

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 4147 of 2017**

Prakash Dev Pandey, S/o. Madan Pandey, Aged About 40 Years, R/o. Anand Nagar, Baliya, Uttar Pradesh.

**---- Applicant**

**Versus**

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

**---- Respondent**

-----  
For Applicant : Smt. Indira Tripathi, Advocate

For Respondent : Shri Suryakant Mishra, Panel Lawyer  
-----

**Hon'ble Shri Justice Goutam Bhaduri**

**Order On Board**

**02.08.2017**

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.604/2017 registered at Police Station- Ambikapur, Distt. Surguja (C.G.) for the offence punishable under Section 20(C) 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 The first bail application was dismissed as withdrawn on 16.03.2017 with liberty to repeat the same after examination of the seizure witnesses.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 a raid being conducted on 07.12.2016 from the possession of the present applicant and other co-accused, total 27.400 Kg of Cannabis were recovered.
3. Learned counsel for the applicant would submit that this is the second bail application, the first bail application was dismissed as withdrawn on 16.03.2017 with liberty to repeat the same after examination of the seizure witnesses and now the seizure witnesses have been examined and they have not supported the

case of the prosecution; therefore, the applicant may be released on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail and he would submit that the important witness I.O. is still to be examined in this case.
5. Perused the case diary and the documents. Considering the fact that total 27.400 Kg Cannabis were recovered, the statement of I.O. is necessary, therefore, at this stage, it is not proper for this Court to evaluate the statement of the other witnesses and give a finding while hearing the bail application, as it would amount to usurp the power of the trial Court. Considering the same, I am not inclined to entertain the instant second bail application.
6. Accordingly, the second bail application is dismissed.

Sd/-  
**(Goutam Bhaduri)**  
Judge