

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3713 of 2018**

Mr. Mohd Safi S/o Shri Nafis Ahmad Aged About 27 Years
Occupation- Driver, R/o- Village- Sakin E-16, B-260, T- Huts,
Near Ramjanya Masjid, New Silampur, North East, New Delhi.

---- Applicant**Versus**

State Of Chhattisgarh Through- Staton House Officer, Police
Station, Farasgaon, District- Kondagaon, Chhattisgarh.

-----Respondent

For the Applicant	:	Shri V.D. Garud, Advocate
For the State	:	Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****16/07/2018**

1. This is the first bail application under Section 439 of the CrPC and there is no bail application is pending before any other Court.
2. Perused the case diary provided by the learned counsel for the State in connection with the Crime No.67/2017 registered at Police Station Farasgaon, District Kondagaon (C.G.) for the offence punishable under Section 20(B)(ii) (स) of NDPS Act, 1985.
3. Case of the prosecution, in brief is that on 18/07/2017 Sub Inspector Krishna Patle and their staff received information from informer that one person is coming from Jagdalpur to Farasgaon in vehicle bearing No. DL-12-CA-1930 keeping cannabis. On such information Sub Inspector Krishna Patle seized 110 Kg. And 134 Grams of cannabis from the aforesaid vehicle. The vehicle was in possession of the applicant. The seizure was took place on very day by 17:30 hours in

front of Police Station, Farasgaon.

4. Learned counsel for the applicant argued that alleged agreement to sale and purchase of the aforesaid vehicle is not genuine. Provisions of Section 42(2), 50 of the NDPS Act have not complied, only two persons are the witnesses of the entire proceedings. He further submits that the applicant is innocent and falsely implicated in the present case and he is in jail since 18/07/2017, therefore, he shall be released on bail.
5. On the other hand, learned counsel for the State opposes the bail application and argued that all the mandatory provisions of the NDPS Act has been complied with. At this stage it could not be said that alleged agreement of sale and purchase has not been executed by the applicant.
6. At this stage where the bail application is pending, *prima facie* it could not be said that the mandatory provisions of the NDPS Act have not been complied with. What would be effect of the same witness in the entire proceeding could be decided after recording of the evidence and merits of the case. The seized cannabis is more than commercial quantity.
7. Looking to the facts and circumstances of the case, 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.
8. Consequently, the MCRC is dismissed.

Sd/-

(Sharad Kumar Gupta)
Judge