

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 3625 of 2018

Roshan, S/o Mangalu Sahu, Aged About 22 Years, R/o- Shikshak Colony, Ward No. 18, Karmchari Bhawan Tilda, District- Raipur, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through- Station House Officer, Police Station Berla, District- Bemetara, Chhattisgarh.

---- Non-Applicant

And

M.Cr.C. No. 3641 of 2018

Chintamani @ Chuku, S/o Gajanand Thakur, Aged About 28 Years, R/o- Village Pahanda, Tahsil And P.S. Berla, District- Bemetara, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through- Station House Officer, Police Station Berla, District- Bemetara, Chhattisgarh.

---- Non-Applicant

AND

M.Cr.C. No. 4425 of 2018

Kanhaiyalal, S/o Sukhchand Dhritlahre, Aged About 35 Years, R/o- Village- Purani Basti, Tilda, District- Raipur, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through- Station House Officer, Berla,

District- Bemetara, Chhattisgarh.

---- Non-Applicant

For Applicants	:	Shri Vivek Singhal, Advocate. (In all petitions)
For Non-Applicant/State	:	Shri Anant Bajpai, P. L.

Hon'ble Shri Justice Sanjay Agrawal

Order On Board

24.09.2018

1. Since all these petitions arise out of same Crime No. 113/2018, they are being heard and disposed of by this common order.
2. These are the first bail applications filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the applicants as they have been arrested on 02.05.2018 in connection with Crime No. 113/2018, registered in Police Station Berla, District Bemetara (C.G.) for the offence punishable under Section 20(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act, 1985').
3. The case of the prosecution is that on the basis of secrete information that the applicants are transporting the contraband articles (Ganja), therefore, a search was made by the concerned police station, who in turn recovered 8 Kg Ganja from the conscious possession of the applicants. Based upon which, a case has been registered against the applicants under the aforesaid provision.

4. Learned counsel for the applicants submits that the applicants have been falsely implicated in connection with the aforesaid crime. He submits further that the Ganja so recovered from the conscious possession of the applicants is less than the commercial quantity, as per the notification issued by the Central Government and the charge sheet has already been filed during pendency of these petitions. He pointed out that during the pendency of these petitions, the applicant namely, Chintamani is released on temporary bail and did not misuse the benefit. On these premises, learned counsel prays that the applicants may be enlarged on bail.
5. On the other hand, learned State counsel opposes the bail application by submitting, inter alia, that on the basis of secrete information to the effect that the applicants were transporting the alleged Ganja illegally, therefore, upon search, the alleged Ganja was recovered from their conscious possession and as such they are not entitled to be enlarged on bail.
6. I have heard the learned counsel for the parties and perused the entire case diary carefully.
7. Having considered the facts and circumstances of the case and that by taking into consideration that the contraband article (Ganja), so recovered from the conscious possession of the applicants is of 8 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 NDPS Act, 1985 and that by considering further that the applicants are in jail since

02.05.2018 and the charge sheet has already been filed, therefore, I am inclined to enlarge the applicants on bail.

8. Accordingly, the bail applications are allowed and the applicants are directed to be released on bail on their furnishing a personal bond each in the sum of Rs. 50,000/- (Rupees Fifty Thousand Only) with one surety each in the like sum to the satisfaction of the trial Court. They are directed to appear before the concerned trial Court on each and every date as and when directed by the concerned trial Court.
9. 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.
10. A copy of this order be placed on record of MCRC No. 3641/2018 and MCRC No. 4425/2018.

Sd/-
(Sanjay Agrawal)
Judge