

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 968 of 2020**

- Ramesh Usendi S/o. Kondaram Usendi Aged About 32 Years R/o. Orchha, P.S. Orachha, District : Narayanpur, Chhattisgarh

---- Appellant**Versus**

- State Of Chhattisgarh Through The Police Station Barsur, District South Bastar Dantewada, District : Dantewada, Chhattisgarh

--- Respondent

For Appellant	:	Mr. Pravin Kumar Tulsyan, Advocate.
For State	:	Ms. Fouzia Mirza, Additional A.G.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Vimla Singh Kapoor****Order On Board****16/03/2021**

Heard.

1. This is appeal under Section 21 of the NIA Act, 2008 preferred against order dated 26.08.2020 passed by the Special Judge, N.I.A. Act, Bastar, District-Jagdalpur, (C.G.), by which appellant's application for grant of bail has been rejected.
2. The appellant has been arrested on 13.06.2020 under Crime No.14/2020 registered at Police Station- Barsur, District : Dantewada, (C.G.) on the allegation of having committed offence under Section 8(2) (3) (5) of C.G. Vishesh Jan Surksha Adhiniyam, 2005 and Section 13 (1) of Vidhi Virudh Kriya Kalap Nivaran Adhiniyam.
3. The police registered an offence against the present appellant on the allegation that the appellant purchased the tractor which was on the instruction of co-accused Jagat Pujari who is said to be associated with the naxalite commander Ajay Alami. According to the prosecution, the appellant was used for the purpose of purchasing tractor which was to be used in naxalite activity

in future and for that purpose, it was being supplied in the hands of Ajay Alami which was in the course of being handed over to co-accused Ajay.

4. Learned trial Court rejected the application for grant of bail giving rise to this appeal.
5. Learned counsel for the appellant would argue that the appellant has been falsely implicated in the case. He would submit that the allegation of purchase of tractor for being used in naxalite activity by other co-accused is an afterthought because in the present case, the tractor was purchased by the appellant from the funds collected by the villagers of gram panchayat- Orchha in respect of which, on 20.03.2020, a resolution was passed, money was collected which was handed over to the appellant and then tractor was purchased. He would further submit that the appellant was not found in company of other co-accused in the course of commission of any crime punishable either under Chapter IV or VI of UAPA Act. The allegation of assisting against the appellant which has been made a basis for involving him in the alleged commission of offence is not punishable for imprisonment of life but commission of offence under Section 13 (2) (ii), for which maximum sentence provided is 5 years as far as for the commission of offences under Vishesh Jan Suraksha Adhiniyam 2005 is concerned, those offences are not punishable for life or even 10 years, therefore, in these circumstances, when investigation is complete, charge sheet has been filed and the appellant is in jail, he may be granted bail.
6. On the other hand, learned State Counsel opposes and submits that the appellant's involvement in the matter of assisting naxalite is *prima facie* made out because the documents of sale and purchase of tractor in the name of appellant were seized from the possession of co-accused Jagat Pujari. The transcript of telephonic conversation between Jagat Pujari with other accused Ajay involves the name of the appellant that the tractor is to be purchased through the present appellant. The resolution of gram panchayat which has been filed before the Court are matters of defence. It is further submitted that if the appellant is granted bail at this stage, he is likely to abscond which will hamper trial.
7. Taking into consideration the submissions of learned counsel for the parties, it

appears that the involvement of the appellant in the matter of allegation of assisting of naxalite is based on purchase of tractor by the appellant while according to the appellant, tractor was purchased from the funds collected by the villagers, for which purpose, he has placed on record certain resolution passed by the gram panchayat, according to the prosecution, the purchase was with intend to assist the naxalite activities. The allegation of appellant providing assistance by purchasing tractor and tractor for being sent to naxalites *prima facie* amounts to allegation of assisting punishable under Section 13 (2) of UAPA Act, 1967 which is punishable with maximum sentence of 5 years. The offence punishable under Section 8 (2), (3), (5) of C.G. Vishesh Jan Surksha Adhiniyam, 2005 are also not punishable with rigorous imprisonment with life imprisonment and therefore, taking into consideration the entire material disclosed in the records of the prosecution and that the appellant is not involved in any other naxalite activities or any record of registration of previous case and further that the offence alleged under Section 13 is not included as one of the offence either in Chapter IV or VI of the UAPA Act, at this stage, we are inclined to grant bail to the appellant. Accordingly, the appeal is allowed. The order of the Court below is set aside.

8. The appellant shall be released on bail on his furnishing a personal bond of Rs.25,000/- along with two local sureties of the like amount to the satisfaction of the Trial Court, for his appearance before the concerned trial Court on each and every date as may be directed, unless exempted from appearance.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge