

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 3659 of 2018

Hari Singh, S/o Thanu Ram Chouhan, Aged About 54 Years, R/o-
Pendrikala, P.S. Kunda, District- Kabirdham, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : Station House Officer, Kunda,
District- Kabirdham, Chhattisgarh.

---- Non-Applicant

For Applicant : Shri Ajay Ayachi, Advocate.

For Non-Applicant/State : Shri V. B. Singh, P. L.

Hon'ble Shri Justice Sanjay Agrawal

Order On Board

04.09.2018

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of bail, as the applicant, Hari Singh, has been arrested on 18.02.2018 in connection with Crime No. 40/2018, registered in Police Station Kunda, District Kabirdham (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 a secret information was received by the concerned Station House Officer on 18.02.2018 at 03:45pm that the applicant Hari Singh has kept the contraband

articles in his white bag in the Verandah of his house for the purposes of its selling. Based upon receiving the said information a search was made in which 1.2 Kg contraband articles (Ganja) was recovered from him and accordingly the crime has been registered as above.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in connection with the aforesaid crime. He submits further that there is a gross disparity in relation to the recovery of an alleged article from the applicant, as according to the First Information Report (FIR) it was recovered from Verandah of his house, whereas, as per the seizer memo it was recovered in front of his house. He submits further that the quantity of the said contraband articles as recovered is lesser than the commercial quantity as per the notification issued by the Central Government and as the applicant is in jail since 18.02.2018 and the charge sheet has already been filed, therefore, the applicant may 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) were recovered from the applicant which was kept by him inside the house, and therefore, he is not entitled to be enlarged on bail, as the punishment provided under the said offence is for 10 years with fine which may also extend to Rs. 1 lakh. According to him, the offence 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 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 applicant is 1.2 Kg which is less than the commercial quantity, as per the notification issued by the Central Government under Clauses (viiiia) and (xxiiia) of Section 2 of the Act, 1985 and that by considering further that since the applicant is in jail since 18.02.2018 and the charge sheet has already been filed, 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. 1,00,000/- (Rupees One Lakh 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.
9. Certified copy as per Rules.

Sd/-
(Sanjay Agrawal)
Judge