

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 1412 of 2018**

1. Ratan Nreti, Aged About 32 Years S/o Ram Nath Nreti, By Caste-Gond, R/o- Village Hethale, Thana Siksodh, Tahsil Pakhanjore, District-Uttar Baster, District : Kanker, Chhattisgarh
2. Panchlal @ Baiga, Aged About 27 Years, S/o Raisingh, By Caste Gond, R/o- Village Kadme, Thana Siksodh, Tahsil Pakhanjore, District-U.B. District : Kanker, Chhattisgarh
3. Dasruram Humendi, Aged About 27 Years, S/o Mehruram By Caste Gond,
4. Sumitra Darro, D/o Koduram Aged About 22 Years, By Caste Gond,

A3 and 4 are R/o Village Lohari Thana Siksodh, Tahsil Pakhanjore, District -U.B. Kanker, C.G.
5. Kanderam Gawde, Aged About 45 Years, S/o Ghasiyaram, By Caste Gond,
6. Shatruram Hupendi, Aged About 34 Years, S/o Bajnuram, By Caste Gond,

A5 and 6 are R/o- Village Enhur, Thana Siksodh, Tahsil Pakhanjore, District- U.B. Kanker, Chhattisgarh
7. Rajuram, Aged About 29 Years, S/o Ranuram, By Caste Gond,
8. Rajuram Dhurve, Aged About 25 Years, S/o Raisingh, By Caste Gond,

A7 and 8 are R/o- Village Manhakal, Thana Siksodh, Tahsil Pakhanjore, District- U.B. Kanker, Chhattisgarh
9. Rajuram Nareti Aged About 34 Years S/o Udelal By Caste Gond,
10. Rajendra Netam, Aged About 32 Years, S/o Manchu Netam, By Caste Gond,

A9 and 10 are R/o- Village Manjhikurushbodhi, Thana Siksodh, Tahsil Pakhanjore, District- U.B. Kanker, Chhattisgarh
11. Ramesh Vatti, Aged About 24 Years, S/o Dasruram, By Caste Gond,
12. Faganu Ram Mandavi Aged About 23 Years S/o Shri Ram By Caste Gond,

A11 and 12 R/o- Village Katrukurshbodhi, Thana Siksodh, Tahsil Pakhanjore, District- U.B. Kanker, Chhattisgarh
13. Shobharam, Aged About 45 Years, S/o Raijiram, By Caste Gond,
14. Maniram Aged About 28 Years S/o Udesingh By Caste Gond,

A13 and 14 are R/o- Village Manjhikurushbodhi, Thana Siksodh, Tahsil Pakhanjore, District- U.B. Kanker, Chhattisgarh

---- Appellants

Versus

- The State Of Chhattisgarh, Through- District Magistrate, District- U.B.Kanker, Chhattisgarh

---- Respondent

For Appellants	:	Shri Parag Kotecha
For Respondent/State	:	Shri Shailendra Dubey, Addl. A.G.

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

18.02.2019

1. This appeal is directed against the order dated 28.07.2018 passed by Special Judge, NIA Act, Jagdalpur in Special Case No. 38/2016 by which the application of appellants for grant of bail has been rejected.
2. Learned counsel for the appellants would argue that there is no specific and clinching evidence collected against the appellants to prima facie involve them in the naxalite activity of setting on fire vehicles. He would argue that the appellants have been involved on hearsay evidence of the persons who in their case diary statements have stated that after the incident, they came to know from the villagers and workers that, present appellants are involved but those villagers and workers claiming to have seen the incident are not named nor the police has recorded diary statement of those workers who claim to have seen the present appellants involved in the alleged commission of offence.
3. On the other hand, learned State counsel would argue that so far as appellants Panchlal @ Baiga(A-2), Sumitra Darro(A-4), Ramesh Vatti(A-11) and Faganu Ram Mandavi(A-12) are concerned, these

persons have been identified at the spot and named also by the prosecution witnesses as the person who were involved in the alleged act of setting the vehicles on fire. He would also argue that as far as other accused are concerned, the witnesses, in their diary statements, have stated that after the incident of burning of vehicle, later on, the villagers and the workers working in the industrial concern were heard involving them in the alleged commission of offence that they had also come. He would submit that looking to the nature and gravity of allegation of appellants involved in the naxalite activity, their application may be rejected as they are likely to abscond and affect his expeditious trial.

4. We have heard learned counsel for the parties and perused the record particularly the case diary and charge-sheet.
5. As far as appellants Panchlal @ Baiga(A-2), Sumitra Darro(A-4), Ramesh Vatti(A-11) and Faganu Ram Mandavi(A-12) are concerned, they are alleged to be involved in the incident on the basis of identification by name of these persons by the witnesses of the prosecution who claim to be present at the spot when the vehicle was set on fire. Therefore, against them there is prima facie evidence. However, as far as other appellants Ratan Nreti(A-1), Dasruram Humendi(A-3), Kanderam Gawde(A-5), Shatruram Hupendi(A-6), Rajuram(A-7), Rajura, Dhurve(A-8), Rajuram Nreti(A-9), Rajendra Netam(A-10), Shobharam(A-13) and Maniram(A-14) are concerned, though their involvement is based on the case diary statements given by the some of the prosecution witness that after the incident, some of the villagers and workers working in the factories named these persons as involved in the naxalite activities. However, the case diary statements of these persons are not there and the involvement of these 10 persons appears to be based on other person's information. They have not been identified by any of the witnesses being present at the spot along with the team of naxalite who set the vehicles on fire. These 10 appellants are in jail since 2015-16.
6. The prosecution has come out with at least 103 witness out of which, till date, about 25 witnesses have been examined as stated by the counsel for the appellant. Under these circumstances and

particularly taking into consideration the material on the basis on which 10 appellants are alleged to be involved in the commission of offence, and that they are in jails since long time, it which would be in the interest of justice that they are released of bail with proper condition to ensure their presence before trial. In the result, application of Ratan Nreti(A-1), Dasruram Humendi(A-3), Kanderam Gawde(A-5), Shatruram Hupendi(A-6), Rajuram(A-7), Rajura, Dhurve(A-8), Rajuram Nreti(A-9), Rajendra Netam(A-10), Shobharam(A-13) and Maniram(A-14) are allowed and each of them shall be released on furnishing a personal bond in the sum of Rs.25,000/- each along with one local surety for the like amount to the satisfaction of the concerned Trial Court, with conditions :-

- I. They shall remain present before the concerned trial Court on each and every date of hearing unless, their presence is exempted.
- II. They shall not in any manner temper with the prosecution witnesses or leave the territorial jurisdiction of the trial Court without the leave of the Court.

7. Violation of any these conditions shall render liable bail to be cancelled.
8. Bail applications of Panchlal @ Baiga(A-2), Sumitra Darro(A-4), Ramesh Vatti(A-11) and Faganu Ram Mandavi(A-12) are rejected.
9. The trial Court is directed to expedite the trial also.
10. The impugned order rejecting bail applications of the appellants in so far as it rejects Bail applications of Panchlal @ Baiga(A-2), Sumitra Darro(A-4), Ramesh Vatti(A-11) and Faganu Ram Mandavi(A-12) no inference is made.
11. The impugned order to the extent of rejecting bail application of Ratan Nreti(A-1), Dasruram Humendi(A-3), Kanderam Gawde(A-5), Shatruram Hupendi(A-6), Rajuram(A-7), Rajura, Dhurve(A-8), Rajuram Nreti(A-9), Rajendra Netam(A-10), Shobharam(A-13) and Maniram(A-14) is set aside.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge