

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1617 of 2017

- Kishore Kumar S/o Dharmdutt Dubey, Aged About 41 Years R/o Village- Jampara (Korar), Police Station- Bhanupratappur, District- North Bastar- Kanker, Chhattisgarh. --- **Applicant**

Versus

- State of Chhattisgarh through Station House Officer, Police Station - Doundi, District- Balod, Chhattisgarh. --- **Respondent**

For the applicant	:	Mr. B.P. Singh, Advocate
For the Respondent	:	Miss K. Tripti Rao, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

23.03.2017

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No.128/2016 registered at Police Station Doundi, Distt. Balod (C.G) for the offence punishable under Section 20(B) of the Narcotic Drugs and Psychotropic Substances Act.
2. As per the prosecution case, on 22.10.2016 while the applicant was coming on the way near village Chiro he was apprehended and from his possession 3.958 Kgs., of Ganja was recovered from him.
3. Learned counsel for the applicant submits that this is second bail application and the first bail application was dismissed as withdrawn on 13.2.2017 with liberty to file afresh after examination of the seizure witnesses. He further submits that now the seizure witnesses namely Yashwant Kumar Gautram and Laxminarayan Yadav have been examined and

they have not supported the case of prosecution. He also submits that in the present case, the investigation was conducted by the same officer who registered the crime which is fatal to the prosecution in view of the case law reported in *(2010) 15 SCC 369 State Vs. Rajangam*.

4. Per contra, learned State Counsel opposes the bail. However, he is not able to dispute the fact that both the seizure witnesses have denied the case of prosecution.
5. Perused the case diary documents as also the statements of seizure witnesses.
6. Considering the facts and circumstances of the case especially the fact that the seizure witnesses have not supported the case of prosecution and looking to the quantity of Ganja i.e., 3.958 Kgs., as also the fact that the charge sheet has been filed and the applicant is in jail since 22.10.2016, I am inclined to release the applicant on bail.
7. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on 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 for his appearance before the said Court as and when directed.

C.c. as per rules.

Sd/-
GOUTAM BHADURI
JUDGE