

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.7710 of 2020**

- Indrajeet S/o Rampati, Aged About 35 Years R/o Mahulaniya, Police Chowki - Dumariya, District Gaya (Bihar)., District : Gaya, Bihar

---- Applicant**Versus**

- State Of Chhattisgarh Through- Police Station - Chando, District Balrampur - Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

---- Respondent

For Applicant: Shri Amarnath Pandey, Advocate
 For Respondent/State: Shri Pawan Kesharwani, GA

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****21/01/2021**

Heard.

1. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.07/2011 registered at Police Station Chando, District Balrampur-Ramanujganj for the offence punishable under Section 148, 149, 307 of IPC and Section 25 & 27 of the Arms Act. The applicant was arrested on 21-01-2020.
2. Case of the prosecution is that when the police party was searching, a team of naxalites opened firing on the police party with an intention to cause death and in that firing about 1800 round of firing was opened. According to the prosecution and the charge sheet, the applicant was one of the assailants in the team of naxalites, who had opened firing on the police personnel.
3. Learned counsel for the applicants would argue that the applicant has been involved in the present case on the basis of FIR and the case diary statement of the witnesses, who have already been examined in the trial of the co-accused-Veer Sai and Munni Lal, but they have been disbelieved in those

cases and acquittal orders have been passed in the case of trial against Veer Sai and Munni Lal. Learned counsel for the applicant would submit that the FIR informant-Dilip Kumar and other prosecution witnesses, Vasudev Yadav-PW-5, Dayanand-PW-7, Belsagar Kujur, PW-13, Santram, PW-14, Jai Singh, PW-15 & S. R. Sahu, PW-17 all were examined in the earlier round of trial, but, except Jai Singh, PW-15, all other witnesses did not support the prosecution story and have gone to the extent by saying that they did not overhear any voice. Though, Jai Singh, PW-15 was one of the prosecution witness in the trial of the co-accused Munni Lal but his evidence with regard to involvement of the co-accused Munni Lal has been disbelieved. It is further argued that those very witnesses are going to be examined in the present case also, therefore, at this stage, trial having taken place in respect of the co-accused, the present applicant is entitled to grant of bail as he is in jail since 21-01-2020 and despite lapse of one year, the trial has not been concluded. He would also submit that as far as the present applicant is concerned, neither explosive nor any arms have been seized from his possession.

4. On the other hand, learned State counsel submits that the statement of witnesses recorded during the course of trial of other co-accused cannot be relied upon by the applicant to press his bail application and after his arrest, his trial is taking place and witnesses of the prosecution namely Dilip, Vasudev, Rameshwar Sanwara, Rupendra Kumar Verma, Belsagar Kujur, Santram and Jaisingh Dhruw, have clearly involved the present applicant in the alleged offence. It is submitted that the present incident is not an ordinary incident, but incident of naxalite attack on a police team and opening firing of about 1800 round. Therefore, prima facie case is made out against the applicant having intention to murder the police personnel.

5. As far as trial of other co-accused is concerned and the statement of prosecution witnesses recorded therein, the same can not be relied upon by the

applicant nor it can be used against him. All that can be said is that the allegations are serious in nature and the applicant is being tried for alleged commission of offence on the basis of his involvement. It would be wholly unfair for this Court to comment upon the quality of the evidence led during trial of other accused in support of alleged involvement of the present applicant. However, it is apparent that the incident is of the year 2011 and the applicant is said to have been arrested in the present case in the year 2020. Learned counsel for the applicant would disclose that in connection with other cases, the applicant was in jail from 20-03-2014 and his arrest has been shown in the present case only after he was acquitted from the charges in other cases, but effectively, he is in jail since 2014.

6. Taking into consideration the aforesaid aspects of the matter, particularly taking into consideration the nature and gravity of allegations and that if the applicant, at this stage, is granted bail, trial is likely to be delayed because most of the accused have remained absconding and the trial had taken place as when they were arrested, in the interest of justice, it would be proper to direct the trial Court to conclude the trial at the earliest.

7. In view of the above consideration, I am not inclined to grant bail to the applicant. The application is rejected. Considering that the applicant is shown to be arrested since last year, the trial Court is directed to do well to conclude the trial at the earliest without granting unnecessary adjournment to any of the parties and by ensuring presence of the witnesses by taking coercive steps, if they do not turn up.

Certified copy as per rules.

SD/-
(**Manindra Mohan Shrivastava**)
Judge