

HIGH COURT OF CHHATTISGARH AT BILASPURM.Cr.C. No.5070 of 2018

Anil Gadwal S/o Late Chain Singh Gadwal, aged about 26 years, R/o Pipariya, P.S. Pipariya, District Hosangabad (M.P.).

---Applicant

Versus

State of Chhattisgarh, Through - The S.H.O. Police Station - City Kotwali, District Dhamtari (C.G.).

---Respondent

For applicant : Ms. Indira Tripathi, Advocate.
For resp./State : Ms. Astha Shukla, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

31/08/2018

1. The applicant has preferred this bail application under Section 439 of Cr.P.C. in connection with Crime No.269/2017 registered at Police Station City Kotwali, District Dhamtari (C.G.) for the offence punishable under Section 20(B)(2)(C) of NDPS, Act.
2. Present applicant is in jail since 17/11/2017.
3. The allegation against the present applicant as per the prosecution case is that, the present applicant is said to have been found in transportation of about 207.100 grams of Gaanja in an Innova Car bearing registration No. CG-04-H-2799 on 28/07/2017.
4. The case of the prosecution is that, on the date of incident i.e. on 28/07/2017, when the police party were chasing the aforementioned Innova

Car, two persons fled away from the said vehicle abandoning the vehicle and in the course of search of the vehicle, the prosecution found 207.100 grams of Gaanja.

5. The counsel for the applicant submits that, the identification of the present applicant itself is doubtful and that it is only on the presumption that the prosecution has implicated the present applicant. She further submits that, there is no evidence to establish that, it was the present applicant who fled from the vehicle on the date of incident. She further contended that, the co-accused – Akash @ Raja has already been granted bail by this Court on 25/05/2018 in MCRC No.2872/2018 and thus prayed for releasing the applicant on bail.

6. The State counsel however opposing the bail application submits that, it is a case where the present applicant was found to be the owner of the vehicle by way of an agreement which the applicant had entered into with one Smt. Saxena – the registered owner and it was the present applicant who was operating and in possession of the vehicle at the time of incident. She further submits that, there is also a memorandum statement in the case-diary wherein the present applicant has admitted his offence along with the co-accused Akash @ Raja and therefore considering the quantity of contraband seized from the possession of the present applicant he did not deserve bail at this juncture and thus prayed for rejection of the same.

7. Considering the entire facts and circumstances of the case, particularly, considering the fact that there is no evidence in the case-diary which could

suggest that any of the witness have seen the present applicant fleeing away from the said vehicle on the date of incident, the present applicant appears to have been implicated only on account of his being the owner of the vehicle by virtue of an agreement that he has with the registered owner.

8. Given the aforesaid facts and circumstances of the case, this Court is of the opinion that, prima-facie, a strong case has been made out for grant of bail to the present applicant.

9. Accordingly, the application for grant of bail 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.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE