NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6148 of 2020

- Balram Singh Ahir S/o Rajju Lal Ahir Aged About 60 Years R/o Village Silpahari, Sarkaripara, Police Station Pendra, District Gourela Pendra Marwahi Chhattisgarh

---- Applicant

Versus

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

---- Respondent

For Applicant : Shri Ashutosh Shukla, Advocate

For State : Shri Lalit Jangde, Dy.G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

19/11/2020

Heard.

1. The applicant has been arrested in connection with Crime No.129/2020 registered at Police Station – Pendra, District – Bilaspur (C.G.) for alleged commission of offences under Section 20(A) of NDPS Act.

2. Prosecution case is that when upon information, the police reached the house of the applicant, in the backyard enclosed premises (*baadi),* 34 cannabis plants were found which were uprooted and seized.

3. Learned counsel for the applicant submits that the prosecution case is highly doubtful because when the information was placed with the police, the applicant was not named and it was only alleged that some unknown person was cultivating plants. It is submitted that the so called enclosed *baadi*, wherefrom *cannabis* plants are said to be recovered, are not proved to be under applicant's ownership or factual possession. Merely because, the land wherefrom *cannabis* plants were recovered falls just behind the house of the applicant, it cannot be said that the applicant had physical control over the area much less any other material to show that the applicant was actually involved in cultivating *cannabis* plants. In support of his

submission, learned counsel for the applicant relies upon judgment of the Supreme Court in the case of **Alakh Ram v. State of U.P., 2004 (1) SCC 766.**

4. Learned State counsel opposes and submits that upon receipt of information, when police reached the spot, 34 cannabis plants were found in the enclosed premises just behind the house of the applicant which apparently was the backyard in the control and possession of the applicant and presence of 34 cannabis plants clearly show that it was a result of cultivation.

5. The applicant has been arrested on the basis of recovery of 34 cannabis plants which were found growing in the enclosed premise attached to the house of the applicant in the backyard. Therefore, a *prima facie* case is made out. Since the allegation is of cultivating cannabis plants, which is punishable under Section 20 (a) of the NDPS Act, a case is *prima facie* made out and present is not a fit case for grant of bail. The application is accordingly rejected.

However, in case, there is undue delay in completion of trial, it will be open for the applicant to approach the Court again.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Deepti