

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 1899 of 2019

- Sodhi Manga S/o. Sodhi Kesha Aged About 25 Years Caste Muriya, R/o. Tekal Para Police Station Chintagufa, District Sukma Chhattisgarh. **---- Appellant**

Versus

- State Of Chhattisgarh Through- Police Station Chintagufa, District- Sukma, State – Chhattisgarh. **---- Respondent**

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- Mr. Vikas A. Shrivastava, counsel for the appellant.
 - Mr. Lalit Jhangdhe, Dy. GA for the State/respondent.
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D.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

Per Manindra Mohan Shrivastava, J.

15.03.2021

This appeal is directed against order dated 29.08.2019 passed by Special Judge NIA Act, Jagdalpur, CG, by which appellant application for grant of bail under Section 439 Cr.P.C. has been rejected.

2. Learned counsel for the appellant would mainly emphasis upon delay in trial by submitting that the appellant has been arrested on the allegation of having committed offences under Sections 147, 148, 149, 307 and 120B of IPC and Sections 25 and 27 of Arms Act and Sections 38 and 39 of Unlawful Activity (Prevention) Act, since 04.02.2016 but till date trial has not been concluded and in this manner five years have elapsed. He would submit that only on the ground that the offences are serious in nature, the appellant could not be kept in detention for long period without conclusion of trial as it adversely affects appellant's right of expeditious trial guaranteed under Article 21 of the Constitution of India. He would next submit that the

report was called by this Court but there is nothing in the report to reflect that the delay in trial is attributable to the present appellant.

3. On the other hand, learned State counsel would submit that a *prima facie* case is made out against the appellant sufficient to form an opinion that the allegations are true and as the appellant is charged with commission of offences, in view of provision contained in Section 43-D in the Unlawful Activities (Prevention) Act 1967, the appellant is not entitled to grant bail only on the ground of delay of trial. He would also submit that as per the report of the trial Court the trial is going on and as per the trial program, in the month of April, witnesses are to be examined.

4. Having considered submission, learned counsel for the parties, particularly taking into consideration that the prosecution allegation that after cross firing between the naxalite and the police the appellant is alleged to have been found injured at the spot along with a gun, in view of provision contained Section 43-D in the Unlawful Activities (Prevention) Act 1967, bail cannot be granted though there is delay in trial. But at the same time considering that the appellant is in jail for a long time, it would be just and proper to direct with trial Court to conclude the trial within outer limit of four months. The presence of witness shall be insured by coercive process of warrant etc.

In case the trial is not concluded within four months as stipulated, the appellant may revive his application for grant of bail only on the ground of delay.

Sd/-

**(Manindra Mohan Shrivastava)
Judge**

Sd/-

**(Vimla Singh Kapoor)
Judge**