

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5653 of 2017

Rakesh Agrawal S/o Shyam Lal Agrawal Aged About 35 Years
R/o Bakhatawar Chowk, Gali No. 3, Rajnandgaon, Tahsil &
District Rajnandgaon Chhattisgarh. --- **Applicant**

Versus

State of Chhattisgarh Through The District Magistrate Durg District
Durg Chhattisgarh. --- **Respondent**

For the applicant	:	Mr. Amiyakant Tiwari, Advocate.
For the State	:	Mr. S.R.J. Jaiswal, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

ORAL ORDER

26.09.2017

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No.526/2016 registered at P.S. Purani Bhilai, District Durg (C.G) for the offence punishable under Sections 20 (B) and 27 (A) of the Narcotic Drugs and Psychotropic Substances Act.
2. As per the prosecution case, on 08.12.2016 certain information was received by the police about the illegal possession of contraband Ganja. On this, initially a raid was conducted by the police in the premises of one Rajesh Suryawanshi and on such raid being conducted, 13.5 Kg of cannabis was seized from the possession of Rajesh Suryawanshi and other co-accused Purnima Suryawanshi and Sarita. Having enquired the same, it was disclosed that they have purchased it from one Pukhraj of Rajnandgaon. Therefore, the police had reached Rajnandgaon where they came to know that Pukhraj had come down to Khokha Bhilai. The police team rushed to Khokha Bhilai where they caught hold of Pukhraj and Chaitram with the Ganja kept in Maruti Alto Car bearing Regn. No.C.G.08 AA 8765 and from the said Car 56.440 Kgs. of Ganja was recovered. Thereafter, having enquired the same, Pukhraj and Chaitram have revealed that they have purchased it from one Sandeep Tiwari of Tulsipur,

Rajnandgaon. The police went back to Rajnandgaon and from the room of Sandeep Tiwari wherein applicant Rajesh Agrawal and other accused Bhaurao Songare were present, 13.600 Kgs., of ganja was recovered.

3. Learned counsel for the applicant would submit that the recovery was made from Sandeep Tiwari and notice was also given to Sandeep Tiwari and the seizure was also made from him whereas this applicant was simply present, therefore, his name has been falsely implicated.
4. Per contra, learned State Counsel opposes the bail application.
5. Perused the seizure memo which shows that from the joint possession of Sandeep Tiwari and Bhaurao Songare, the cannabis was seized from the house. A perusal of the statements of seizure witnesses Rupesh Chauhan, Salim Khan, Aftab Rashool etc., would show that when the raid was conducted in the house of one Sandeep Tiwari, the applicant was also present in inner room of the house wherein, cannabis was recovered. Therefore, at this stage, no finding can be given that the applicant was completely innocent of the fact.
6. Taking into the quantum of contraband Ganja and the nature of evidence which is existing, I am not inclined to release the applicant on bail. Accordingly, this bail application is rejected.

Sd/-

**GOUTAM BHADURI
JUDGE**