

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2821 of 2017

1. Dinesh Tandan, S/o. Ramdayal Tandan, Aged About 34 Years.
 2. Kaushal Singh Tandan, S/o. Rameshwari Tandan, Aged About 28 Years.
- Both R/o. Village Bhoring, Police Station Tumgaon, Tahsil & District Mahasamund, Chhattisgarh

---- Applicants

Versus

State Of Chhattisgarh, Through S.H.O., Police Station Komakhan,
District Mahasamund, Chhattisgarh.

---- Respondent

For Applicant : Mr. Ashutosh Trivedi, Advocate

For Respondent : Mr. Anupam Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

05.05.2017

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants who have been arrested in connection with Crime No.109/2016 registered at Police Station- Komakhan, District Mahasamund (C.G.) for the offence punishable under Section 20(B) of N.D.P.S. Act. The first bail application was dismissed as withdrawn on 16.03.2017 with liberty to repeat the same after examination of the seizure witnesses.
2. As per the prosecution case, on 16.12.2016, the applicants along-with other co-accused were transporting the Cannabis in the vehicle bearing No.C.G.04 HB 2250. Thereby, the offence has been committed.
3. Learned counsel for the applicant would submit that the applicants have been falsely implicated and this is the second bail

application, the first bail application was dismissed as withdrawn on 16.03.2017 with liberty to repeat the same after examination of the seizure witnesses and now the seizure witnesses Virendra Kumar Netam (PW-1) and Sukhdev Kumar Yadav (PW-2) have been examined and they have not supported the case of the prosecution; therefore, the applicants may be released on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the statement of the seizure witnesses. At this stage, it would not be proper for this Court to evaluate the same and it cannot be stated that the witnesses have turned hostile. It is to be adjudicated at the time of hearing after examination of the other witnesses and specially the I.O. who is the important witness of the case like nature of N.D.P.S. Evaluating the evidence at this stage will amount to usurp the power of the trial Court while hearing the bail application. Considering the same, I am not inclined to entertain this second bail application.
6. Accordingly, the second bail application filed under Section 439 of Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge