

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 3594 of 2018**

Prakash Tiwari @ Bauda, S/o Gaya Prakash Tiwari, Aged About 22 Years, R/o- Near Satbahiniya Temple, Chuna Bhatthi, Police Station Ganj, Civil And Revenue District- Raipur, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through Station House Officer, Police Station Gudhiyari, in the Revenue And Civil District Raipur, Chhattisgarh.

---- Non-Applicant

For Applicant	:	Shri Dharmesh Srivastava, Advocate.
For Non-Applicant/State	:	Shri Anant Bajpai, P. L.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****11.09.2018**

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of bail, as the applicant, Prakash Tiwari @ Bauda, has been arrested on 24.02.2018 in connection with Crime No. 71/2018, registered in Police Station Gudhiyari, District Raipur (C.G.) for the offence punishable under Section 20(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act, 1985').
2. The case of the prosecution, is that a secret information was

received by Assistant Sub-Inspector, Shri Lakhan Sahu, on 24.02.2018 from an unknown person that one person is selling the contraband article (Ganja), while keeping the same in his bag near Mandir Bhawan, Gudhiyari. On the basis of the said secret information, a search was made and in pursuance thereof, 6 Kg of Ganja was recovered from the possession of the applicant, thereafter a case has been registered under the aforesaid provision.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in connection with the aforesaid crime. He submits further that the quantity of the said contraband articles as recovered from the possession of the applicant is less than the commercial quantity as per the notification issued by the Central Government and submits further that the attesting witnesses of the alleged seizer memo have already been examined and turned hostile, therefore, the applicant who is in jail since 24.02.2018 be enlarged on bail.
4. On the other hand, learned State counsel opposes the bail application by submitting, inter alia, that since the alleged contraband articles (Ganja) was recovered from the possession of the applicant, and therefore, he is not entitled to be enlarged on bail, as the offence is serious in nature. The application as framed, is therefore, deserves to be rejected.
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 possession of the applicant, Prakash Tiwari @ Bauda, is of 6 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 24.02.2018, 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.
8. It is made clear that I have not entered into the merits of the case and the trial Court shall not be influenced by any of the observations of mine, while allowing this bail application.

Sd/-
(Sanjay Agrawal)
Judge