

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4401 of 2017

- Shailendra Baghmare S/o Arun Kumar Baghmare, Aged About 28 Years R/o Purani Basti, Lakhe Nagar, Ward No. 65 Raipur, Police Station Purani Basti, Raipur, District Raipur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Bemetara, District Bemetara, Chhattisgarh.

---- Non-applicant

For Applicant – Shri P.P.Sahu, Advocate.

For Non-applicant/State – Shri Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

09-08-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.368/2017 on 17-06-2017 by P.S. Bemetara, District Bemetara, C.G. for the offence under Section 20(b)(ii)(A) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act'). Charge sheet has not yet been filed; the applicant is remanded by the CJM Bemetara, Distt. Bemetara, C.G. Learned counsel for the applicant would further submit that the applicant is first offender. He will not commit any offence in future. As per the allegation, 1 kg. ganja which is termed as small quantity, i.e., 1000 gram only has been recovered from the applicant. The matter is triable by Judicial Magistrate First Class. As per the allegation, the applicant was carrying the said ganja in a activa scooter. Police had also seized the said two-wheeler along with the ganja recovered from the dickey of the said scooter. The applicant may be granted bail during the trial.
3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant and would submit that the way the applicant was carrying 1 kg. of ganja in a hidden condition goes to show

that the intention of the applicant was either to use it illegally or sale it for gain. Hence, the instant MCRC may be dismissed.

4. Perused the entire material.

5. As the applicant is in custody since 1 month and 22 days till date, charge sheet has not yet been filed, the matter is triable by Judicial Magistrate First Class, the applicant is first offender, no any previous conduct shown in the case diary, the ganja recovered is of small quantity, looking to the entire facts, I am inclined to grant one opportunity to the applicant so that he shall not involve himself in any offence and shall live peacefully in society. Consequently, the instant MCRC is hereby allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.30,000/- with one solvent surety of the like sum to the satisfaction of the Chief Judicial Magistrate Bemetara /Trial Judge for his appearance before the said Court as and when directed till trial.

6. 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.

7. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge