

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3682 of 2020**

- Mohan Kharsel S/o Sukharu Kharsel Aged About 23 Years R/o Village Baldiyamal, Police Station Junagarh, District Kalihandi Orissa

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station GRP, Bilaspur District Bilaspur Chhattisgarh

---- Non Applicant

For the Applicant	:	Mr. Arvind Shrivastava, Advocate
For Non Applicant	:	Mr. D.K. Tiwari, Dy. G.A.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****16.07.2020**

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. Earlier, the first bail application of the applicant was rejected by this Court vide order dated 29.04.2019 passed in MCRC No.7683 of 2018 considering prima facie case against him.
2. Perused the case diary provided by the learned counsel for the State in connection with crime No. 147/2018 registered at Police Station – GRP, District Bilaspur(C.G.) for the offence punishable under Section 20(B)(ii-C) of NDPS Act.
3. Case of the prosecution, in brief is that on 03.06.2019 at about 19.05 hours at Platform No.2-3 near the book stall, Bilaspur Sub Inspector Oscar Minz seized 25 Kgs. Cannabis from the trolley bag which was carried by applicant.
4. Counsel for the applicant submitted that after direction of this Court trial has not concluded though one year passed away from that order. Applicant is in jail from more than two years. Out of 13 only 7 witnesses have been examined. Hence, applicant may be released on bail.
5. On the other hand, learned counsel for the State opposed the bail application, however, submitted that there is no criminal antecedent against

the applicant is reported in the police case diary.

6. This is true that delay in trial and detention period of the accused are material factors for disposal of the bail application filed by the accused. But equally it is also true that seriousness of the offence and impact of granting bail to the accused on society are more material and important factors for disposal of the bail application filed by the accused.
7. This is also well settled legal position that while dealing the bail application Court neither can scrutinize the evidence nor appreciate the same, it is only the trial Court who can do so at the time of appreciation of the evidence.
8. In present scenario it cannot be held that trial Court is responsible for delay in trial.
9. Looking to the above mentioned facts and circumstances of the case, this Court finds that it is not a fit case where the applicant may be released on bail in second round of litigation. Consequently, his second bail application is rejected. However, trial Court is directed to expedite the trial and dispose of the case as soon as possible after starting the regular work of the Court.

Sd/-

(Sharad Kumar Gupta)
Judge

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