

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2345 of 2018**

State of Chhattisgarh: Through Police Station Somni, District
Rajnandgaon (C.G.)

---- Petitioner**Versus**

1. Chhotelal Yadav, S/o - Budhram Yadav, Aged about – 51 years,
R/o - Village Bortalab, Present R/o - Gurucharan Singh Crasher
Plant Mudipar, Police Station Somni, District - Rajnandgaon
(C.G.)
2. Gurucharan Singh, S/o - Trilok Singh, Aged about - 57 years, R/o
Near Mansukhlal Petrol Pump, Opposite B.S.N.L. Office,
Rajnandgaon, District Rajnandgaon (C.G.)

---- Respondents

 For State/Petitioner : Shri A.N. Bhakta, Dy. A.G.
 For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****22/04/2019**

1. Heard on I.A. No. 01/2019, application for condonation of delay in
filing the petition.
2. For the reasons mentioned in the application and as per the law
laid down by Hon'ble the Apex Court in the matter of **State of
Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC
132**, the delay of 81 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under
Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against the judgment dated 13th April,
2018 passed by Additional Sessions Judge (F.T.C.), Rajnandgaon

(C.G.) in Sessions Trial No. 83/2013 wherein the said Court acquitted both the respondents for charge under Section 5 of the Explosive Substances Act, 1908 and Section 286 of IPC, 1860. Both the respondents were charge-sheeted on the ground that Ammonium Nitrate to the tune of 700 grams, Gun Powder to the tune of 50 grams and explosive wire measuring 5 ft., 2 ft. and 8 inch, 4 ft. and 10 ft. were seized from possession of respondent No. 1-Chhotelal Yadav, Clerk of Gurucharan Singh Crasher Mine situated at Village- Mudipar, Nawagaon on 3rd June, 2013. As per Rule 7 of the Explosive Rules, 2008, license is required for more than 5 kg. Gun Powder and 15 meters of Safety Fuse Wire.

5. In the present case, since Gun Powder and wire were less in quantity, the trial Court opined that the charges for the said article is not established. So far seizure of Ammonium Nitrate, as per version of Yogita Khaparde (PW-5) who is Inspector posted at Police Station, Somni at 3rd June, 2013, she seized Ammonium Nitrate, but from her statement is not clear whether she sealed the same on the spot. Any article which is seized during investigation should be sealed on the spot in presence of seizure witness and should be signed at the time of seizure so that possibility of manipulation of seized article may be ruled out. But in the present case, it is not proved by evidence of Police Inspector the seized article was sealed on spot, therefore, the trial Court opined that it is doubtful whether the sized article where kept in Malkhana of the said Police Station and same was

sent Forensic Lab for examination. If the seizure is doubtful, the report of laboratory cannot be used against the respondent.

6. The trial court has elaborately discussed the entire evidence and after reassessing the same, this Court has no reason to record contrary finding. It is not a case where respondents should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
7. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge