

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4737 of 2019

Balmiki Sunani S/o Labba Sunani, aged about 22 years, R/o Village Naktigudha, Post Baldiyamal, P.S. Junagadh, District Kalahandi, Odisha.

---- Applicant

Versus

State Of Chhattisgarh, Through Police Station Kondagaon, District Kondagaon Chhattisgarh.

---- Respondent

For Applicant : Mr. Shobhit Koshta, Advocate.
For Respondent/State : Mr. Anand Verma, Dy. G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

19/08/2019

1. The Applicant has preferred this first bail application under Section 439 of Cr.P.C. for grant of regular bail as he is arrested in connection with crime No. 77/2018, registered at Police Station – Kondagaon, District- Kondagaon (C.G.) for the offence punishable under Section 20-B of NDPS Act.
2. As per the prosecution story, on 22.03.2018, on the basis of information received from informant Sub-Inspector of Police Station-Kondagaon namely Anurag Sonwani searched the truck bearing Registration No. CG 04 JA 3283 and also searched the Applicant. On being searched, nothing was found from the Applicant but in the said vehicle 94 gunny bags containing total 699.5 Kg of Ganja was found which was seized from the possession of present Applicant and co-accused namely Bideshi

Bagh. The Applicant was arrested on 22.03.2018.

3. Learned Counsel appearing on behalf of the Applicant submits that the Applicant is innocent and has been falsely implicated in the case. Relying upon the judgment passed by Supreme Court in 2018 SCC OnLine SC 459 (*Arif Khan vs. State of Uttrakhand*) and the judgment of this Court reported in 2018 (2) CGLJ 344 (DB) (*Bholaram & Others vs. State of Chhattisgarh*), he further submits that the mandatory provisions of Section 50 of NDPS Act is not duly complied with by the prosecution. He further submits that charge-sheet has already been filed and out of 24 witnesses 2 witness have already been examined and both of them have not supported the case of prosecution. Another seizure witness namely Gopal has already died before recording of his statement before the Trial Court. He lastly submits that the Applicant has no previous antecedents and he is in custody since 22.03.2018 and trial is likely to take some more time. Therefore, he may be released on bail.
4. Per contra, learned Counsel appearing on behalf of the State opposes the bail application. He submits that Ganja have been recovered from the truck, therefore, the provisions of Section 50 of the NDPS Act is not applicable in this case. He further submits that looking to the huge quantity of Ganja, the Applicant shall not be granted bail.
5. I have heard learned Counsel for the parties and perused the case diary with due care.
6. Considering the facts and circumstances of the case, particularly considering the fact that one of the seizure witnesses have already been examined and turned hostile and he has not supported the case of prosecution and another seizure witness has already died and further considering the fact that the

Applicant has no criminal antecedents and he is in custody since 22.03.2018, charge sheet has been filed and trial is likely to take some time, therefore, without further commenting on other merits of the case, I am inclined to release the Applicant on bail.

7. Accordingly, the bail application is allowed.
8. It is directed that the Applicant shall be released on bail on executing a personal bond for a sum of Rs. 4,00,000/- with two local solvent sureties each of Rs.2,00,000/- to the satisfaction of the Trial Court for his appearance before the said Court as and when directed.

Sd/-

(Arvind Singh Chandel)
Judge