

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1660 of 2020**

- Mukhtaar Ansari S/o Imamuddin Ansari Aged About 23 Years R/o Village Dabgadhi Barbaspur, Police Station Pratappur, Tahsil Pratappur, Police Station Karasi, District Surajpur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Farasgaon, District Kondagaon Chhattisgarh

----Non Applicant

For the Applicant : Mr. P. K. Tulsyan, Advocate

For Non Applicant : Mr. D. C. Verma, G. A.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****18.03.2020**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court. No other bail application is pending before any other Court.
2. Earlier, the first bail application of the applicant was rejected by this Court vide order dated 11.02.2019 passed in MCRC No.53 of 2019.
3. Perused the case diary provided by the learned counsel for the State in connection with Crime No.34/2018 registered at Police Station-Farasgaon, District-Kondagaon(C.G.) for the offence punishable under Section 20(b) (ii-C) of Narcotic Drugs and Psychotropic Substances Act 1985.
4. Case of the prosecution, in brief is that on 19.04.2018 Inspector Krishna Patel, Police Station Farasgaon seized 106.646 Kg from the joint possession of the applicant and co-accused Tokeshwar Banjara and Tarachand Banjara.
5. Counsel for the applicant submitted that in the case in hand, seizure witnesses have been examined who did not support the prosecution

case and turned hostile. He further submitted that co-accused Tokeshwar Banjara and Tarachand Banjara have been released on bail by Coordinate Bench of this Court on 20.01.2020. He drew my attention on Annexure A-4 which is the part of the bail application.

6. Earlier, this Court has rejected the first bail application of applicant on 11.02.2019. Thereafter on 20.01.2020 aforesaid co-accused were released on bail by Co-ordinate Bench of this Court.
7. From the order of Co-ordinate Bench dated 20.01.2020 it does not transpire that this fact that earlier on 11.02.2019 application of applicant was already rejected by this Court considering prima facie case against him was considered. Hence, in the case in hand, principle of parity is not applicable.
8. Mere turning hostile of seizure witnesses itself not a sufficient ground to enlarge the accused on bail. Moreover in the case in hand Investigating Officer is to be examined.
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 in second round of litigation.
10. Consequently, the second bail application is rejected.

Sd/-

(Sharad Kumar Gupta)
Judge

parul