

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2996 of 2017

- Sundarlal Singh, S/o Pandu Singh, aged about 60 years, R/o Village Malakdol, Police Station Janakpur, Tahsil Bharatpur, District Korea (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, Through - Station House Officer, Police of Police Station Janakpur, District – Korea (C.G.)

---- Non-Applicant

For Applicant	: Shri Anil Gulati, Advocate
For Respondent/State	: Shri Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order on Board

06-06-2017

1. Heard the matter finally.
2. The applicant has preferred this application for grant of bail as he was arrested on 09-02-2017 in connection with Crime No.21/2017 registered in Police Station – Janakpur, District – Korea (C.G.) for offence punishable under Section 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substance Act, 1985.
3. Learned counsel for the applicant would submit that after investigation police had filed charge sheet against the applicant which is pending before the Special Judge under the Narcotic Drugs and Psychotropic Substance Act, 1985 (for gravity 'the NDPS Act, 1985'), Baikunthpur, District Korea (C.G.) as Criminal Case No. 06/2017. There is no criminal antecedent of the applicant prior to the incident and as per allegation from the possession of the application 1 kg. 100 gms. *ganja* has been seized, which is just 100 gms above than the small quantity. Would it have been under 1000 gms, the matter was triable by the Judicial Magistrate First Class and the punishment clause have been

smaller as there is no criminal antecedent. Applicant is in jail for about 4 months. He will not commit any offence in future. He may be remained in bail during the trial.

4. Per contra, learned counsel for the State/respondent opposed the argument advanced on behalf of the applicant and would submit that as the quantity of *ganja* is higher than the small quantity and lesser than commercial quantity, the matter goes under the category of Section 20(b)(ii)(B) of the NDPS Act, 1985. Hence, the MCRC may be dismissed.
5. Perused the entire matter.
6. As the applicant is in jail for about 4 months, just 3 days short, first offender and the quantity of *ganja* so seized is only 100 gms above than the small quantity, there is no other criminal antecedent, trial may take some time, applicant is aged about 60 years and is permanent resident of District Korea, I am inclined to grant one opportunity to the applicant so that he shall not involve in any of the similar offence in future. Consequently, instant MCRC is allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- (Rs. Fifty Thousand) with two solvent sureties of Rs. 25,000/- each to the satisfaction of the Special Judge under the NDPS Act, 1985, Korea (Baikunthpur) (C.G.) for his appearance before the said trial Court as and when directed till trial.
7. It is made clear that this order granting bail to the applicant shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicant suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicant does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature; and (iv) the trial Court finds that the

applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

8. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Vacation Judge

Chandra