

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4240 of 2018**

1. Chuneswar Dewangan, S/o Ishwar Dewangan, Aged About 24 Years, R/o Ward No. 18, Gurunanak Ward, Bhata Para, Thana Bhata Para, District Baloda Bazar Chhattisgarh.
2. Manoj Dewangan, S/o Rajesh Dewangan, Aged About 22 Years, R/o Ward No. 17, Bijli Nagar, Chhawani, Thana Chhawani, District Durg, Chhattisgarh.

---- Applicants**Versus**

State of Chhattisgarh, Through Station House Officer, Police Station Khallari, District Mahasamund, Chhattisgarh.

---- Non-Applicant

For Applicants : Shri Vikash Pradhan, Advocate.

For Non-Applicant/State : Shri Vaibhav A Gowardhan, P. L.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****03.10.2018**

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of bail, as the applicants have been arrested on 17.03.2018 in connection with Crime No. 58/2018, registered in Police Station Khallari, District Mahasamund (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 17.03.2018 a secret information was received by Sub-Inspector, Shri Rajendra Verma, of the concerned police station that some persons are transporting the contraband article (Ganja) from Baghbahara to village Pachera, Mahasamund. On the basis of the said secret information, a search was made and in pursuance thereof, 4.464 Kg Ganja was recovered from the conscious possession of the applicants, thereafter a case has been registered under the aforesaid provision.
3. Learned counsel for the applicants submits that the applicants are innocent and have been falsely implicated in connection with the aforesaid crime. He submits further that the quantity of the said contraband article as recovered from the conscious possession of the applicants is less than the commercial quantity as per the notification issued by the Central Government and as the applicants are in jail since 17.03.2018 and the charge sheet has already been filed, therefore, the applicants may be enlarged on bail.
4. On the other hand, learned State counsel opposes the bail application by submitting, inter alia, that on the basis of the secret information to the effect that the applicants were transporting alleged contraband articles (Ganja) illegally, a search was made in which, the alleged Ganja was recovered from them. Therefore, they are 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 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 conscious possession of the applicants is 4.464 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 17.03.2018, I am inclined to enlarge them on bail.
7. Accordingly, the bail application is allowed and the applicants are directed to be released on bail on their furnishing a personal bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand Only) each 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.
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