

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 5882 of 2018**

Abhishek Khatik, S/o Shri Raju Khatik, aged about 28 years, R/o Tikrapara, Police Station City Kotwali, Bilaspur, District Bilaspur (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Police Station City Kotwali, District Bilaspur (CG).

---- Non-applicant

For Applicant : Mr. Amit Singh, Advocate.

For Non-applicant : Mr. Sumit Jhanwar, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****06.09.2018**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no other bail application is pending before any other Court.
2. Perused the case diary provided by the learned counsel for the State in connection with Crime No.234/2018 registered in Police Station City Kotwali, Bilaspur, District Bilaspur for the offence punishable under Sections 21 & 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act').
3. Case of the prosecution, in brief is that on 19.05.2018 at about 19:30 hrs. at near Keshri Pipe Factory, Tikrapara, Bilaspur, Mr. R.P. Sharma, Inspector, Police Station City Kotwali, Bilaspur seized 750 miligram Brown Sugar and 6.06 gram Charas from the possession of the applicant.
4. Counsel for the applicant submitted that the applicant has not committed any offence. He is innocent and has been falsely implicated

in the present case, therefore, he may be released on bail.

5. On the other hand, counsel for the State opposed for grant of bail. However, he submits that no criminal antecedents is reported against the applicant in the police case diary.

6. I have heard counsel for the parties and perused the case diary with utmost circumspection.

7. As per the notifications prescribed in NDPS Act, the small quantity for Heroin (Brown Sugar) is 5 gm and small quantity for Charas is 100 gm.

8. In the case in hand, *prima facie* the alleged Heroin (Brown Sugar) and Charas are less than in comparison to the small quantity prescribed in the notifications of NDPS Act. The offence is punishable up to 06 months.

9. Looking to the above mentioned facts and circumstances of the case, looking to the alleged quantity of Heroin (Brown Sugar) and Charas, looking to the fact that there is no likelihood of the accused to abscond and tamper the evidence and the trial is likely to take some more time for its final disposal, this Court is inclined to give benefit of Section 439 of the Cr.P.C. to the applicant.

10. Accordingly, the present bail application filed under Section 439 of the Cr.P.C., is allowed.

11. It is directed that if the applicant furnishes one solvent surety for a sum of Rs.30,000/- along with a personal bond in the like sum to the satisfaction of the concerned Trial Court with the condition that he shall appear before the Trial Court at 11:00 am as and when directed till trial and he would co-operate during the trial, he shall be released on bail.

12. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-