

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1321 of 2017

- (Sheikh Ibrahim) Sheikh Iktiyaz @ Ibrahim S/o Sheikh Gaffar, Aged About 50 Years R/o Mahal, Badka Chowk, Thana City Kotwali, Nagpur, District Nagpur Maharashtra

---- **Petitioner**

Versus

- State of Chhattisgarh Through The Police Station Dondilohara, District Balod Chhattisgarh

---- **Respondent**

For Applicant : Mr. Deepak Jain, Advocate

For Respondent/State : Mr. Ashok Swarnakar, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

16-03-2017

1. This is second bail application filed under Section 439 of the Cr.P.C., for grant of regular bail to the applicant who has been arrested on 1-6-2016 in connection with Crime No. 129 of 2016 registered at Police Station Dondilohara, District Balod (CG) for the offence punishable under Section 20 (B) & (2-C) of Narcotic Drugs and Psychotropic Substances Act, 1985. Earlier first bail application was dismissed on merits on 10-1-2017.
2. As per prosecution case, on information being received that the vehicle Metador bearing registration No. UP-14-AT 9579 was carrying cannabis, the said vehicle was intercepted. Initially no cannabis were found in the vehicle. However, subsequently on search, from the floor of the Metator 562.645 kgs of cannabis were found. During investigation it was revealed that vehicle belonged to Naseer Ahmad Siddiqui which was given on rent to Harshit Dhali. The said vehicle was driven by Santuram and Devendra was conductor and they fled away during search. The rent transaction of the vehicle took place between

Naseer Ahmad Siddiqui and Harshit Dhali. It was further revealed that the applicant is one of the recipient, who was also involved in the offence and thereby the aforesaid offence was committed.

3. Learned counsel appearing for the applicant would submit that seizure witnesses namely Jiteswar Singh, Preetam Giri, Badrinarayan Soni, and Karamat Hussai have been examined in this case and they have not supported the case of prosecution. He would further submit that the applicant is in jail since 1-6-2016 and no further investigation is necessary, therefore, he may be released on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail application
5. I have heard learned counsel for the parties, perused the case diary and documents.
6. On a query being made whether the Investigating Officer has been examined, it is submitted by the State counsel that the Investigating Officer is still to be examined in this case.
7. Taking into consideration all the facts and circumstances of the case, considering the fact that the Investigating Officer is still to be examined and considering the fact that the case which is under NDPS Act, I do not find any reason to adjudicate the matter for consideration of bail by evaluating the statements of seizure witnesses as it would amount to usurping the power of the trial Court. In view of this, I am not inclined to allow the instant bail application.
8. Accordingly, the application filed under Section 439 of the Cr.P.C., is liable to be and is hereby dismissed. Sd/-

(Goutam Bhaduri)
Judge

