

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1092 of 2016

1. Kamal Jangde S/o Prem Lal Aged About 22 Years R/o Bhejaridih, Police Station Kharora, District Raipur, Chhattisgarh.
2. Shankar Gendre S/o Malikram Gendre Aged About 24 Years R/o Amera, Police Station and Tahsil Palari, Civil & Revenue District Baloda Bazar Bhatapara, Chhattisgarh. - **Petitioners**

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Rajadevri, District Baloda Bazar Bhatapara, Chhattisgarh. --- **Respondent**

For the applicant	:	Mr. Y.C. Sharma, Advocate
For the Respondent	:	Mr. Anil S. Pandey, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

23.02.2016

1. This is second application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicants in connection with Crime No. 51/2015 registered at P.S. Rajadevri (C.G) for the offence punishable under Section 20(B) of the Narcotic Drugs and Psychotropic Substances Act.
2. As per the prosecution, the applicants were found to be in possession of 5 Kgs., of Ganja which they were carrying on a motorcycle.
3. Learned counsel for the applicant submits that earlier bail application was dismissed by order dated 14.12.2015 wherein it was observed that the matter was still under investigation and now the charge sheet has been filed and after filing of the charge sheet, it is apparent that there has been clear breach of Section 50 of the NDPS Act as no notice

was given to the applicants before the search and the consent was also not obtained, therefore, they may be enlarged on bail.

4. Per contra, learned State Counsel opposes the bail application.
5. Perused the case diary and the charge sheet. The seizure memo is also filed along-with charge sheet wherein it is stated that the cannabis was kept in a bag which was being carried by Applicant Kamal Jangde who was pillion rider whereas Applicant No.2 Shankar Gendre was driving the motorcycle.
6. Since it is specifically stated in seizure memo that the seizure was made from Kamal Jangde who was carrying bag, the bail application of applicant No.1 Kamal Jangde is rejected. So far as it relates to applicant No.2, it is stated that he was driving the motorcycle. Therefore I am inclined to enlarge applicant No.2 Shankar Gendre on bail.
7. Accordingly, the bail application of applicant No.2 Shankar Gendre is allowed and he is directed to be released on bail on his executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court. He shall also appear before the trial Court as and when directed by the said Court.
8. C.c. as per rules.

Sd/-
GOUTAM BHADURI
JUDGE