

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 193 of 2020**

Kriparam Neti, S/o Shri Dhansay Neti, aged about 46 years, R/o Village Nagpura, Out Post Belgahna, Police Station Kota, Civil and Revenue District Bilaspur (CG).

---- Applicant**Versus**

State of Chhattisgarh, through the Police Station Kota, Out Post Belgahna, Civil and Revenue District Bilaspur (CG).

---- Non-applicant

For Applicant	: Mr. Kalpesh Ruparel, Advocate
For Non-applicant	: Mr. D.K. Tiwari, Dy.G.A.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****10.01.2020**

1. Heard.
2. Admit.
3. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court.
4. Perused the case diary provided by the counsel for the State in connection with Crime No.471/2018 registered at Police Station Kota, Out Post Belgahna, District Bilaspur for the offence punishable under Section 20(1) of N.D.P.S. Act, 1985.
5. The first bail application of the applicant was dismissed as withdrawn by this Court vide order dated 07.02.2019 passed in M.Cr.C. No.509/2019.
6. Case of the prosecution, in brief, is that on 11.10.2018, 16 cannabis plants were seized from the courtyard of the applicant.
7. Counsel for the applicant submitted that the applicant has not committed any offence, he is an innocent person and has been falsely implicated in the case. He further submitted that the prosecution has failed to show any document, which indicates that the alleged place of

occurrence was in possession of the applicant. He further submitted that the alleged seized cannabis plants are not exceeding the commercial quantity. The length of one cannabis plant has shown 16.1 feet which is not possible. Seizure witnesses have not supported the case and turned hostile, hence the applicant may be released on bail.

8. On the other hand, counsel for the State opposed the bail application.

9. This is well settled legal principle that while dealing with the bail application, the Court cannot touch the merit and demerit of the case.

10. Though the seizure witnesses have turned hostile, but in the case in hand, Investigating Officer is to be examined. At this state, this Court prima facie finds that the alleged cannabis plants were seized from the possession of the applicant.

11. Looking to the above mentioned facts and circumstances of the case, looking to the numbers of alleged seized cannabis plants and looking to the seriousness of the offence and looking to the impact of granting bail to the applicant on society, this Court is not inclined to give benefit of Section 439 of CrPC to the applicant. Consequently, the second bail application is rejected.

12. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE