

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 620 of 2020

1. Umesh Markam S/o Kesha Markam, Aged About 21 Years R/o Village Burgum, Police Station Aranpur, District Dantewada Chhattisgarh, District : Dantewada, Chhattisgarh
2. Banjami Deva S/o Banjami Masa Aged About 26 Years R/o Village Sofiras, Gondpalli, Police Station Fulbagadi, District Sukma Chhattisgarh., District : Sukuma, Chhattisgarh

---- Appellants

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Gadiras, District Sukma Chhattisgarh, District : Sukuma, Chhattisgarh

--- Respondent

For Appellants : Mr. Praveen Dhurandhar, Advocate.
For State : Mrs. Fouzia Mirza, Additional A.G.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

17/12/2020

Heard.

1. This appeal under Section 21 of the NIA Act, 2008 is preferred against order dated 19.03.2020 passed learned Special Judge (NIA Act), Jagdalpur Bastar (C.G.), by which appellants' application for grant of bail has been rejected.
2. The appellants have been arrested on 18.03.2020 under Crime No.11/2018 registered at Police Station- Gadiras, District Sukma (C.G.) on the allegation of having committed offence under Sections 147, 148, 149, 341, 435, 120-B IPC, Section 25 of the Arms Act and Sections 38, 39(1)(2) of the Unlawful Activities (Prevention) Act, 1967.
3. Prosecution case is that the vehicle of one Rambaran Singh was plying on the route Sukma to Dantewada on 17.08.2020 and while crossing Bhusaras Ghati, the vehicle was intercepted by two persons and then, 8 to 10 armed naxalites along with their other associates came out from the side of jungle, surrounded the Bus

and, thereafter, they got all the passengers along with their articles to come out from the Bus and thereafter set the Bus into fire. Thereafter, the matter was reported to the police and investigation is carried out and charge sheet has been filed.

4. Against the appellants initially offences under Sections 147, 148, 149, 341, 435, 120-B of IPC and Section 25 of the Arms Act were registered and they were also granted bail by the Chief Judicial Magistrate Sukma on 03.07.2019 and later on, offences under Sections 38, 39(1)(2) of the Unlawful Activities (Prevention) Act, 1967 was also registered. Bail granted earlier was cancelled and case was transferred to the NIA Court where the appellants moved application under Section 439 Cr.P.C. which was rejected.
5. Learned counsel for the appellants would argue that present is a case of false allegation and implication against the appellants. He would submit that initially offences under Sections 38, 39(1)(2) of the Unlawful Activities (Prevention) Act, 1967 were not registered against the present appellants, but, later on, they have been falsely implicated by adding those offences when the police found that the appellants have been granted bail by the Chief Judicial Magistrate under the same crime number against the allegations of commission of offence under Section 304 IPC. He would next submit that in the FIR, name of the appellants have not been mentioned. Further submission of learned counsel for the appellants is that later on, some concocted witnesses have been prepared to somehow implead the appellants in the alleged commission of offence, which statements are fabricated afterthought and therefore, in the circumstances, when the appellants have not otherwise misused the liberty granted to them earlier under bail order dated 03.07.2019, they ought to be granted bail by learned trial Court.
6. On the other hand, learned State counsel submits that the appellants and co-accused have been charged of serious offence which led to various activities of violation by the group of naxalites. The appellants have been involved as associates of part of the naxalities activities. Learned State counsel would further submit that the FIR was lodged by the owner of the vehicle and some of the names disclosed by driver were mentioned in the FIR. It was stated therein that many other persons were involved. Learned counsel for the State would further submit that when during investigation, case diary statements were recorded by the police from acquainted persons, two witnesses namely Banjram Godhra and Banjami Deva have clearly named the appellants as the persons involved in the alleged activity by group of naxalite in which vehicle was set on fire.
7. Learned trial Court has rejected the bail application taking into consideration that present is a case where allegation is serious in nature. True it is that learned court

below has not considered anything except that offence is serious in nature, but, we have gone through the charge sheet and the case diary. We find that the appellants have been involved on the basis of case diary statements of two witnesses, named above.

8. Considering the submissions made by learned counsel for the parties, looking to the gravity of allegation and prima facie material available, in our opinion, the learned trial Court did not commit any illegality in rejecting the bail application.
9. There is no merit in the bail application (appeal). The same is liable to be and is accordingly rejected.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Vimla Singh Kapoor)
Judge

Ravi