

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRC No. 521 of 2021**

- Salman Khan S/o Roshan Khan, aged about 26 years, Occupation Driver, R/o Jairam Nagar, Police Station, Masturi, Distt. Bilaspur, Chhattisgarh.

-----Applicant

VERSUS

- State of Chhattisgarh through: Police Station Janakpur, District Korea, Chhattisgarh

-----Respondent

For Applicant	: Mr. Hemant Kumar Agrawal, Advocate
For Respondent- State	: Mr. B.L. Sahu, Dy. G.A.

Hon'ble Shri Parth Prateem Sahu, Judge***(proceedings through video conferencing)*****ORDER****02/07/2021**

1. Heard.
2. Applicant has filed this application under Section 439 of CrPC for grant of regular bail as he has been arrested in connection with Crime No. 15/2016 registered at Police Station Janakpur, District Korea (C.G.) for the offence punishable under Section 20(B) of NDPS Act.
3. Case of the prosecution is, that on 16.01.2016 at about 01:00 am, police intercepted a pick-up vehicle. The driver of vehicle ran away along with vehicle to which the police followed and seized the unmanned vehicle on road. F.I.R. was registered against unknown person(s). From the seized vehicle, police has recovered 215 kgs of contraband (*ganja*), based on which, crime bearing no. 15/16 has been registered. During the investigation, police arrested Avinash Fransis and Abdul Hanif and they were put to trial in special sessions trial no. 04/2016. During the pendency of trial, present applicant surrendered himself before the Court on 09.12.2020 in crime bearing no. 15/16.

4. Mr. Hemant Kumar Agrawal, learned counsel for the applicant submits that the applicant has been falsely implicated in the instant crime, he has having no role play in the crime. The offence initially was registered against the unknown person and the charge-sheet has been submitted by the police, showing the present applicant to be absconding. When the present applicant came to know about registration of crime against him, he surrendered before the Court on 09.12.2020. He further submits that the other alleged co-accused persons viz. Avinash Fransis and Abdul Hanif were put to trial in special sessions trial no. 04/2016 which came to be decided on 27.01.2020 vide Annexure A-2 and both the co-accused persons were acquitted from the charges levelled against them. He further referred to order-sheet of the trial Court dated 11.01.2020 and 13.01.2020 placed on record and submitted that the prosecution has relied upon the evidence of the other witnesses examined by the trial Court in sessions trial no. 04/2016 and only two witnesses have to be examined in that case ie. the Investigation Officer Ramsai Paikra and Sub-Inspector A.R. Manikpuri. He submits that as the trial Court has acquitted two other co-accused persons on the same set of evidence, the present applicant may be enlarged on bail at this stage.
5. Mr. B.L. Sahu, learned Panel Lawyer, while opposing the submissions made by the learned counsel for the applicant, submits that the quantity of the Ganja involved in the instant crime is much more, hence, the applicant is not entitled for grant of bail. He has not disputed the submission of learned counsel for applicant of acquittal of co-accused and the contents of the order-sheet dated 11.01.2020 and 13.01.2020.
6. I have heard learned counsel for the respective parties and also perused the documents enclosed along with bail application.
7. The judgment passed by learned learned Trial court sessions no. 4/2016 acquitting the two other co-accused persons and the order sheet dated

11.01.2020 and 13.01.2020 is not disputed by the learned counsel for the State. In the judgment dated 27.01.2020, learned Trial Court had acquitted other co-accused persons involved in the same crime and order dated 11.01.2020 and 13.01.2020 would show that the prosecution has relied upon the evidence of the other witnesses examined by the trial Court in special sessions trial no. 04/2016, except for the evidence of witnesses Ramsai Paikra, Investigation Officer and A.R. Manikpuri, Sub-Inspector.

8. Taking into consideration the nature of allegation, proceedings/ documents placed on record, without commenting anything on merits, I am inclined to allow the bail application.
9. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail, upon furnishing a bail bond in the sum of Rs.50,000/- with one surety in the like sum to the satisfaction of the Court on the conditions that-
 - a) He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
 - b) The applicant shall not, in any manner, tamper with the prosecution witnesses.
 - c) If the applicant is found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge