

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6926 of 2018**

Smt. Gayatri Bai W/o Shri Keshari @ Kesharu Aged About 48 Years R/o Village Gujra, Thana - Bhakhara, Civil And Revenue District - Dhamtari, Chhattisgarh.

---- Applicant**Versus**

The State Of Chhattisgarh Through The Station House Officer Police Station - Bhakhara, Civil And Revenue District - Dhamtari, Chhattisgarh.

---- Non-applicant

For Applicant:

Shri Sunil Sahu, Advocate.

For State/Non-applicant:

Shri Ravindra Agrawal, Govt. Advocate.

Single Bench: Hon'ble Shri Sanjay Agrawal, J**Order On Board****03.10.2018**

1. This is the second bail application filed by the Applicant under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Cr.P.C.') for grant of regular bail as she has been arrested on 04.02.2018 in connection with the crime No. 18/2018 registered in Police Station Bhakhara, District-Dhamtari(C.G.) for the offence punishable under Sections 20(b) (ii) (B) and 15(b) of Narcotics, Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the NDPS Act').
2. The first bail application has been rejected vide order dated 25.06.2018 while providing liberty to the Applicant to file the same after the examination of the seizure witnesses.
3. Case of the prosecution is that on 04.02.2018, a secret information has been received by the Officer of police station-Bhakhara, District-Dhamtari that the Applicant and her husband were in possession of illegal liquor and kept the

same in their *Dhaba* "*Sher-A-Punjab*". Based upon the said information, a search was made and thirty one quarters of country made liquor was seized from the Applicant and she was accordingly arrested in Crime No. 17/2018. Further prosecution story is that since her husband has run away from the spot, and therefore, the concerned Police Officer has made a search in her house, wherein the alleged contraband article (*Ganja*) 3.8 kg. and 10.9 kg *Donda* (Poppy Straw) was recovered and accordingly the Applicant was arrested for the aforesaid offence and the *Chalan* has been submitted after investigation in Crime No. 18/2018.

4. Shri Sunil Sahu, learned counsel for the Applicant submits that the applicant is innocent and has been falsely implicated in connection with the said crime. He submits further that both the witnesses of the seizure memo, namely, Roshan Naagrachi and Prem Prakash have been given up by the prosecution as evidenced by the order sheet dated 13.08.2018 and since the applicant is in jail since 04.02.2018, therefore, she may be enlarged on bail.

5. On the other hand, Shri Ravindra Agrawal, learned counsel for the State while opposing the bail application submits that on the basis of secret information to the affect that the Applicant and her husband were in possession of the illegal liquor and kept the same in their *Dhaba* and when her house was searched, the said contraband article was also recovered apart from the aforesaid liquor. According to Shri Agrawal, though the attesting witnesses of the seizure memo were given up by the prosecution but as the offence is of a serious nature, therefore, the application deserves to be rejected.

6. I have heard learned counsel for the parties and perused the entire case diary carefully.

7. Having considered the facts and circumstances of the case and

considering further that the attesting witnesses of the alleged seizure memo have already been given up by the prosecution on 13.08.2018 and that by taking into consideration further that the contraband articles so recovered were less than the commercial quantity as prescribed under the notification issued by the Central Government, therefore, I am inclined to enlarge the Applicant on bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed. It is directed that on furnishing a personal bond in the sum of Rs.50,000/- with one surety in like sum to the satisfaction of the concerned trial Court for her appearance before it as and when directed, the applicant shall be released on bail. It is, however, made it clear that I have not entered into the merits of the case and the trial Court shall proceed with the matter without influencing any of the observations of mine.

Sd/-

(Sanjay Agrawal)
JUDGE