

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 347 of 2018

- Manoj Sahu S/o Late Kamta Prasad Sahu, Aged About 36 Years R/o Rajpur, Police Station Dhamdha, Tahsil And District Durg Chhattisgarh , Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer Police Station Dhamdha, Tahsil And District Durg Chhattisgarh , Chhattisgarh

---- Respondent

For Applicant	:	Mr. Kishore Bhaduri and Mr. Goutam Khetrapal, Advocates.
For Respondent/State	:	Mr. Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

02/04/2018

1. This is the fourth application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant. First bail application bearing MCRC No.1767/2017 of the applicant was dismissed as withdrawn vide order dated 8.5.2017. Second bail application (MCRC No.4295/2017) was decided on merits by the co-ordinate Bench of this Court on 31.7.2017. Subsequent to that 3rd bail application (MCRC No.8089/2017) was dismissed as withdrawn on 19.12.2017.
2. Applicant has been arrested in connection with Crime No.233/2016 registered at Police Station– Dhamdha, District– Durg (C.G.) for the offence punishable under Section 20 (b) (ii) (C) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. He is in jail for the last more than 1 year & 4 months and the trial against this applicant is likely to take some time before its conclusion. Co-accused has already been granted bail in this case. It is further submitted that independent witnesses in this case have turned hostile and most of the witnesses have been examined before the trial Court. Hence, it is prayed that the circumstances have now changed, therefore, the applicant be granted bail.
4. Learned State counsel opposes the bail application and submissions made in this respect. It is submitted that the applicant has a criminal history and previously on five occasions he has been prosecuted for similar nature of cases. Hence, he is not entitled for grant of bail.
5. In reply, learned counsel for applicant submits that in all the previous cases the applicant has been acquitted by the concerned Court. Photocopies of the judgments have been annexed with the application for perusal of this Court.
6. Heard both the parties and perused the case diary.
7. On the date of incident i.e. 30.07.2016, on a search being made by the police personnel of PS-Dhamdha, Raipur, applicant was found in possession of 146.940 kg ganja, a narcotic substance, which was seized. The quantity found in possession of the applicant was more than the commercial quantity, a case was registered against him.
8. Considered the entire material present in the case diary and also perused the entire documents filed along with the application. As regards the statement made by learned counsel for the applicant that the independent witnesses have turned hostile, it would be difficult for

this Court to appreciate and give a finding whether it is a case of acquittal. The Investigation Officer and the members of investigation team also have appeared as witnesses in this case and whether their evidence is to be believed or disbelieved is within the jurisdiction of trial Court. Delay is one of the grounds but the quantity of ganja in this case is so huge which cannot be overlooked. Furthermore the applicant has a criminal history having prosecution of similar previous cases against him. Co-accused persons, who have been granted bail, stand on different footing as the entire contraband has been seized from this applicant. Hence, for the aforesaid reasons, I do not find any change in the circumstances and in the merit of the case as well entitling this applicant for grant of bail,

9. Accordingly, this fourth bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge