

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1212 of 2020**

- State Of Chhattisgarh Through The Police Station Mechka, District : Dhamtari, Chhattisgarh

---- Petitioner**Versus**

- Ajit Modiyam S/o Sannu Modiyam Aged About 34 Years R/o Village Padedha, Police Station Gangalur, District : Bijapur, Chhattisgarh

--- Respondent

For Appellant /State : Ms. Sameeksha Gupta, PL

D.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Vimla Singh Kapoor****Order on Board****Per Manindra Mohan Shrivastava****22.02.2021**

Heard.

1. There is prayer for grant of leave to appeal against the judgment of acquittal dated 14.11.2019 passed by the Court of learned Additional Sessions Judge, Dhamtari, District – Dhamtari (CG) in Sessions Trial No.28/2019, by which, the respondent/accused is acquitted of the charges of commission of Offences under Sections 3, 5 of the Explosive Substance Act.
2. Even if we are inclined to condone the delay, there is not merit in the application because the prosecution has miserably failed to prove seizure of explosive from the possession of the accused. While all the independent witnesses have not supported the case of the prosecution, the investigation officer PW-13 himself has deposed in his evidence that the explosive was found buried in the ground and with the help of sensor it was excavated in the presence of witnesses. What he has stated in the cross-examination

regarding the accused shows that the accused was not even arrested. Therefore, in the absence of there being any evidence of recovery of explosive from the possession of the accused, the trial Court was left with no option but to acquit the accused by giving the benefit of doubt. Therefore, in our considered opinion there is no scope of interference given that the limited scope of interference against the judgment of acquittal as settled in catena of decisions of Apex Court and this Court. Accordingly, application is rejected.

3. CRMP is accordingly closed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge