

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6427 of 2018**

Satveer Saini S/o Chhotu Ram Aged About 40 Years R/o Near
Bangad Cinema Hall, J.P. Colony, Rohatak, District Rohtak Hariyana .

---- Applicant

Versus

State Of Chhattisgarh Through- The Police Station Kotwali, Jagdalpur,
District- Bastar, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Punit Ruparel, Advocate
For the State	:	Shri Neeraj Sharma, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**23/10/2018**

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.396/2016 registered at Police Station Kotwali, District Bastar (C.G.) for the offence punishable under Section 20-B of NDPS Act.
3. Case of the prosecution, in brief, is that on 27/11/2016, Sub Inspector Anil Thakur, P.S. Kotwali Bastar received information from the informant that two persons standing at waiting hall have cannabis in trolley bags. Thereafter said Sub Inspector seized 14 Kgs. Cannabis from applicant.
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 seizure witnesses have turned hostile, the informant and the investigating officer are same person, thus investigation is not fair. He placed 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'. He further draw my attention to the judgment of the Hon'ble Supreme Court passed on 25/01/2018 in Criminal Appeal No. 175 of 2018 '*Birbal Prasad @ Birbal Prasad Sah & Birbal Prasad Sao @ Birbal Sah vs. The State of Bihar*'.
7. In the matter of Mohan Lal (supra), Birbal Prasad @ Birbal Prasad Sah & Birbal Prasad Sao @ Birbal Sah (supra) no legal principle regarding granting of bail have laid-down which may binding upon this Court.
8. What would be effect of alleged vitiate trial it would be considered by the trial Court at the time of the disposal of the case.
9. Mere coming hostile of seizure witness is itself not a ground to grant the bail.
10. 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