

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 3461 of 2017

Murari Lal Choubey, S/o. Tirath Raj Choubey, Aged About 26 Years, R/o. Village -Gangapur, Near Dhanouli, Police Station -Lundra Ambikapur, District -Surguja, Chhattisgarh.

----Applicant

Versus

State Of Chhattisgarh, Through The Station House Officer, Police Station Lundra, District Surguja, Chhattisgarh.

---- Respondent

For Applicant	: Mr. V.K. Pandey, Advocate
For Respondent/State	: Mr. Samir Behar, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

11/05/2017

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.77/2016, registered at Police Station – Lundra, District – Surguja (C.G.) for the offence punishable under Section 22 of Narcotic Drugs and Psychotropic Substances Act. The first bail application was dismissed as withdrawn with liberty to repeat the same after examination of the seizure witnesses vide order dated 02.01.2017 in M.Cr.C. No.8336/2016.
2. As per prosecution case on 17.07.2016, the applicant when was intercepted in his motor cycle from his possession 11.250 gram of brown sugar was seized. Thereby the offence has been committed.
3. Learned counsel for the applicant would submit that this is second bail application. The first bail application was dismissed as withdrawn with

liberty to repeat the same after examination of the seizure witnesses and now the seizure witnesses have been examined and they have not supported the case of the prosecution. It is further submitted that the applicant is in jail since 07.07.2016, 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. Considering the nature of allegation levelled against the applicant, in the case of NDPS it would not be proper for this Court to adjudicate the case and give the finding on the basis of the statement of the seizure witnesses. Since the Investigation Officer has not been examined in this case till date and the case being that of Narcotics, the statement of Investigating Officer would be relevant. Taking into such fact, I am not inclined to release the applicant on bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge