

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 801 of 2019

1. Lakshman Hemla S/o Pandu Aged About 25 Years R/o Village Saunar, P.S. Ganglur, District : Bijapur, Chhattisgarh
2. Banjami Baman S/o Hunga Aged About 23 Years R/o Village Bengapal, Perpa, P.S. Jagarguda, District : Sukuma, Chhattisgarh

---- Appellants

Versus

- State Of Chhattisgarh Through Officer-In-Charge Police Station Kirandul, District : Dantewada, Chhattisgarh

---- Respondent

For Appellants	:	Ms. Shikha Pandey, Advocate
For Respondent/State	:	Mr. Anand Verma, Dy. G.A.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board by Hon'ble Shri Justice Manindra Mohan Shrivastava

26.06.2019

1. This appeal arises out of order dated 14.02.2019, by which the appellant's application for grant of bail has been rejected by the Special Judge (N.I.A.) Bastar, Jagdalpur, C.G.
2. The appellants are being prosecuted for alleged commission of offences under Section 147, 148, 149, 302, 307, 120B of the IPC, Section 25, 27 of the Arms Act, Section 3,5 of the Explosive Substances Act and Section 38(2), 40 of the Unlawful Activities Prevention Act. The allegation against the appellant and other co-accused is that the appellants are actively involved in the activities of banned organization and a team of police officers/CRPF was attacked in a naxallite attack, of which, the appellants were also part and due to explosion at the spot, number of police officers/CRPF men died and many injured.
3. The application for grant of bail was made by the appellants before

this Court mainly on the ground that the trial is being delayed, the appellants have remained in jail for about last four years and trial has not been concluded till date. It is also being raised as a ground that the appellants are not involved in the alleged commission of offence and only on suspicion they are being involved.

4. Learned counsel for the appellants would argue that even if the allegations on which the appellants have been arrested and undergone trial are serious in nature, as number of police officers/CRPF men have died and injured, only on that ground, the trial of the appellants cannot be allowed to continue indefinitely. It is argued that the appellants were arrested way back in the month of June, 2015, and even after lapse of four years, there is no likelihood of early conclusion of trial. Learned counsel for the appellants argued that the main operative reasons for delay in trial is that the accused persons alleged to be involved in the incident are being arrested one after another, at the different point of time, and every time, the trial starts again after framing of charges against them, resulting in re-examination of those very witnesses, and in this manner, the trial is going on, there is no sign of early disposal. Further submission of learned counsel for the appellants is that out of total 63 witnesses, 39 witnesses have already been examined and no substantive reliable evidence has come forth to show prima facie involvement of appellants in the alleged commission of offence and so called dock identification of appellants by the FIR informant Shashikant (PW-20) also does not make out a prima facie case.
5. On the other hand learned counsel for the State would submit that though there is delay in conclusion of trial, the delay is occasioned on account of fact that the many accused have remained absconding. As and when they are arrested, the charges are being framed and proceedings being drawn. Out of 63 witnesses, 39 witnesses have already been examined, therefore, the trial is approaching towards conclusion. He would also submit that in the present case, apart from the witnesses who have already been examined, there are some more witnesses, in whose 161 Cr.P.C. statement, it is stated that they are the eye-witnesses of the incident. These witnesses have not so far examined and if at this stage, the appellants are granted bail, they may not only flee away from justice

but also likely to temper with the prosecution witnesses threaten them and protract trial.

6. We have considered the submission of learned counsel for the parties and also perused the charge-sheet, case diary and the impugned order.
7. The present case involves commission of heinous offence in which it has been alleged, that in the naxalite activity, the police party was attacked and due to bomb explosion, number of police officers/CRPF men died and many injured.
8. No doubt, there has been delay in conclusion of trial because almost four years have lapsed, at the same time, it cannot be ignored that the involvement of the appellants is in commission of offence of a very serious nature. Moreover, it is found that the main operative reason for delay in trial appears to be that as and when accused are being arrested, the trial gets stalled and again the proceedings are required to be initiated from the stage of framing of charges. We have however, found that out of 63 witnesses 39 witnesses have already been examined. At the stage, when substantial number of witnesses have been examined and as stated by learned counsel for the appellants, many witnesses who are yet to be examined, appears to be eye-witnesses of the incident, we are not inclined to grant bail to the appellants only on the ground of delay in conclusion of the trial. However, striking balance between the two, would definitely express our concern regarding delay in trial, and therefore, direct the trial Court to expeditiously conclude the trial without granting unnecessary adjournment to any of the parties.
9. Let, all efforts be made to examine remaining witnesses at the earliest. If, the trial is not concluded within a period of six months, the appellants may revive their application for grant of bail.
10. In the result, we are not inclined to interfere with the order of rejection of bail by the learned Trial Court.
11. Accordingly, this appeal is dismissed, though with the directions as stated above.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge