

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 2391 of 2017

Ramnath Patel, S/o. Kunj Bihari Patel, Aged About 24 Years, R/o. Pisid,
Police Station -Kasdol, District -Baloda Bazar, Chhattisgarh.

----Applicant

Versus

State Of Chhattisgarh, Through Excise Circle Dharsiwa, District Raipur,
Chhattisgarh.

---- Respondent

For Applicant : Mr. Suresh Tandon, Advocate

For Respondent/State : Mr. Vivek Singhal, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

26/04/2017

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.283/2015, registered at Police Station – Excise Circle Dharsiwa, District – Raipur for the offence punishable under Section 20(B) of the N.D.P.S. Act. The first bail application was dismissed on 20.09.2016 in M.Cr.C. No.5622/2016.
2. As per the prosecution case, on 08.10.2015 on information being received that the applicant was carrying cannabis from Orissa to Raipur, a raid was made in which the applicant was found in possession of the cannabis weighing about 10 kg and 34 grams and the same was recovered from him.
3. Learned counsel for the applicant would submit that the seizure witnesses and other witnesses have been examined and they have not supported the case of the prosecution, therefore, the applicant may be

enlarged on bail.

4. Per contra, learned State counsel opposes the same and would submit that the Investigating Officer is still to be examined in this case, therefore, the applicant may not be enlarged on bail.
5. Considering the fact that Investigating Officer has not been examined and in the case of N.D.P.S., the statement of the Investigating Officer would be relevant. Therefore, it would not be proper for this Court to adjudicate this bail application on merits by appreciating the statement of witnesses as it will amount to usurp the power of trial. Taking into such fact, I am not inclined to release the applicant on bail.
6. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Balram