

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5779 of 2019**

Ashish Patnayak S/o Sudarshan Patnayak Aged About 28 Years R/o Kulo, Police Station Parjang, District Dhenkanal Odisha., District : Dhenkanal, Orissa.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Tarbahar, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Rajeev Kumar Dubey, Advocate
For the State	:	Shri D.K. Tiwari, Dy. G.A.

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**05/11/2019**

1. This is the fourth bail application under Section 439 of the CrPC. Earlier first bail application of the applicant was rejected by this Court on 03/12/2018 in MCRC No. 7246/2018 considering *prima facie* material available on record against him. His second bail application was dismissed as withdrawn on 15/01/2019 in MCRC No. 9826/2018 by co-ordinate bench of this Court. His third bail application was dismissed as withdrawn on 13/05/2019 in MCRC No. 2247/2019.
2. Perused the case diary provided by the learned counsel for the State in connection with the Crime No.391/2016 registered at Police Station Tarbahar, District Bilaspur (C.G.) for the offence punishable under Section 20 (B) of NDPS Act.
3. Case of the prosecution, in brief is that on 14/12/2016 Probationer DSP Amit Patel, Police Station Tarbahar, Bilaspur received the information from the informant that cannabis is transporting from Swift car bearing registration number OD/02/Y/4681. He made the blockade. The aforesaid car was stopped. The driver of the car was applicant. Another one person named Vibhuti Behra was also present in that car. From the possession of co-accused Vibhuti Behra 60 Kgs. of cannabis was seized.

4. Counsel for the applicant submitted that applicant is innocent and falsely implicated in the present case. Counsel for the applicant further submitted that in the case in hand I.O. has been examined. He drew my attention on para 46 of certified copy of the statement of PW-12 Amit Patel, which is part of the bail application. He further submitted that this Court has directed the trial Court to dispose of the case as soon as possible and preferably within three months from the date of receipt of certified copy of the order. Trial yet not concluded, thus applicant may be released on bail.
5. On the other hand, counsel for the State opposes the bail application.
6. As per the certified copy of the statement of PW-12 Amit Patel he has stated against the applicant in examination-in-chief in para No. 5.
7. This is well settled legal position that while dealing with the bail application, Court neither can scrutinize nor appreciate the evidence. Only the trial Court is competent to do so.
8. On sole ground that trial has not concluded within prescribed period accused cannot be released on bail.
9. Looking to the above mentioned facts and circumstances of the case this Court finds that this is not a fit case where the applicant may be released on bail on fourth round of litigation. Consequently, fourth bail application of the applicant is rejected. Trial Court is directed to conclude the trial as soon as possible.
10. A report be called from the concerned trial Court as to whether he has applied for extension of time or not.
11. Liberty is given to the applicant to file subsequent bail application if the trial is not concluded within prescribed period of limitation.

Sd/-
(Sharad Kumar Gupta)
Judge