

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 7067 of 2016

1. Jafar Ali @ Jabo, S/o. Sheru Ali, aged about 19 years, R/o. Irani Dera, City Station Near Kuwa, Pandri, Raipur, District – Raipur (C.G.)

----Applicant

Versus

1. State of Chhattisgarh, through: the Police Station – Civil Lines, District – Raipur (C.G.)

---- Respondent

For Applicant : Dr. Shailesh Ahuja, Advocate

For Respondent/State : Mr. Vivek Singhal, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri
Order On Board

16/11/2016

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.221/2016, registered at Police Station – Civil Line, Raipur, District – Raipur (C.G.) for the offence punishable under Section 20(b) of Narcotic Drugs and Psychotropic Substances Act, 1985. The first bail application was dismissed on merits vide order dated 16.08.2016 in M.Cr.C. No.4547/2016.
2. Case of the prosecution, in brief, is that on secrete information received on 14.04.2016 that the applicant along with other co-accused are selling contraband in the Station, the applicant was intercepted and from their possession 5 kg 600 gram cannabis was recovered.

3. Learned counsel for the applicant would submit that in the criminal jurisprudence Section 42 to 55 of Narcotic Drugs and Psychotropic Substances Act, the procedure has to be followed and the independent witnesses have not supported the case of the prosecution and only on the basis of the statement of Investigating Officer, the applicant can not be convicted. Therefore, the counsel prays that the applicant may be enlarged on bail.
4. On the other hand, learned counsel for the State opposes the bail application.
5. I have heard learned counsel appearing for the parties.
6. Earlier the bail application was dismissed on 16.08.2016 in M.Cr.C. No.4547/2016. Admittedly, the Investigating Officer has not been examined. In case of Narcotics, the Investigating Officer has a positive role to play. After the examination of the Investigating Officer, the trial Court would be at liberty to evaluate his statement and this Court can not take up the trial by usurping the power of trial while deciding the bail application. Taking into such fact I do not find any change of circumstance to reconsider the bail again. Therefore, I am not inclined to release the applicant on bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge