

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 1641 of 2020**

Chudamani Sahu, Aged about 36 years, S/o Ramsai Sahu, R/o Village Raipura, Police Station Baradwar, Up-Tahsil-Baradwar, District Janjgir-Champa, Chhattisgarh.

--- Applicant

Versus

State of Chhattisgarh, Through Station House Officer, Police Station Baradwar, District Janjgir-Champa, Chhattisgarh.

--- Non-applicant/State

For Applicant :- Mr. Yogeshwar Sharma, Advocate
For State :- Mr. Animesh Tiwari, Dy. A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

10/08/2020

1. Proceedings of this matter have been taken up for hearing through video conferencing.
2. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No. 29/2020, registered at Police Station Baradwar, District Janjgir-Champa (CG) for the offence punishable under Section 20(B) of Narcotic Drugs and Psychotropic Substances Act, 1985.

3. Case of the prosecution, in brief, is that 20.5 kgs of cannabis was seized from the possession of the present applicant and he thereby, committed the aforesaid offence.
4. Learned counsel for the applicant would submit that the applicant has not committed any offence and he has falsely been implicated in the crime in question. He would further submit that the applicant is in jail since 24/01/2020 and deserves to be released on bail in light of the decision rendered by the Supreme Court in **Mohan Lal v. State of Punjab**¹ wherein it has been held that a person lodging FIR cannot be an investigating officer.
5. On the other hand, learned counsel for the State would oppose the bail application.
6. I have heard learned counsel appearing for the parties and perused the case diary.
7. Admittedly, 20.5 kgs of cannabis was recovered from the possession of the present applicant which is more than commercial quantity and therefore, the provisions contained in Section 37(b)(ii) of the NDPS Act is attracted in the present case and considering the material available on record and considering the recovery made, it cannot be held

¹ 2018 (3) CCSC 1568 (SC)

that the accused/applicant has not committed any offence and he is not likely to commit any offence further if he is released on bail. So far as the decision of the Supreme Court in Mohan Lal (supra) is concerned, it has already been referred to the Constitution Bench and it has been reserved for judgment. I do not consider it a fit case to release the present applicant on bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.

9. Certified copy, as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet