

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5866 of 2018**

Abdul Qadir S/o Mr. Iqbal Ahmed Aged About 43 Years R/o-
Maukheda, P.S. Bulanshahar, District- Bulandshahar (U.P.), District :
Bulandshahar, Uttar Pradesh.

---- Applicant

Versus

State Of Chhattisgarh Through- The Police Station Vishrampuri,
Kondagaon, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Raza Ali, Advocate
For the State	:	Shri Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**22/10/2018**

1. This is the First Bail application under Section 439 of the CrPC and there is no bail application is pending before any other Court.
2. Perused the case diary provided by the counsel for the State in connection with the Crime No.03/2017 registered at Police Station Vishrampuri, District Kondagaon (C.G.) for the offence punishable under Section 20 B of NDPS Act.
3. Case of the prosecution, in brief, is that on 03/01/2017, Inspector Santosh Kumar Bhuarya received information from the informant, on the strength of which he reached near a bridge of village Beerapur main road, District Kondagaon and stopped/blockaded a silver Honda City Car bearing No. DL-2-FFH 6666. The applicant and other co-accused Nazim Malik were present in the vehicle. The said officer found 42 packets of Ganja weighing 90.167 kg. in the dickey of the car.
4. Counsel for the applicant submits that applicant is innocent and falsely implicated in the present case and has not committed any offence. He further submits that he has no previous criminal antecedents, therefore,

he may be released on bail.

5. On the other hand, learned counsel for the State opposes the bail application. He further submits that there is no previous antecedents against the applicant.
6. Counsel for the applicant further submits that in the case in hand the informant and the investigator are the same person who is Inspector Santosh Kumar Bhuarya, thus the entire investigation is vitiated and applicant is entitled for bail. He further reliance the judgment of Hon'ble Supreme Court passed on 16/08/2018 in Criminal Appeal No. 1880 of 2011 in the matter of '*Mohan Lal vs. The State of Punjab*' where it was held that 'a fair trial, necessarily postulates that the informant and the investigator must not be the same person.
7. What would be effect where allegedly informant and investigator are same person, would be decided by the trial Court at the time of disposal of the case.
8. At this stage applicant does not get any benefit regarding granting the bail to the applicant from the aforesaid judgment Mohan Lal (supra).
9. Looking to the facts and circumstances of the case and looking to the huge quantity of seized cannabis from the possession of the applicant, this Court is not entitled the applicant to get the benefit of Section 439 of CrPC, thus the bail application is deserves to be dismissed.

Sd/-
(Sharad Kumar Gupta)
Judge