NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 1993 of 2017

Vishnu Prasad Sahu, S/o. Ram Kumar Sahu, aged about 34 years, Caste -Teli, R/o. Katondi, Police Station – Shahpura, District – Dindori (M.P.).

----Applicant

Versus

State of Chhattisgarh, Through : the Station House Officer, Police Station – Kanker, District – Kanker (C.G.)

---- Respondent

For Applicant : Mr. Mrigendra Singh, Sr. Advocate with
Mr. Sumit Singh, Advocate

For Respondent/State : Mr. Ramakant Pandey, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

03/04/2017

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.279/2016, registered at Police Station – Kanker, District – Kanker (C.G.) for the offence punishable under Section 20-B of N.D.P.S. Act. The first bail application was dismissed as withdrawn vide order dated 17.11.2016 in M.Cr.C. No.7089/2016.

2. Case of the prosecution in brief is that on 12.08.2016 on secrete information received that few persons are carrying contraband Cannabis in the car, the car bearing No. M.P.-20-CC-4708 was intercepted and in the car, the applicant along others were found and from them six packets of Cannabis were recovered which is of 13 kg. Thereby the offence has been committed.

3. Learned counsel for the applicant would submit that two seizure witnesses namely Niranjan Thakur and Tulsiram Nag have been examined and they have not supported the case of the prosecution. It is further submitted that according to the FIR, though it is alleged that from six packets 13 kg. Cannabis were recovered but sample was only taken from one packet and thereafter, it was mixed with the other, therefore, it can not be stated that all the other packets were containing Cannabis and it may contain plain Tobacco also. The counsel further submits that the applicant has been falsely implicated in this case and therefore, 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 the learned counsel for the parties.

6. Perused the case diary and the documents. Perusal of the documents shows that 13 kg. Cannabis was recovered. Though seizure witnesses in this case have not supported the case of the prosecution but this fact can not be ignored that Investigating Officer is still to be examined and in case of N.D.P.S. the statement of Investigating Officer is also of relevance. Perusal of the seizure document also shows that separate samples were taken out of 50 grams each and rest of the Cannabis were sealed. Taking into such fact and the fact that earlier bail application was dismissed as withdrawn, I do not find any change of circumstances to reconsider the bail application again.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Balram