

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.2924 of 2020**

- Saradu Harijan S/o Jagabandhu Harijan Aged About 24 Years Ukaipali Baragan, District Nabarangapur, State Odisha., District : Nabarangapur, Orissa

---- Petitioner**Versus**

- State Of Chhattisgarh Through Police Station Nagarnaar, District Bastar, Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh

---- Respondent

For Applicant	:	Shri Vikash Shrivastava, Advocate
For Respondent/State	:	Smt. Fouzia Mirza, Additional AG

Single Bench : Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****26/11/2020**

Heard.

1. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.08/2020 registered at Police Station Nagarnaar, District Bastar for the offence punishable under Section 20(B) of the NDPS Act.
2. Case of the prosecution is that upon receipt of information, the applicant was intercepted and from his possession, 22 KG of ganja was recovered.
3. Learned counsel appearing for the applicant submitted that the applicant has been falsely implicated in this case, because the proceedings of seizure of 22 KG of ganja is highly doubtful as challan papers did not show as to by whom samplings was done as also proceedings of drawal of samples recorded in writing are not attached, which shows that the proceedings of drawal of sample is also highly doubtful. Second submission is that though memo dated 28-02-2020 of the office of Superintendent of Police shows that by this memo, samples were drawn and sent to the office of Forensic Science Laboratory and acknowledgment of receipt in the Forensic Science Laboratory is 19-03-2020

which shows that for a period of 21 days, the samples though dispatched and handed over to the messenger for being deposited in the office of Forensic Science Laboratory, the same was not deposited for 21 days. It is also submitted that till date, no report of Forensic Science Laboratory has been received to show that the sample so drawn contained ganja (narcotics).

4. Learned counsel for the State/non-applicant opposes the application by submitting that memo dated 28-02-2020 of the office of Superintendent of Police shows that samples were drawn in presence of Executive Magistrate and copy of the same was sent. It is submitted that during trial, such document can be presented before the trial Court for its satisfaction, by which, it cannot be said that the sampling was not done, but the sample was duly sealed and seal was found intact. As far as discrepancy with regard to date of dispatch and date of receipt is concerned, learned State counsel submits that this aspect shall be explained by the prosecution during trial. According to the learned State counsel, as far as seizure is concerned, 22 KG of ganja was seized from the possession of the applicant in presence of witnesses and it was also duly subjected to weighment and identification and memo of weighment, identification and seizure make out a prima facie case of applicant having been found in possession of ganja.

5. In the present case, the applicant's prayed for grant of bail mainly on the ground of certain irregularities in the matter of drawal of sample and sending it to the Forensic Science Laboratory. This matter require consideration during trial. Prima facie, the prosecution has come out with the document of seizure, weighment and identification of the article as ganja. Therefore, in terms of the provision contained under Section 37 of the NDPS Act, this Court find it difficult to record satisfaction that there is reasonable ground to believe that the applicant is not found guilty of commission of alleged offence, therefore, bail cannot be granted.

6. Accordingly, the bail application is rejected.

Certified copy as per rules.

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