

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4170 of 2019

- Yashwant Singh Yadav S/o Badhu Ram Yadav Aged About 25 Years R/o Village- Saidpur Bhujwa, Post Office- Sahupuri, Police Station- Ali Nagar, District- Chandauli, Uttar Pradesh., District : Chandauli *, Uttar Pradesh

---- Petitioner

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station- Sihawa, District- Dhamtari, Chhattisgarh., District : Dhamtari, Chhattisgarh

---- Respondent

For Applicant	:	Ms. Sharmila Singhai, Advocate
For Respondent/State	:	Shri Anmol Sharma, Panel Lawyer

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

19/07/2019

Heard.

1. This is a repeat bail application. Earlier bail application was dismissed as withdrawn. The applicant has been arrested under Section 20(B) of the NDPS Act.
2. Case of the prosecution is that upon information received, the police team intercepted the vehicle and it is alleged that from the possession of the present applicant and other accused, total quantity of 101 KG of ganja was seized.
3. Learned counsel for the applicant would submit that he has been falsely implicated on the basis of alleged seizure. He would next submit that during trial, the independent witnesses of seizure have now been examined. Seizure witnesses, Golu Netam, PW-9 and Pappu Sarthi, PW-10, have not supported the case of the prosecution with regard to seizure of contraband from the possession of the applicant. It is also submitted that the applicant is in jail since 23-11-2017. He would argue that in the present case, most important witnesses/seizure witnesses have already been examined, therefore, at this stage, learned counsel for the applicant prayed that the applicant may be

granted bail, as he is not likely to abscond or tamper the prosecution witnesses.

4. On the other hand, learned counsel for the State/non-applicant opposes the bail application by submitting that as to what appreciation should be made regarding the evidence of the independent seizure witnesses, is a matter of appreciation during trial. He would argue that the Investigating Officer of this case has not been examined. He would further submit that looking to the quantity of ganja, alleged to be seized from the possession of the applicant, if the applicant is released on bail, he is likely to flee away from justice and protract the trial.

5. In the present case, it is found that the applicant is in jail since 23-11-2017 and even after lapse of 1 & 1/2 year, the trial has not been concluded. It is also found that number of prosecution witnesses including the independent witnesses of seizure have been examined and the submission of learned counsel for the applicant that these witnesses have not supported the case of the prosecution and completely turned hostile, is arguable one. Therefore, taking into consideration the material on record and that there is delay in trial and the applicant has remained in jail for the last 1 & 1/2 years and further taking into consideration that as most of the remaining witnesses are police witnesses, there is no likelihood of tampering the witnesses and there is nothing to show that in the event of release, the applicant is likely to flee away from justice, I am inclined to grant bail to the applicant.

6. Accordingly, the application is allowed. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.25,000/- along with two local sureties of the like amount to the satisfaction of the trial Court on the condition that he shall appear before the trial Court regularly on each and every date of hearing, unless exempted.

7. It is made clear that any attempt made to protract and delay in trial, would render the bail liable to be canceled. The trial Court shall expeditiously conclude the trial. Once the prosecution witnesses appear, no adjournment shall be granted to any of the parties and the witnesses shall not be returned without examination.

Certified copy as per rules.

SD/-
(**Manindra Mohan Shrivastava**)
J U D G E