

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2614 of 2018**

- Rajesh Asthana S/o Murarilal Asthanan Aged About 35 Years R/o- Mubarkpur, P.S.- Khurhan, District- Jaunpur, Uttar Pradesh

---- Applicant

Versus

- State Of Chhattisgarh Through- Police Station- Hirri, Distt.- Bilaspur, CG

---- Respondent

For applicant	Mr. Vishnu Koshta, Adv.
For Respondent/State	Mr. R.K. Pandey, PL

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****22-10-2018**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no bail application is pending before any other court.
2. The applicant has been arrested in connection with Crime No. 170/2017 registered in police station Hirri, Distt. Bilaspur (CG) for offence punishable under Section 20(b)(ii)(B) of the NDPS Act.
3. Prosecution story in brief is that 16-9-2017 Inspector R.K. Patre, Police Station Hirri, Distt. Bilaspur received an information that one Marshal vehicle bearing registration No. UP 70/4127 is going towards Sakri transporting illegal goods. Blockade was raised. Inspector R. K. Patre seized 33 kg of cannabis from the applicant.
4. Counsel for the applicant argued that the applicant is innocent and falsely implicated hence he may be released on bail. He further argued that in the case is hand the complainant himself is investigating officer, thus entire investigation is vitiated as per the judicial precedent laid down by Hon'ble Supreme Court. He further submits that some witnesses of seizure have not supported the prosecution case. He placed reliance on orders passed by coordinate bench of this Court in **MCRC No. 5476/2018** dated 11-9-2018 and in **MCRC No.6089/2018** dated 17-9-2018. Lastly he submits that if this Court is not inclined to grant bail to the applicant, the matter may be referred to a larger bench.
5. On the other hand, the State Counsel opposed the bail application.

However he submits that no criminal antecedent of the applicant is reported in the police case diary.

6. Perused the case diary and the case law cited.
7. In the aforesaid orders no legal principles have been laid down regarding granting bail which may be binding on this Court. Thus, the applicant does not get any help from the aforesaid orders.
8. Alleged unfair investigating, turning hostile of seizure witnesses are not themselves sufficient grounds for grant of bail as the effect of the same may be decided by the trial Court at the time of disposal of the trial.
9. Because there is no conflict on the legal opinion or difference on legal issues, there is no question of referring the matter to a larger bench.
10. Looking to the facts and circumstances of the case, looking to the huge quantity of cannabis, looking to the seriousness of the alleged offence and also the impact of granting bail on the society, this Court is not inclined to grant bail to the applicant.
11. Consequently, the MCRC is dismissed.

Sd/-
(Sharad Kumar Gupta)
Judge