

HIGH COURT OF CHHATTISGARH AT BILASPURM.Cr.C. No.933 of 2018

Vikas Chandra Nayak S/o Nishikant Nayak, aged about 31 years, R/o Plot No.258/2020/2 TulsiVihar, P.S. Chandrshekharapur, Bhumneshwar, District Khorda (Orissa).

---Applicant

Versus

State of Chhattisgarh, Through - The S.H.O. P.S. Kusmunda, District Korba (C.G.).

---Respondent

For applicant	:	Shri Shailendra Dubey, Advocate.
For resp./State	:	Ms.Sunita Jain, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/04/2018

1. The applicant has preferred this bail application under Section 439 of Cr.P.C. in connection with Crime No.180/2017 registered at Police Station Kusmunda, District Korba (C.G.) for the offence punishable under Section 25 of NDPS Act.
2. Present applicant is in jail since 13/11/2017.
3. The allegation against the present applicant as per the prosecution case is that, on the date of incident i.e. on 13/11/2017, the police authorities found three persons namely Israil, Barun and one Somnath traveling in an Innova Car bearing registration No.OR-02-BZ-6888 and in the said vehicle, these three persons were carrying 4 Plastic Bags of Cannabis weighing 90 Kgs

750 Grams and the accused persons were arrested immediately on 13/11/2017 itself.

4. The counsel for the applicant submits that the present applicant has been arrested only on the ground that the present applicant is said to be the owner of the said Innova Car. However he submits that till date, the vehicle has not been transferred in the name of the present applicant and the registered owner of the said vehicle still is one Chitranjan and only by virtue of an agreement to sale, the present applicant has been implicated in the case and thus prayed for releasing the applicant on bail.

5. The State counsel however opposing the application submits that there is an agreement of sale entered into between Chitranjan and the present applicant on 26/08/2017 and thereafter the incident took place on 14/09/2017 and therefore it is prima-facie clear that after the agreement to sale, the vehicle was in the possession of the present applicant and he had used the vehicle for transportaion of Cannabis and thus prayed for rejection of appeal.

6. Having heard the contention put forth on either side and on perusal of record, except for the agreement to sale entered into between Chitranjan and the present applicant dated 26/08/2017, there does not appear to be any other material available against the present applicant establishing the fact that he was involved in the transportation of Cannabis on the date of incident. Moreover, the other three persons-the accused persons have already been arrested on 14/09/2017.

7. Given the aforesaid facts and circumstances of the case particularly taking note of the fact that the present applicant is not the registered owner of the vehicle and that except for the agreement to sale entered into between Chitranjan and the present applicant, there being no other material available on record, this Court is of the opinion that, prima-facie, a strong case has been made out for grant of bail to the present applicant.

8. Accordingly, the application for grant of bail is allowed. It is ordered that the applicant shall be released on bail on his executing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Trial Court. The applicant shall thereafter appear before the Trial Court on each and every date given by the said court.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE