

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5379 of 2018**

1. Tikeshwar Markam, S/o Motiram Markam, aged about 20 years, R/o Ghoragaon, Thana Nagri, District Dhamtari (CG).
2. Bajrang Kunjam, S/o Gokulram Kunjam, aged about 29 years, R/o Ghoragaon, Thana Nagri, District Dhamtari (CG).

---- Applicants**Versus**

State of Chhattisgarh, through Station House Officer Nagri, Tahsil Nagri, District Dhamtari (CG).

---- Non-applicant

For Applicants : Mr. Kunal Das, Advocate

For Non-applicant : Mr. Sumit Jhanwar, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****18.09.2018**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicants before this Court.
2. Perused the copy of charge-sheet provided by the counsel for the applicants in connection with Crime No.113/2016 registered in Police Station Nagri, District Dhamtari for the offence punishable under Sections 3 & 5 of Explosive Substance Act, 1908, Sections 17 & 23 of Unlawful Activities (Prevention) Act, 1967 & Section 8(1) of Chhattisgarh Public Security Act, 2005.
3. Case of the prosecution, in brief, is that Sub Inspector Vinay Nirala posted at Police Station Nagri received a secret information from the informant that the applicants had received currency notes from the Naxalite to change the same during the period of demonetizations (Note-Bandi). On 21.12.2016, the memorandum statement of the applicant No.1 Tikeshwar Markam was recorded under Section 27 of the Indian Evidence Act and 10 Kg Tiffin Bum and detonator and 05 Electric

Fues and Rs.3,30,000/- were seized from him. On 21.12.2016, the memorandum statement of the applicant No.2 Bajrang Kunjam was recorded under Section 27 of the Indian Evidence Act and Nuxally Literature, Zellatin Explosive and Rs.20,000/- were seized from him.

4. Counsel for the applicants submitted that number of the witnesses have turned hostile. He drew my attention on some paragraphs of the said witnesses in support of their case. He further submitted that the applicants have not committed any offence and have been falsely implicated in the case and as such the applicants may be released on bail.
5. On the other hand, counsel for the State would oppose the prayer for grant of bail to the applicants.
6. I have heard counsel appearing for the parties and perused the case diary with utmost circumspection.
7. What would be the effect of witnesses turning hostile may be considered by the trial Court at the time of final disposal of the case.
8. Looking to the facts and circumstances of the case, looking to the seriousness of the offence and looking to the impact of granting bail to the applicants on society, this Court is not inclined to give benefit of Section 439 of the Cr.P.C. to the applicants.
9. Consequently, the bail application is rejected.
10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-