

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2314 of 2016

- Shiv Prasad @ Mahadeva Kashyap S/o Tirithram Kashyap Aged About 52 Years R/o Village - Kaitha Police Station - Hasaud, Civil & Revenue District - Janjgir - Champa Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through : The Station House Officer, Police Station - Hasaud, Civil & Revenue District - Janjgir - Champa Chhattisgarh

---- Respondent

For Applicant : Mr. Parasmani Shrivastava, Advocate

For Respondent : Mr. Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

20.06.2016

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.21/2016, registered at Police Station Hasaud, District – Janjgir-Champa (C.G.) for the offence punishable under Section 20(A) of the N.D.P.S. Act.
2. As per the case of prosecution on 07.02.2016 on being raid conducted by the police from the *badi* of the applicant 11 cannabis plants were recovered, thereby the offence has been committed by the applicant.
3. Learned counsel for the applicant would submit that the *badi* was in open place and it does not belong to the applicant, therefore no offence is made out against the applicant. He further submits that the place where from the cannabis plants were recovered is just adjacent to the river and the Government land, therefore, the applicant has been falsely implicated in the crime in question.

4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the case diary and the documents.
6. Perusal of the case diary shows that the land where from the cannabis plants were recovered is the Government land which is adjacent to river. It is alleged that the applicant has encroached upon such land and has planted cannabis plants. Perusal of the case diary further shows that the land is not in the name of the applicant, therefore, the said facts are still to be established about the absolute possession of the land by the applicant.
7. Considering the fact that only 11 cannabis plants were recovered from the Government land which is adjacent to the bank of river and further taking into consideration of the fact that the applicant is in jail since 07.02.2016, I am inclined to release the applicant on bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
9. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(Goutam Bhaduri)
Judge