

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**M.Cr.C. No.7463 of 2018**

1. Anil Kirar S/o Narayan Singh Kirar, aged about 22 years, R/o Gorasia Haveli, Police Station Vidisha, District Vidisha (M.P.).
2. Jeevan Kushwaha S/o Late Shankar Singh Kushwaha, aged about 18 years, R/o Puranpura, Gali No.5, Police Station Vidisha, District Vidisha (M.P.).

---Applicants**Versus**

State of Chhattisgarh, Through - Police Station Keshkal, District Kondagaon (C.G.).

---Respondent

For applicants	:	Shri Shobhit Koshta, Advocate.
For resp./State	:	Shri Ratan Pusty, Government Advocate.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

03/10/2018

1. The applicants have preferred this bail application under Section 439 of Cr.P.C. in connection with Crime No.69/2017 registered at Police Station Keshkal, District Kondagaon (C.G.) for the offence punishable under Section 20B(ii)(b) of NDPS Act.
2. Present is a repeat bail application.
3. The earlier bail application stood rejected by this Court on 12/07/2018 vide MCRC No. 4233/2018.
4. Present applicants are in jail since 19/06/2017.
5. The case of the prosecution is that, the present applicant along with the other co-accused person was found travelling in a Swift Desire Car bearing registration No. MH-03-F-2268 and they were found in possession of 30 packets of Gaanja weighing 50.120 K.G.
6. The counsel for the applicants submits that, the co-accused in the instant case namely Abhilash Rawat has already been granted

bail by this Court on 11/09/2018 vide MCRC No. 5476/2018. He further submits that, the bail granted to the co-accused was in the light of the judgment passed by the Hon'ble Supreme Court in the case of Mohan Lal v. State of Punjab in Criminal Appeal No. 1880/2011 decided on 16/08/2018. He further submits that, the view of the Supreme Court in the said judgment was that the entire prosecution case would stand vitiated if the complainant and the investigating officer happens to be the same person. He further submits that, in the instant case, the complainant as well as the investigating officer were the same person and it was on this ground that the co-accused has been granted bail.

7. This aspect so far as the complainant and the investigating officer being the same person is not disputed by the State counsel.

8. Given the aforesaid facts and circumstances of the case, particularly taking note of the judgment of the Supreme Court in the case of Mohan Lal (Supra) so also considering the fact that the co-accused – Abhilash Rawat has already been granted bail by this Court, this Court is of the opinion that the present applicants also deserve to be released on bail on ground of parity.

9. Accordingly, the application for grant of bail is allowed. It is ordered that the applicants shall be released on bail on their executing a personal bond for a sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned Trial Court. The applicants shall thereafter appear before the Trial Court on each and every date given by the said court.

Sd/-
(P. Sam Koshy)
JUDGE

Sumit