

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 2799 of 2019**

1. Shri Shivam Raghuvanshi, son of Shri Ramsharan Raghuvanshi, aged about 24 years, R/o Village Ahmedpur, P.S. Bareli, District Raisen (M.P.).
2. Shri Purshottam Malviya, son of Shri Mannu Lal Malviya, aged about 26 years, R/o village Chabbra, P.S. Bareli, District Raisen (M.P.).
3. Devendra Raghuvanshi, S/o Surendra Raghuvanshi, aged about 24 years, R/o village Devri, P.S. Devri, District Raisen (M.P.).

**---- Applicants****Versus**

State of Chhattisgarh, through Station House Officer, Police Station City Kotwali, Dhamtari, District Dhamtari (CG).

**---- Non-applicant**


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| For Applicants    | : Mr. Awadh Tripathi, Advocate     |
| For Non-applicant | : Mr. S.R.J. Jaiswal, Panel Lawyer |

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**Hon'ble Shri Justice Sharad Kumar Gupta**  
**Order On Board**

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**17.06.2019**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicants before this Court.
2. Perused the case diary provided by the counsel for the State in connection with Crime No.339/2018 registered in Police Station City Kotwali, Dhamtari for the offence punishable under Section 20-B of NDPS.
3. The first bail application of the applicants was rejected on merit by this Court vide order dated 03.01.2019 passed in M.Cr.C. No.8653/2018 considering *prima facie* case against the applicants.
4. Case of the prosecution, in brief, is that on 28.07.2018 at 15:50 hrs at Naharpara Chowk, Dhamtari, Sub Inspector Bhavesh Shende posted at City Kotwali, Dhamtari seized one Scorpio bearing registration number OR-S-6376 along with key and one plastic bag containing 23.900 kg cannabis from the possession of all applicants.
5. Counsel for the applicants submitted that the applicants have not committed any offence and have been falsely implicated in the case. He further submitted that applicants are in jail since 28.07.2018 and material witnesses including seizure and panchnama witnesses have been examined before the trial Court and they have turned hostile hence they may be released on bail. In support of his case, he placed reliance on the decision of **Hon'ble Madhya Pradesh High Court** in the matter of **Ram Sahodar vs. State of Madhya Pradesh** reported in **1986 CRI.L.J.279** which states as under:-

“Later, when the trial proceeds, those witnesses may not support the prosecution in Court and as is occasionally noticed, may turn hostile to the prosecution and thus may disappear the very foundation for believing that he has been guilty of that offence. This may give rise to an occasion for reconsideration of the bail application during the pendency of that case itself, and the Court may,

under these changed circumstances, if moved in that behalf, form an opinion that reasonable grounds do not exist for believing that he is guilty of that offence although the trial may till then be not over. The accused in that event shall become entitled to be released on bail.”

6. On the other hand, counsel for the State opposes the bail application.
7. This Court has reconsidered the case of the applicants for granting bail to them. Though seizure and panchnama witnesses have been examined before the trial Court and they have turned hostile, but looking to the other facts and circumstances of the case, looking to this fact that Investigating Officer has to be examined, this Court finds that there is no change in the circumstances of the case on the strength of which the applicants may be released on bail. Consequently, the second bail application is rejected.
8. Certified copy as per rules.

SD/-

(Sharad Kumar Gupta)  
**JUDGE**

L/-