

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 3600 of 2018**

Ghanshyam Bharti, S/o Late Badal Bharti, Aged About 32 Years,
R/o Shanti Nagar, Kurud, Police Station Kurud, District Dhamtari,
Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through Station House Officer, Police of
Police Station Kurud, District Dhamtari, Chhattisgarh.

---- Non-Applicant

For Applicant	:	Shri Samir Singh, Advocate.
For Non-Applicant/State	:	Shri Ravindra Agrawal, G. A.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****05.12.2018**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of bail, as the applicant, Ghanshyam Bharti, has been arrested on 31.01.2018 in connection with Crime No. 56/2018, registered in Police Station Kurud, District Dhamtari (C.G.) for the offence punishable under Section 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act, 1985').
2. The case of the prosecution, is that on 31.01.2018 at 14:20 hours

two accused persons were transporting the contraband articles, known as "Ganja" illegally, while coming through their motorcycle and handed-over the same to the present applicant Ghanshyam Bharti. From their joint possession, 9.170 Kg of Ganja was recovered. Based upon the said incident, offence as mentioned herein above has been registered by the concerned Station House Officer and the applicant was arrested on 31.01.2018.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in connection with the said crime. It is submitted by him that the Ganja so recovered is less than the commercial quantity as per the notification issued by the Central Government and submits further that the informant and Investigation Officer are same, therefore, the entire proceedings is not sustainable in the eye of law. He submits further that the applicant, who is in jail since 31.01.2018, therefore, he may be enlarged on bail.
4. On the other hand, learned State counsel opposes the bail application by submitting, inter alia, that the alleged contraband articles (Ganja) was recovered in joint possession of the applicant as well as from the other accused persons and submits further that since the offence as committed is serious in nature, therefore, the applicant is not entitled to be enlarged on bail.
5. I have heard the learned counsel for the parties and perused the entire case diary carefully.
6. Having considered the facts and circumstances of the case and

that by taking into consideration that the contraband articles (Ganja), so seized from the joint possession of the applicant, Ghanshyam Bharti along with others, is of 9.170 Kg which is less than the commercial quantity, as per the notification issued by the Central Government under Clauses (viia) and (xxiia) of Section 2 of the NDPS Act, 1985 and that by considering further that the applicant is in jail since 31.01.2018, I am inclined to enlarge him on bail.

7. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand Only) with one surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the concerned trial Court on each and every date as and when directed by the concerned trial Court.

Sd/-
(Sanjay Agrawal)
Judge