

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 3656 of 2018

Mahesh Tandan, S/o Dharam Das Tandan, Aged About 26 Years,
R/o Ward No. 21, Chunabhatthi, P.S. - Ganj, Raipur, Tahsil &
District - Raipur, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through - Police Station - Ganj, Raipur,
District - Raipur, Chhattisgarh.

---- Non-Applicant

For Applicant	: Ms. Sunita Sahu appears on behalf of Mr. A. D. Kuldeep, Advocate.
For Non-Applicant/State	: Mr. V. B. Singh, P. L.

Hon'ble Shri Justice Sanjay Agrawal

Order On Board

27.08.2018

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of bail, as the applicant, Mahesh Tandan, has been arrested on 03.03.2018 in connection with Crime No. 63/2018, registered in Police Station Ganj, 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 on 03.03.2018, the Sub-Inspector M. L. Yadav has received a secret information that the

applicant Mahesh Tandan along with other co-accused has kept the contraband articles (Ganja) in his house for the purpose of its sale. Upon receiving the said information the concerned police has searched the house of the applicant and recovered 4.3 Kg contraband articles (Ganja) from the house of the said applicant.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in connection with the aforesaid crime. She submits further that the quantity of the said contraband articles as recovered from the house of the applicant is less than the commercial quantity as per the notification issued by the Central Government and the applicant is in jail since 03.03.2018 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) was kept illegally by the applicant in his house in order to sale the same, 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's house is 4.3 Kg which is

less than the commercial quantity, as per the notification issued by the Central Government under Clauses (viiia) and (xxiiia) of Section 2 of the Act, 1985 and that by considering further that since the applicant is in jail since 03.03.2018 and the charge sheet has already been filed, I am inclined to enlarge the applicant 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 said 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