

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8287 of 2019**

Upadhyay Singh S/o Durandhar Singh, Aged About 40 Years R/o Village
Maasar, Police Station Udwat Nagar, District Bhojpur (Bihar), District :
Bhojpur, Bihar

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station
Mainpur, District Gariyaband Chhattisgarh, District : Gariyabandh,
Chhattisgarh

---- Respondent

For the Applicant	:	Shri Navin Shukla, Advocate
For the State	:	Shri D.C. Verma, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board

02/01/2020

1. This is the second bail application under Section 439 of the CrPC. Earlier his first bail application was rejected by this Court vide order dated 17/01/2019 passed in MCRC No. 9808/2018 considering *prima facie* case against him.
2. Perused the case diary provided by the learned counsel for the State in connection with the Crime No.81/2018 registered at Police Station Mainpur, District Gariyaband (C.G.) for the offence punishable under Section 20(b) of NDPS Act.
3. Case of the prosecution, in brief is that Sub Inspector Premsingh Thakur, Police Station Mainpur received an information on 25/08/2018 that one person is illegally transporting cannabis in a bus bearing registration number C.G. 04 E / 2376. Said Sub-Inspector made the blocked. At the bus stand he seized one bag containing 10.200 Kgs. cannabis from the possession of the applicant.
4. Counsel for the applicant submitted that applicant is in jail since 25/08/2018. Seizure witnesses namely PW-3 Mukesh Rajput and PW-4 Chhinu Sonwani have turned hostile and did not support the prosecution case. He drew my attention on statements of certified copy of PW-3 Mukesh Rajput and PW-4 Chhinu Sonwani.

5. On the other hand, counsel for the State opposes the bail application. He further submits that no criminal antecedents against the applicant is reported in the police case diary.
6. This is well settled legal position that detention period of the accused and delay in trial are material factors for disposal of the bail application of 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 important and material factors for the disposal of the bail application of the accused. Mere turning hostile of seizure witnesses is itself not a sufficient ground to enlarge the accused on bail. Moreover in the case in hand Investigating Officer is to be examined.
7. Looking to the above mentioned facts and circumstances of the case, this Court finds that there is no material change in the circumstance on strength of which applicant may release on bail in second round of litigation. Consequently his second bail application is rejected.

Sd/-

(Sharad Kumar Gupta)
Judge