

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 5228 of 2018

- Shekh Firoz S/o Shri Shekh Jalil, aged about 23 years, R/o Ward No. 12, Naya Para, Baloda Bazar, P.S. City Kotwali, Baloda Bazar, District-Balodabazar- Bhatapara (Chhattisgarh)

---- Applicant

Versus

- State of Chhatisgarh Through Station House Officer Police Station-City Kotwali, District Baloda Bazar- Bhatapara (Chhattisgarh)

---- Non-Applicant/State

For Applicant : Shri Sandeep Dubey, Advocate

For State : Shri R.N. Pusty, Government Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14.11.2018

1. This is the second bail application filed under Section 439 of Cr.P.C. for grant of bail to the applicant who is in jail since 25.11.2017 in connection with Crime No. 540/2017 registered at Police Station City Kotwali, Baloda Bazar, District Baloda Bazar (C.G.) for the offence punishable under Section 20 (B) of NDPS Act.

2. The first bail application of the applicant was dismissed as withdrawn with liberty to revive the same after the material witnesses are examined vide order dated 19.03.2018 passed in M.Cr.C. No. 645 of 2018.

3. The case of the prosecution is that the present applicant was found to be transporting 5 kg of *ganja* on 25.11.2017 on motorcycle when intercepting caught by the police authority.

4. Contention of learned counsel for the applicant is that material witnesses i.e. seizure etc have been examined and they have not supported the case of the prosecution. Learned counsel for the applicant further submits that even otherwise contraband not recovered from the possession of the present applicant. Rather, it is a case of prosecution that the contraband recovered from the possession of pillion rider who was travelling along with the present applicant. He also submits that the

present applicant was only driving the motorcycle and the bag of contraband was found from the possession of the pillion rider. Therefore, in the facts and circumstances of the case, the applicant may be released on bail.

5. The State counsel, however, opposing the bail application of the applicant submits that it is a case where the present applicant and other co-accused were in fact transporting the said contraband for sale purpose, therefore, the present applicant can also to be said for possession of property. He further submits that since most of the witnesses have been examined and there is no need for the applicant to be released on bail at this juncture when the trial itself is going to be concluded soon.

6. Giving the aforesaid submission made by counsel appearing on either side and perusal of the record, particularly taking note of the period of custody undergone and also taking note of the evidence which have been recorded till now, this court is of the opinion that the applicant has made out a fit case for grant of bail.

7. Accordingly, the application for grant of bail deserves to be and is allowed. It is ordered that the applicant shall be released on bail on his executing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court. The applicant shall thereafter appear before the trial Court on each and every date given by the said Court.

Sd/-

(P. Sam Koshy)
Judge