

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4312 of 2020**

1. Tarun Kumar Sukhdev, son of Shivram Shkhdev, aged about 49 years,

2. Smt. Pratima Sukhdev, wife of Tarun Sukhdev, aged about 40 years,

Both are resident of Village – Dargahan, Police Station- Charama, District- North Bastar, Kanker (C.G.) (In jail)

---- Applicants

Versus

State of Chhattisgarh, through the Station House Officer Police Station Charama, District – North Bastar, Kanker (C.G.)

----Non-applicant

For Applicants	: Mr. D.N. Prajapati, Advocate.
For Non-applicant/State	: Dr. Veena Nair, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board**

24/08/2020

- (1) Proceedings of this matter have been taken up through video conferencing.
- (2) The accused/applicants have preferred this bail application under Section 439 of the Code of Criminal Procedure for releasing them on regular bail during trial in connection with Crime No. 63/2020 registered at police Station Charama, District North Bastar, Kanker (C.G.) for the offence punishable under Section 20(b) of the Narcotic Drugs and Psychotropic Substance Act, 1985 (henceforth "N.D.P.S. Act, 1985").
- (3) Case of the prosecution, in brief, is that the present applicants were found in possession of 113.150 kilograms of contraband article *ganja* unauthorizedly and without authority of law and thereby committed the aforesaid offence.

(4) Counsel for the applicants submits that the applicants have been falsely implicated in the crime in question as there is no evidence on record to connect the applicants with the crime in question. He further submits that applicants are not the resident of the place where ganja is seized and now they are residing at Narayanpur. He also submits that other co-accused persons namely Divyanshu, Sukhdeo and Nikku Kharpade have absconded and they are not available for interrogation; the applicants have been arrested on 11.03.2020 and trial is likely to take some time for its final disposal and, therefore, the applicants are entitled to be released on bail.

(5) On the other hand, counsel for the State would submit that as commercial quantity of the ganja has been seized from the possession of the applicants, the provisions contained in Section 37 (1)(b) (ii) of the N.D.P.S. Act, 1985 is attracted in the present case, and therefore, the applicants are not entitled to be released on bail.

(6) Admittedly, the commercial quantity of ganja i.e. 113.150 kilograms has been seized from the possession of the applicant.

(7) Taking into consideration the facts & circumstances of the case, nature & gravity of the offence; looking to the fact that huge quantity of ganja has been seized from the possession of the applicant and the provisions contained in Section 37 (1)((b)(ii) of the N.D.P.S. Act, 1985 is attracted in the present case, therefore, it cannot be held that applicant is not guilty of such offence and he is not likely to commit any offence while on bail. Thus, the bail application is rejected.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

