

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5724 of 2021**

1. Ghasi Kadti S/o Sonku Kadti, Aged About 40 Years, R/o Kaurgaon, Vegopara, P.S. Bangapal, District Bijapur, Chhattisgarh.
2. Sudri Kadti S/o Maina Kadti, Aged About 27 Years, R/o Kaurgaon, Vegopara, P.S. Bangapal, District- Bijapur, Chhattisgarh.

---- Applicants**Versus**

State of Chhattisgarh Through- P.S. Geedam, District- Dantewada, Chhattisgarh.

---- Non-Applicant

For Applicants	: Mr. P.R. Patankar, Advocate
For Non-Applicant/State	: Mr. Gurudev I Sharan, Govt. Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****26.10.2021**

- 1) The applicants have preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 for grant of regular bail to the applicants, who are in custody since 16.01.2019 in connection with Crime No. 08 of 2019, registered at Police Station Geedam, District Dantewada (C.G.) for the offence punishable under Sections 147, 148, 149, 307 of IPC and Sections 25, 27 of Arms Act.
- 2) Case of the prosecution is that, on 16.01.2019 when police personnel were on patrolling, some persons involved in naxalite activities hiding themselves behind the trees, started firing upon police personnel with a view of commit loot of Arms of police personnel. The police also gave counter firing, upon which, about 8 to 19 naxalite fled away from the spot. The applicants were arrested on the spot. Charge-sheet has been filed against

three persons including present applicants for the aforementioned offences. From the possession of applicant No.2, one iron *Banda* has been seized.

- 3) Mr. P.R. Patankar, learned counsel for the applicants would submit that applicants were arrested on 16.01.2019 and since then, they are in jail. After investigation, police submitted charge-sheet. There are as many as 14 enlisted witnesses, but till date, none of the witnesses have been examined by the prosecution. Applicants have completed about 2 years and 10 months of their per-trial detention. There is no any other criminal antecedent against the applicants, hence, they may be enlarged on bail. He further submits that though in the First Information Report, there is mentioned that naxalite attack on the police, but no offence under the special Act has been registered against the applicants. The weapon is allegedly seized is a type of iron rod and not gun.
- 4) On the other hand, Mr. Gurudev I. Sharan, Govt. Advocate opposing the submissions made by learned counsel for the applicants would submit that allegations against the applicants are serious in nature. They along with other naxal person have attacked on police and started firing. When police started counter firing, then other persons fled away from the spot. Applicants were arrested.
- 5) However, upon putting a specific query as to under which Sections charge-sheet filed has been filed, he submits that charge-sheet has been filed for the offences under Section 147, 148, 149, 307 of IPC and Sections 25 and 27 of Arms Act and

only one iron *Banda* has been recovered from possession of applicant No.2. No weapon from applicant No.1.

- 6) I have heard learned counsel for the parties.
- 7) Taking into consideration facts and circumstances of the case, nature of offence, under which, charge-sheet has been filed against the applicant, period of detention and further that till date, no witnesses have been examined by prosecution out of total 14 enlisted witness, applicants are not having any criminal antecedent, without commenting anything on merits of the case, I am inclined to release the applicants on regular bail.
- 8) Accordingly, the application is allowed and it is directed that the applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with one surety in the like sum to the satisfaction of the trial Court concerned on the conditions that :
 - a) They shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.
 - b) They shall not, in any manner, tamper with the prosecution witnesses.
 - c) If the applicants are found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-

(Parth Prateem Sahu)
Judge