

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7546 of 2018

Mukesh Kumhar S/o Bed Prasad, Aged About 27 Years, R/o Village Baima Daihanpara, Police Station Sarkanda, Bilaspur, District - Bilaspur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Sarkanda, District - Bilaspur, Chhattisgarh

---- Respondent

MCRC No. 7562 of 2018

Raj Kumar Patel S/o Mangal Ram Patel, Aged About 35 Years, R/o Village Baima Daihanpara, Police Station Sarkanda Bilaspur District Bilaspur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Sarkanda, District Bilaspur, Chhattisgarh

---- Respondent

MCRC No. 7880 of 2018

Lokesh Patel S/o Fagu Ram Patel, Aged About 23 Years, R/o Village- Baima, Daihanpara, Police Station- Sarkanda, Bilaspur, District- Bilaspur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station- Sarkanda, District- Bilaspur, Chhattisgarh

---- Respondent

For Applicants : Shri Rajeev Kumar Dubey, Advocate
For Respondent/State : Ms. Sunita Jain with Shri Chandresh
Shrivastava, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

29/10/2018

These are three applications filed u/s 439 of Cr.P.C. for grant of bail to the applicants who are in jail since 30.06.2018 in connection with Crime No. 472/2018 registered at Police Station- Sarkanda, District Bilaspur (CG) for the offence punishable under Sections 20 (B) (ii-C) of NDPS Act. Since the case of the prosecution in all the three MCRC is identical, this Court proceeds to decide all the three applications by this common order.

2. The case of the prosecution is that on 30.06.2018 there was a search conducted by the Police party at the residence of the applicant in MCRC No.7546/18 namely Mukesh Kumhar and in the course of search, they found 14 bags of Ganja weighing 42 Kg. inside the house of Mukesh Kumhar. Charge sheet has been filed alleging that each of the applicants were in possession of 14 Kg. Ganja.

3. Counsel for the applicants submits that it is a case where the exclusive possession of the contraband has been doubted. He submits that the prosecution has not been able to establish as to whether the house where the search was conducted was in fact in the name of the applicant Mukesh Kumhar or not. It was also the contention of the counsel for the applicants that the prosecution has not ascertained as to whether there were other occupants staying in the house or not. Hence, prayed for grant of bail to the applicants.

4. State counsel, however, opposing the bail applications submits that it

is a case where 42 Kg. contraband was seized. State counsel submits that looking to the gravity of the offence and also the fact that the search was conducted on secret information that the three applicants were involved in selling the contraband for which they had stored the same in the house of applicant Mukesh Kumhar, they do not deserve to be released on bail.

5. Having heard the contentions put forth on either side and on perusal of the record, prima facie, it reflects that the prosecution has not been able to show the exclusive possession being made from each of the applicants. Moreover, there does not seem to be sufficient materials to show that the place where the contraband was stored or recovered was in fact in the name of applicant Mukesh Kumhar. The possibility of the other occupants of the house may have stored it cannot be ruled out. Similarly, the fact that the two other accused persons namely Raj Kumar Patel and Lokesh Patel being friends of Mukesh Kumar and happened to visit the house of Mukesh when the search was conducted and there by getting arrested also cannot be ruled out.

6. Given the aforesaid factual matrix of the case, this Court is of the opinion that prima facie a strong case for grant of bail has been made out.

7. Accordingly, the application for grant of bail is allowed. It is directed that the present Applicants will be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned trial Court for their appearance before the said Court as and when directed.

Sd/-
(P. Sam Koshy)
Judge