

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRA No. 976 of 2019

- Anil Sent John S/o Late S.S. John Aged About 33 Years R/o Mother Teresa Ward, Jagdalpur, District Baster Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Nagarnar, District Baster Chhattisgarh.

---- Respondent

For Appellant	:-	Shri Malay Shrivastava, Advocate.
For Respondent-State	:-	Ms Fouzia Mirza, Additional AG

Hon'ble Shri Prashant Kumar MishraHon'ble Shri Gautam Chourdiya, JJ.Order on BoardByPrashant Kumar Mishra, J27/09/2019

1. Heard.
2. This is an appeal under Section 21(4) of the National Investigation Agency Act, 2008, (in short 'NIA Act'), against order passed by the Special Judge (NIA Act) Jagdalpur, dismissing the appellant's application for grant of bail under Section 439 of Cr.P.C.

3. Appellant has been arrested on 20.04.2019 by the Police of Police Chowki-Bakawand, Police Station-Nagarnar, Jagdalpur, District Bastar, Chhattisgarh, bearing Crime No.68/2019, for alleged commission of offence under Sections 4 and 5 of Explosive Substance Act read with Section 34 of the IPC and Sections 38(2) and 39(2) of the Unlawful Activities (Prevention) Act, 1967.
4. As per the prosecution case the concerned police received secret information on 17.03.2019 that two vehicles, bearing Registration No.OD 24/9729 and OD/10/F/8126, coming from the Orissa, are transporting illicit explosives. Barricades were installed near forest barrier on Chhattisgarh-Orissa border and vehicles were intercepted for checking. At that time, these two vehicles tried to flee from the place, therefore, they were chased and caught on the spot. In these two vehicles, accused Naveen Jani, Subbal Kumar Choudhary, Maniram Jani, Manoj Tiwari and Lingo Jani were traveling. From their possession huge cache of detonators, explosives, etc. were found.
5. During investigation the prosecution has recorded memorandum statements of co-accused persons, namely Subbal Kumar Choudhary, Naveen Jani and Ramu Nag. However, in these three memorandum statements name of petitioner is not mentioned. One Shravan Kumar Baghel gave statement under Section 161 of Cr.P.C. informing the Police that accused Manoj Tiwari has informed him that he supplies

explosives to the present appellant for operation of his crusher plant. Though charge-sheet has already been filed and Manoj Tiwari is under arrest but his memorandum statement has not been recorded. Without commenting on the admissibility of the statement of Shravan Kumar Baghel as against the present appellant, it appears, till the present stage of investigation neither any recovery has been made from the appellant nor he was caught on the spot, he being not traveling in any of the two offending vehicles. Moreover, there is no document in the charge-sheet substantiating that the appellant owns or operates any particular crusher plant.

6. Having considered the evidence against the appellant, we are of the considered view that the appellant deserves to be released on bail. Accordingly, the Appeal is allowed and the appellant is directed to be released on bail on his furnishing a personal bond for a sum of Rs.1 Lakh with two sureties in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given by the said Court.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge