

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 786 of 2021

1. Gangaram S/o Pardeshi Ram Dhurve Aged About 40 Years R/o Village- Bhujari, Thana- Bakarkatta, District Rajnandgaon, Chhattisgarh, District : Rajnandgaon, Chhattisgarh
2. Naresh S/o Chunuram Porte Aged About 29 Years R/o village Bhothili Thana, Bakarkatta, District Rajnandgaon, Chhattisgarh, District : Rajnandgaon, Chhattisgarh

---- Applicants

Versus

- The State Of Chhattisgarh Through Station House Officer, Police Station Bakarkatta, District Rajnandgaon, Chhattisgarh, District : Rajnandgaon, Chhattisgarh

--Non-Applicant

For Applicants	:	Shri Sameer Singh, Advocate
For Non-Applicant/State	:	Ms. Seema Dixit, P.L.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

03/02/2021

1. Heard on admission.
2. The application is admitted for hearing.
3. With the consent of the parties, the matter is heard finally.
4. The applicants have preferred this second bail application under Section 439 of Code of Criminal Procedure, 1973 as they are in jail since 23.5.2017 in connection with Crime No.5/2017, registered at Police Station- Bakarkatta, District -Rajnandgaon (CG) for the offence punishable under Sections 8(3)(5) of the Chhattisgarh Vishesh Jan Suraksha Adhiniyam, 2005.
5. First bail application of the applicants was rejected vide order dated 23.11.2017 in MCRC No.5185/2017 on merits.
6. Allegations against the applicants are that the applicants are

members of Communist Marxist Organization which is popularly known as nexalites and it is a prohibited organization. The applicants were found in possession of certain pamphlets and were encouraging disobedience to establish law and the government.

7. Learned counsel for the applicants submits that though some pamphlets have been seized from the possession of the applicants, but they have not taken any active role in the activities of the prohibited organization. He submits that charge sheet has been filed and trial has commenced and the applicants are in jail since 23.5.2017. He further submits that there is no scope for conclusion of trial even after 3 and 1/2 years and evidence of 5 witnesses is yet to be recorded and the maximum sentence prescribed for the offence is for 7 years. He also submits that the applicants are residents of district Rajnandgaon and there is no likelihood of the applicants tampering with the evidence or absconding, therefore, the applicants may be released on bail by this Court.
8. On the other hand, learned counsel for the Non-Applciant/State opposes the bail application. He submits that the applicants are members of Communist Marxist Organization which is popularly known as nexalites and it is a prohibited organization and some pamphlets have been seized from them.
9. Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, as per recommendation of the committee constituted by the Govt., application under Section 321 Cr.P.C. for withdrawal of prosecution was also filed before the trial Court but the same was rejected, considering that charge sheet has been filed; detention period of the applicants and there is no criminal antecedent against the applicants as accepted by both the counsel and even after 3 and 1/2 years, the trial has not been concluded and the maximum sentence is prescribed for 7 years and evidence of 5 witnesses is yet to be recorded, this Court is of the opinion that present is a fit case for

grant of bail to the applicants. Accordingly, the application is allowed.

10. It is directed that in the event of each of the applicants executing a personal bond for a sum of Rs.1,00,000/- with two sureties of Rs.50,000/- each to the satisfaction of the concerned Trial Court, they shall be released on bail, on the following conditions:-

11. (a) they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court.

(b) they shall not act in any manner which will be prejudicial to fair and expeditious trial, and

(c) they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

(d) they shall not involve themselves in any offence of similar nature in future or else this order granting bail to the applicants shall automatically stand cancelled without further reference to this Court.

9. Let a copy of this order be forwarded to the concerned Police Station forthwith who shall inform the trial Court in the event of applicants involving themselves in similar offence in future.

Sd/

(Gautam Chourdiya)
Judge