

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Reserved on : 29.10.2020

Order Passed on : 06/01/2021

Cr.R. No. 582 of 2020

1. Tapas Kumar Palit, S/o. Late Moti Lal Palit, aged about 54 years, R/o. Makan No. 130, Ward No.25, Shastri Market, Dalli Rajhera-Dondi, Police Station -Dalli Rajhera, District Balod, Chhattisgarh
2. Dayashankar Mishra, S/o. Ram Gopal Mishra, aged about 40 years, R/o. House No. 53/3, Dr. Ambedkar Ward No. 19, Tehsil Gopad Banas, District Sidhi, Madhya Pradesh. Presently Residing at in front of Kamla Girls College, Basant Vihar Road, District Rajnandgaon, Chhattisgarh.

---- Applicants

Versus

State of Chhattisgarh, Through : Sub-Divisional Officer (P), Police Station Siksod, Tehsil - Antagarh, District Kanker, Chhattisgarh

---- Respondent

Cr.R. No. 607 of 2020

1. Sushil Sharma, S/o. Late Ranjit Sharma, aged about 50 years, R/o. Shiv Shakti Vihar, Garha Road, District Meerut, Uttar Pradesh. Presently residing at R/o. Damar Plant, Bhanupratappur Road, Antagarh, District Uttar Bastar, Kanker, Chhattisgarh
2. Suresh Sharnagat, S/o. Bhag Chand Sharnagat, aged about 28 years, R/o. Village Pandewada, P.S. Lalbarra, Tehsil Warseoni, District Balaghat, Madhya Pradesh. Presently residing at Damar Plant, Bhanupratappur Road, Antagarh, District Uttar Bastar Kanker Chhattisgarh.
3. Rohit Nag, S/o. Sakha Ram, aged about 33 years, R/o. Hetadkasa, P. S. Koyalibeda, Tehsil -Antagarh, District Uttar Bastar Kanker, Chhattisgarh
4. Ajay Jain, S/o. Prakash Chand Jain, aged about 45 years, R/o. E-5, Riddhi Siddhi Colony, Phase-2, P. S. Basantpur, District Rajnandgaon Chhattisgarh.
5. Komal Prasad Verma, S/o. Kirtan Lal Verma, about 36 years, R/o. Village Tappa Telitola, P. S. Chhuriya, District Rajnandgaon Chhattisgarh.

---- Applicants

Versus

State of Chhattisgarh, Through : Sub Divisional Officer (P), Police Station Siksod, Tehsil- Antagarh, District Kanker, Chhattisgarh.

---- Respondent

Cr.R. No. 642 of 2020

Nishant Jain, S/o. Suresh Chand Jain, aged about 41 years, R/o. Shanti Nagar, Ring Road No. 2, District - Bilaspur, Chhattisgarh

---- Applicant

Versus

State of Chhattisgarh, Through : Sub Divisional Officer (P), Police Station - Siksod, Tehsil - Antagarh, District - Kanker, Chhattisgarh.

---- Respondent

Cr.R. No. 643 of 2020

Shilendra Singh Bhadauria, S/o. Rajendra Singh Bhadauria, aged about 33 years, R/o. House No. 30, Riddhi Siddhi Colony, Phase I, Kaurinbhatta, District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : Sub Divisional Officer (P), Police Station Siksod, Tehsil -Antagarh, District Kanker, Chhattisgarh

---- Respondent

CR.R. No. 679 of 2020

Arun Kumar Thakur, S/o. Shri Prashanna Kumar Thakur, aged about 45 years, R/o. Village Koilibeda, Police Station -Koilibeda, Civil and Revenue District Kanker Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : Station House Officer, Police Station Siksod, Civil and Revenue District Kanker, Chhattisgarh.

---- Respondent

For Petitioners	:	Mr. Siddharth Shukla, Advocate
(in Cr.R. Nos.582, 607 & 643 of 2020)		

For Petitioner	:	Mr. Goutam Khetrapal, Advocate
(In Cr.R. No.642 of 2020)		

For petitioner	:	Mr. Parasmani Shriwas, Advocate
(in Cr.R. No.679 of 2020)		

For State/Respondent	:	Mr. V.R. Tiwari, Addl. A.G.
----------------------	---	-----------------------------

Hon'ble Shri Justice Rajendra Chandra Singh Samant

CAV Order

06/01/2021

1. All the above criminal revisions are heard and decided together by this common order as they are arising out of the same crime number and incident.

2. Criminal Revision No. 582 of 2020, Cr.R. No. 607 of 2020, Cr. R. No.642 of 2020 and Cr.R. No. 643 of 2020 have been filed being aggrieved by the order dated 16.06.2020, passed by the Special Court under National Investigation Agency Act, Bastar at Jagdalpur, in connection with F.I.R. No.09/2020 registered in Police Station Siksod, District- Kanker for commission of offences under Section 10, 13, 17, 38(1)(a), 38 (2) & 40 of the Unlawful Activities (Prevention) Act, 1967 (in short the Act, 1967) and Sections 8 (2) (3) (5) Chhattisgarh Vishesh Jan Suraksha Adhiniyam and Section 120-B of I.P.C., whereby the learned Special Judge has allowed the application preferred by the prosecution under Section 43 (d) (2), (b) of the Act, 1967 and has extended the remand detention of the applicants/accused persons upto 180 days and also against the orders of rejection of application filed under Section 167 (2) of Cr.P.C. for grant of default bail to the applicants dated 10.07.2020, 27.07.2020, 31.08.2020 & 31.08.2020 respectively. Similarly, Criminal Revision No.679 of 2020 has been filed by one another accused person in connection with the aforesaid crime number against the order dated 31.08.2020, passed by Special Court under National Investigation Agency Act, Bastar at Jagdalpur, by which the application filed under Section 167(2) of Cr.P.C. for grant of bail has been rejected.
3. The applicants in all the cases have been arrested and placed in detention in connection with aforementioned crime. It was during the continuation of this detention, one application was filed by Police Station- Siksod under Section 43 D of the Act, 1967 praying for extension of time for filing charge-sheet and for continuation of the

judicial remand of the applicants up till 180 days. The learned Special Court has allowed the application by the impugned order.

4. Mr. Goutam Khetrapal, learned counsel appearing on behalf of the applicant in Cr.R. No. 642 of 2020 submits that on plain reading of the first proviso to Section 43 (D) (2) of the Act, 1967, it mentions that if it is not possible to complete the investigation within the said period of ninety days, the Court may, if it is satisfied with the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of accused beyond the said period of ninety days, extend the said period up to one hundred and eighty days. The provision emphasizes on the words 'specific reasons' and on the word 'satisfaction of the Court'.
5. It is further submitted that the 'specific reasons' and the 'satisfaction of the Court' both are missing in the impugned order. The application filed by the respondent simply speaks that the prayer is made for extension of judicial remand of the applicants as the last date of remand is 16.06.2020. The reasons given are these that the offences are cognizable, non-bailable and of serious nature. The recording of statement of witnesses is yet to be completed and search is being made for arrest of the other accused persons. Further, the reason has been given regarding the time to be consumed in other investigative procedures. On this basis, it was prayed that the period of judicial remand be extended till 180 days. It is also submitted that learned Special Court has not applied its mind and observed in the impugned order that the prayer made by the respondent is justified and then the impugned order has been passed mechanically granting extension of judicial remand up to 180 days.

6. It is further submitted that the impugned order has been passed for all the accused persons. Except one accused namely- Tapas Kumar Palit and none of the other accused persons had been nearing the completion of 90 days in custody. It is also submitted that in the first proviso to Section 43 (D) (2) of the Act, 1967, while mention of the word 'accused', does not mention it as a plural number. Therefore, there would be a requirement of filing separate applications for each accused, when they may be completing the period of 90 days in detention. It is a legal and technical fault on the part of the respondent. The impugned order has violated the right of default bail of the applicants, which may have accrued in their favor on completion of 90 days, in an arbitrary manner. It is again submitted that the accused persons were not heard and no opportunity was given to them to oppose this application, which was the duty of the prosecutor and it had been an extremely essential procedure to be followed before passing of the order of extension.
7. Reliance has been placed on the judgment of Supreme Court in ***Hitendra Vishnu Thakur & Ors. Vs. State of Maharashtra & Ors.***, reported in **(1994) 4 SCC 602**, judgment in ***Sanjay Kumar Kedia alias Sanjay Kedia Vs. Intelligence Officer, Narcotics Control Bureau and Another*** reported in **(2009) 17 SCC 631**. Judgment of High Court of Bombay in ***Shri Surendra Pundlik Gadling & Ors. Vs. The State of Maharashtra*** in ***Criminal Writ Petition No.4148 of 2018***, judgment of Supreme Court in case of ***The State of Maharashtra Vs. Surendra Pundlik Gadling & Ors.*** in ***Criminal Appeal No.264 of 2019***, ***Bikramjit Singh Vs. State of Punjab***, reported in **2020 SCC OnLine SC 824**, judgment of Supreme Court

in ***S. Kasi Vs. State Through the Inspector of Police Samaynallur Police Station Madurai District in Criminal Appeal No.452 of 2020***, in ***Bahadur Kora & Others Vs. State of Bihar*** reported in ***2015 (2) MWN (Cr.) 305 (FB) (Pat.)***, and the order of this Court in case of ***Varun Jain Vs. State of Chhattisgarh***, passed in ***M.Cr.C. (A.) No.545 of 2020 dated 29.06.2020***, and the order passed in ***Vineet Kumar Dixit Vs. State of U.P.*** in ***Bail No.8778 of 2018 dated 26.02.2019***. Reliance has also been placed on the judgment of Supreme Court in ***Mustaq Ahmed Mohammed Isak & Ors. Vs. State of Maharashtra*** reported in ***(2009) 7 Supreme Court Cases 480***, and the judgment passed by the Division Bench of High Court of Calcutta in ***Pradip Maity Vs. Union Of India*** reported in ***2010 SCC OnLine Cal 1503*** and the judgment of High Court of Orissa, Cuttack in case of ***Iswar Tiwari Vs. State of Odisha*** in ***BLAPL. No.10152 of 2019*** dated 20.08.2020.

8. It is further submitted that the principle has been laid down, that in the matter of extension of the time of judicial remand of accused, it is necessary that the accused must be heard and therefore, a proper notice and proper opportunity of hearing was required. It is also submitted that procedural fault has been committed in the impugned order for extension of time of the other accused person, whose judicial remand period was not anywhere near completing 90 days. In this case, the Court has acted as a post-office by passing the mechanical order in favor of the respondent and there are no mention of reasons to show, in what manner the Court was satisfied. Therefore, the impugned order is illegal which suffers from grave infirmity, which may be set aside.

9. Learned counsels for applicants in rest of the criminal revisions submit that the period of 90 days of detention of the applicants was not going to be completed on the date, when the impugned order was passed. The first proviso to Section 43(D)(2) of Act, 1967 has to be interpreted accordingly, that the prayer for extension of judicial remand period has to be made for each of the accused person separately. The filing of the application for extension of judicial remand period of these applicants was not at all necessary and relevant. The order passed by the Special Court is mechanical and arbitrary, which is not at all sustainable.
10. Learned State counsel appearing for the respondent submits that the allegations of commission of crime against these applicants is of very serious nature. The offences registered against the applicants are scheduled offences under National Investigation Agency Act, 2008, (hereinafter referred to as 'the Act, 2008') therefore, the provisions of the Act, 2008 shall prevail as the same have over-riding effect over the laws in other enactments. Section 21 of the Act, 2008 provides that an appeal shall lie from any judgment, sentence or order not being an interlocutory order of a Special Court to the High Court, which shall be heard by a Bench of two Judges of the High Court. These provisions under Section 21 of the Act, 2008 clearly excludes the other remedies which may be available under the Code of Criminal Procedure. Therefore, the present revision is not maintainable as the remedy availed is barred by the provision under Section 21 of the Act, 2008.
11. It is further submitted that on plain reading of the impugned order, it would appear that the learned Special Court has applied its mind and

expressed satisfaction with respect to the ground mentioned in the application. The grounds mentioned in the application are clear and specific and there was no requirement to make any further specification. The impugned order does mention that the copy of the application was supplied to the learned counsel appearing on behalf of the applicants. Only one counsel, who was remand advocate had opposed the application and rest of the counsels appearing for the other accused persons have not made any objection. Therefore, the opportunity of hearing to the accused persons was already given but the same was not at all availed by the applicants' side. It is also submitted that the first proviso to Section 43 (D)(2) of the Act, 1967 does not place any bar to make application for such accused persons, who have not completed 90 days in detention. Therefore, it would seem that the time for making prayer for extension of remand period for such accused persons who have not completed 90 days in judicial remand is not necessary.

12. Reliance has been placed on the judgment of Supreme Court in case of ***The State of Maharashtra Vs. Surendra Pundlik Gadling & Ors. (Supra)*** and also on the judgment of High Court of Chhattisgarh in ***Ayesha Bano And Ors. Vs. State of Chhattisgarh*** reported in ***2015 SCC OnLine Chh 1595*** and prayed that all the revision petitions be dismissed.
13. In reply, it is submitted by Mr. Khetrapal that the Section 6 (7) of the Act, 2008, empowers the officer-in-charge of the Police Station to continue with the investigation, till the agency takes up the investigation of the case. In the present case, the investigation has been completed by the State Police Department and it is after that

the National Investigation Agency has arrived on the scene. It is submitted that the anticipatory bail application of one Varun Jain has been decided by the Coordinate Bench of this Court, in which, the respondent has not made any objection on the ground of maintainability.

14. Placing reliance on the judgment passed by the High Court of Patna in ***Bhadur Kora (Supra)*** and in ***Vineet Kumar Dixit (Supra)***, it is submitted that such objections cannot be raised by the respondent side. It is further submitted that up till now, the National Investigation Agency has not taken up investigation in the case, therefore, the objection raised on the basis of the provision under Section 21 of the Act, 2008 shall not be applicable in this matter. It is prayed that the preliminary objection raised by the respondent side be dismissed and the revision petition of the applicant along with other applicants be allowed and also the impugned order be set aside.
15. I have heard the learned counsel for the parties and perused the documents placed on record.
16. First of all, the objection raised by the respondent regarding maintainability of the present criminal revisions is dealt with. The National Investigation Agency Act, 2008 was enacted in the year 2008 and came into force in the same year. Section 03 of the Act, 2008 provides for constitution of National Investigation Agency. Section 06 of the Act, 2008 provides for the investigation of scheduled offences which may be taken up by the National Investigation Agency, in which, the duty has been cast upon the State Police to send information regarding the commission of scheduled

offences to State Government and the same shall be forwarded to the Central Government and if the Central Government is of the opinion that the offence is a scheduled offence and it is a fit case to be investigated by the agency, it shall direct the agency to investigate said offence. After issuance of such direction by the Central Government, the investigation in such cases shall be taken up by the Agency.

17. Section 11 of the Act, 2008, provides that Central Government has power to constitute Special Courts and under Section 13 of the Act, 2008 the Special Court is empowered to try the cases of scheduled offences, which have been investigated by the Agency. Section 22 of the Act, 2008 empowers the State Government to constitute Special Courts and Special Courts so constituted shall have the power to try offences under any or all the enactments specified in the schedule.

18. Section 21 of the Act, 2008 is reproduced as under:-

“21. Appeals:- (1) Notwithstanding anything contained in the Code, an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of a Special Court to the High Court both on facts and on law.

(2) Every appeal under sub-section (1) shall be heard by a Bench of two Judges of the High Court and shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.

(3) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order including an interlocutory order of a Special Court.

(4) Notwithstanding anything contained in sub-section (3) of section 378 of the Code, an appeal shall

lie to the High Court against an order of the Special Court granting or refusing bail.

- (5) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment, sentence or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days:

Provided further that no appeal shall be entertained after the expiry of period of ninety days.”

19. The purpose of enactment of the Act, 2008 mentioned that an Act to constitute investigation agency at the National level to investigate and prosecute offences affecting the sovereignty, security and integrity of India. By the name of the Act itself and the purpose of the same, it would be seen that National Investigation Agency is center of focus in this Act, which means that when any case is considered fit to be investigated by the National Investigation Agency in that case, by the orders of the Central Government under Section 6 (4) of the Act, the same shall be investigated by the National Investigation Agency and it shall be obligation of the State Government to transfer the case to National Investigation Agency. On completion of investigation, it would be National Investigation Agency, which will file charge-sheet and prosecute the persons concerned before the Special Court constituted under Section 11 of the Act, 2008.
20. In the present case, the FIR No.9/2020 has been registered in Police Station – Siksod, District – Kanker. Whether any information has been forwarded by the State to the Central Government under Section 6 (2) of the Act, 2008 regarding that there is no mention in

the impugned order and similarly there is no information in this respect that Central Government has formed any opinion that the scheduled offences, which have been registered in this case are fit to be investigated by the National Investigation Agency and similarly no document has been filed by the respondent side in the present revision petition to show that the case has been handed over to the National Investigation Agency.

21. Section 10 of the Act, 2008 empowers the State Government to investigate the scheduled offences and also prosecute for the same. Hence, in presence of this provision, it is clearly made out that power of investigation of the State Government can be taken away only in case after the information received by the Central Government from the State Government, the Central Government takes a decision and forms an opinion that the scheduled offences registered is a fit case to be investigated by the agency and then pass orders in that respect. As there appears to be no orders passed by the Central Government in that respect to make investigation in the scheduled offences, therefore, the investigation that has been made in this case by the State agency i.e. concerned police station, is within its power and within its jurisdiction.
22. The State agency has continued with the investigation and has sought judicial remand of the applicants from the Special Court under the Act, 2008 and it is the Special Court under the Act, 2008, which has passed the impugned order dated 16.06.2020.
23. The Special Court under the Act, 2008 has been constituted by the Central Government in exercise of powers under Section 11 of the

Act, 2008. The jurisdiction of a Special Court is provided under Section 13 of the Act, 2008, which is as follows :-

“Section -13. – Jurisdiction of Special Courts. --(1)

Notwithstanding anything contained in the Code, every Scheduled Offence investigated by the Agency shall be tried only by the Special Court within whose local jurisdiction it was committed.

(2) If, having regard to the exigencies of the situation prevailing in a State if,—

(a) it is not possible to have a fair, impartial or speedy trial; or

(b) it is not feasible to have the trial without occasioning the breach of peace or grave risk to the safety of the accused, the witnesses, the Public Prosecutor or a judge of the Special Court or any of them; or

(c) it is not otherwise in the interests of justice, the Supreme Court may transfer any case pending before a Special Court to any other Special Court within that State or in any other State and the High Court may transfer any case pending before a Special Court situated in that State to any other Special Court within the State.

(3) The Supreme Court or the High Court, as the case may be, may act under this section either on the application of the Central Government or a party interested and any such application shall be made by motion, which shall, except when the applicant is the Attorney-General for India, be supported by an affidavit or affirmation.”

24. The State Government has also been empowered to constitute the Special Court under Section 22 of the Act, 2008, however, in the present case, the Special Court under N.I.A. Act at Jagdalpur has been constituted by the Central Government in exercise of power under Section 11 of the Act, 2008 vide notification dated 25.11.2019

S.O. 4260 (E).

25. The question at present before this Court is with respect to the maintainability of the present revision petition. The very opening word of Section 21 of the Act, 2008 are this that an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of a Special Court to the High Court both on facts and on law. Sub-section (4) is more clear, which says that notwithstanding anything contained in sub-section (3) of Section 378 of the Code, an appeal shall lie to the High Court against an order of the Special Court granting or refusing bail. The emphasis is on Special Court only.
26. Section 167 (2) of the Code of Criminal Procedure, provides that after completion of outer limit fixed for detention of any accused persons, in the cases concerned and the investigation has not been completed, then the accused persons shall be released on bail, if he is prepared to does furnishes bail. It has been further clarified that every person released on bail under Sub-section 2, shall be deemed to be released under the provisions of Chapter-23 of the Code of Criminal Procedure. Therefore, any order, which may be passed under Section 167 (2) of Cr.P.C. granting or refusing bail to an accused person shall be equivalent to the order which may be passed under Section 437 or 439 of Cr.P.C. and in that case, the provisions under Section 21 (4) of the Act, 2008 shall come into play.
27. Another question present before this Court is this that whether the Special Court under N.I.A. at Jagdalpur has acted in its jurisdiction conferred under Section 13 of the Act. Section 20 of the Act, 2008 provides that after taking cognizance of any offence, a Special Court

is of the opinion that the offence is not triable by it, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for trial of such offence to any Court having jurisdiction under the Code. On joint reading of the Section 13 and Section 20 of the Act, 2008, it would be seen that the jurisdiction of a Special Court starts from taking cognizance of any offence and not before that and after taking cognizance, the Special Court shall have powers under Section 13 of the Act to proceed with the trial or shall have power under Section 20 of the Act, 2008 to form an opinion with respect to the offence whether it is triable by that Court or not.

28. The judgment of High Court of Patna in case of ***Bahadur Korra (Supra)***, in which it has been held that special procedure under National Investigation Agency Act, 2008 would attract only when Central Government entrusted investigation to the N.I.A., it was also held that Special Court constituted by the State Government under Section 22 of the Act, 2008 would get all the jurisdiction, when the National Investigation Agency has transferred investigation to the State investigation agency. In the present case, the investigation has not been handed over to the National Investigation Agency. The principle laid down in the judgment does not give any guidance in this case.
29. It has been submitted by the counsel for the applicants that one of the co-accused namely Varun Jain has preferred an application for grant of anticipatory bail, which is registered as M.Cr.C.(A) No.545 of 2020 in that case, the State did not raise any objection on the maintainability of that application and that application has been decided by dismissing the same. The only thing that is made out is this that objection with respect to the maintainability was not raised

before the Coordinate Bench, but the same cannot become a precedent to be followed in other cases, if the law itself does not permit for the same, therefore, this argument is without any substance.

30. The Full Bench of Patna High Court observed in paragraph No.41 in ***Bahadur Korra's case (supra)*** that there had been no order for transferring the investigation under Section 6 of the Act and there being no Special Court constituted by the State under Section 22 of the Act, 2008, there was therefore, no occasion to transfer a case to the Court of Sessions under Section 22 of the Act. Therefore, the case can not be directly forwarded to the Court of Sessions. The case in hand is slightly different because there is a Special Court constituted by the Central Government, which has passed the impugned order.
31. In the present case, the charge-sheet has not been filed, therefore, the stage of taking cognizance has not arrived. Therefore, the Special Court, which exercises power under Section 167 (2) of Cr.P.C. can not be said to have exercised with power under Section 13 or Section 20 of the Act, 2008.
32. Section 21 of the Act, 2008 does not make any specification. The mention of word judgment, sentence or order are in general terms. As the provision of the Code of Criminal Procedure are applicable to any proceeding or trial under the Act, 2008, therefore, it would be natural that the Special Court shall have occasions to pass orders under the provisions of the Code of Criminal Procedure, whenever the Court is asked to exercise its powers under the Code of Criminal

Procedure. Hence, in this situation, the circumstance is this that the order refusing bail to the applicants in all the cases has been passed by the Special Court under the Act, 2008, which has been constituted by the Central Government.

33. Section 21 (1) of the Act, 2008 places emphasis on the words 'Special Court'. The Special Court, Jagdalpur whether has jurisdiction to try the cases or not, that decision can be taken by the Special Court only after filing of the charge-sheet, by exercising its power under Section 20 of the Act, 2008. Hence, at this stage, there is nothing to suggest or hold that the orders of the bail rejection that have been passed by the Special Court are without jurisdiction. In this condition, the orders passed by the Special Court dismissing the prayer under Section 167 (2) of the Cr.P.C. of the applicants are lawful orders refusing bail to the applicants and for the same remedy is available under Sub-section 4 of Section 21 of the Act, 2008. Hence, in such a case, appeal shall lie against such order before the High Court.
34. After drawing conclusions on the point of maintainability of the present criminal revisions, it is found that there is no requirement to consider on the other points raised by the applicants regarding legality of the impugned order dated 16.06.2020 and the orders refusing bail under 167 (2) of Cr.P.C. which is again a decision to be taken collectively by the appropriate Court.
35. In case of ***Hitendra Vishnu Thakur (supra)***, it has been observed by the Supreme Court that when right to default bail accrues in favour of the accused persons under Section 167 (2) or under the provisions of

any other enactment and in case no extension of time, which is permitted under special enactment for completion of investigation, is prayed for or that if such time prayed for is not allowed by the Court, then the prayer for default bail would be considered and decided by the Court. This principle laid down in ***Hitendra Vishnu Thakur (supra)*** has been re-examined by the Supreme Court in case of ***Sanjay Dutt Vs. State through C.B.I.*** reported in ***(1994) 5 SCC 410***. Hence, it seems that the consideration on the prayer for default bail by the applicants is connected with the prayer for extension of time for investigation in the case made by the respondent side. Hence, this issue has to be raised in the appeal, which is permitted under Section 21 of the Act, 2008. Therefore, any decision on this point by this Court would be inappropriate and it should be left to be decided by the Court exercising appellate jurisdiction under Section 21 of the Act, 2008.

36. On the basis of the discussions made herein above and conclusions drawn, I am of this view that all the revision petitions are not maintainable and are dismissed accordingly.

Sd/-
(Rajendra Chandra Singh Samant)
Judge