of the Indian Penal Code and Sections 23(1), 38(2) and 39(4) of the Vidhi Virudh Kriyakalap (Nivaran) Adhiniyam 2004.

2. Learned counsel for the applicant submits that the applicant is in jail since 2.7.2012 and has been falsely implicated in this case. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. The trial against the co-accused persons in this case has been concluded on 12.1.2012 in which they have been acquitted.

Subsequent to arrest of the applicant, the trial against him has not commenced till date because the record went missing. The trial is getting delayed and the applicant is languishing in jail without any fault on his part since last six years. Hence, it is prayed that the applicant be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that there is evidence on record to show the participation of the applicant in the commission of offence alongwith the other co-accused persons. Hence, for these reasons, he is not entitled for grant of bail.

4. Heard counsel for both the parties and perused the case diary.

5. The case against the applicant and the co-accused persons is that on 16.1.2010, deceased – Sonaru Ram Shori was abducted by the members of Banned Maoist Group with the help of the applicant and other co-accused persons making allegation that Sonaru Ram Shori is engaged in giving information to the police. Later on, the deceased was done to death on the charge that he is the informer of the police. The brother of the deceased has lodged FIR and on that basis, the case has been registered against the applicant.

6. The charge-sheet was filed against the co-accused and the trial against him is completed on 12.1.2012 and has been acquitted and the applicant has been arrested. Subsequent to that, the trial against the applicant is withheld for the reason that the record of the case was not

available. On perusal of the order-sheet of the concerned Court, it appears that the record is not available till date. Hence, looking to the circumstances and also considering on the allegation against the applicant and the material present in the case-diary, I am of the considered view that in this case the applicant deserves to be enlarged on bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that applicant shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

9. Registry is directed to send a communication to District and Sessions Judge, Bastar at Jagdalpur to make special efforts for making available the record of the case for trial against the applicant.

Sd/-

(Rajendra Chandra Singh Samant)
Judge