

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 8214 of 2018**

1. Brijendra Kumar Patel & Anr. S/o Rajendra Kumar Patel Aged About 24 Years R/o Mujahidpur, Police Station- Kokhraj, District- Kosambi, Uttar Pradesh.
2. Rajendra Kumar Saroj S/o Chhote Lal Saroj Aged About 28 Years R/o Village- Lotara, Police Station- Kokhraj, District- Kosambi, Uttar Pradesh.

---- Applicants**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station- Dharsiva, District- Raipur, Chhattisgarh.

---- Non-applicant

For Applicants:

Shri Rajbahadur Singh, Advocate.

For State/Non-applicant:

Shri Arvind Dubey, Panel Lawyer.

Single Bench: Hon'ble Shri Sanjay Agrawal, J**Order On Board****31.10.2018**

1. This is the first bail application filed by the Applicants under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Cr.P.C.') for grant of regular bail as they have been arrested on 04.08.2018 in connection with the crime No. 311/2018 registered in Police Station-Dharsiva, District- Raipur(C.G.) for the offence punishable under Section 20(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the NDPS Act').
2. Case of the prosecution is that on 04.08.2018, a secret information was received by the station house officer Dharsiva that the Applicants have kept the contraband article (*Ganja*) in their possession in order to sale the same. Based upon the said information, a search was made, by which 2.4 kg *Ganja* was recovered from Applicant No. 1 (Brijendra Kumar Patel), while 2.3 kg *Ganja* was

recovered from Applicant No. 2 (Rajendra Kumar Saroj) and accordingly the offence punishable as such has been registered against them while arresting them on 04.08.2018

3. Shri Rajbahadur Singh, learned counsel for the Applicants submits that the Applicants have been falsely implicated in connection with the said crime. He submits further that the contraband article so recovered was less than the commercial quantity and since the charge sheet has already been filed and the Applicants are in jail since 04.08.2018, therefore, they may be enlarged on bail.

4. On the other hand, Shri Arvind Dubey, learned counsel for the State while opposing the bail application submits that on the basis of the said secret information that the Applicants have kept the alleged *Ganja* illegally in order to sale the same, a search was accordingly made, in which, the alleged *Ganja* was recovered from their possession and, as such, they are not entitled to be released on bail. He submits further that the offence is serious in nature, therefore, the application as made deserves to be rejected.

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

6. Having considered the facts and circumstances of the case and that by considering the quantity of *Ganja* so recovered from the possession of the Applicants which is less than the commercial quantity as prescribed in the notification issued by the Central Government and also by considering the fact further that the applicants are in jail since 04.08.2018 and the charge sheet has already been filed, I am inclined to enlarge the Applicants on bail.

7. 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 each of local residents in like sum to the

satisfaction of the concerned trial Court for their appearance before it as and when directed, the Applicants 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

Nikita