

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6794 of 2020**

- Mohammad Irfan Khan S/o Abdul Karim Khan Aged About 31 Years Caste - Musalman, R/o Ward No. 2, Nagari, District Dhamtari Chhattisgarh

---- Applicant**Versus**

1. State Of Chhattisgarh And Anr. Through Station House Officer, Police Station N.D.P.S. Raipur Regional Unit, Panchashil Nagar, Civil Lines Raipur, District Raipur Chhattisgarh
2. Directorate Of Revenue Intelligence Through Deputy Director, Raipur Regional Unit 30 Panchseel Nagar, Civil Lines Raipur , District Raipur Chhattisgarh

---- Respondents**&****MCRC No. 776 of 2021**

- Anees Haidar S/o Mohammad Yunus Aged About 46 Years R/o 216, Ward 31, Azad Nagar, Mda Colony, Dheemri, Muradabad, Uttar Pradesh

---- Applicant**Versus**

- Directorate Of Revenue Intelligence (DRI) Panchsheel Nagar, Raipur, District : Raipur, Chhattisgarh

---- Respondent

For respective Applicants	:	Shri Awadh Tripathi and Shri Raja Sharma, Advocates
For DRI	:	Shri Surendra Dewangan, ASG
For State	:	Shri Lalit Jangde, Dy.G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****19/03/2021**

Heard.

Both these applications are being disposed off by this common order as they arise out of the same crime number.

1. The applicants have been arrested in connection with Crime No.01/2019 registered at Police Station – NDPS, Raipur, Regional Unit – Panchshil Nagar, Civil Lines, Raipur, District – Raipur (C.G.) for alleged commission of offences under Section 29 of NDPS Act.
2. It is alleged that huge quantity of 906.510 kgs of *ganja* was being transported in a truck which was found standing due to mechanical failure on the road. Later on, upon enquiry, it was found that the *ganja* was being transported by and under the instructions of the present applicants.
3. Learned counsel appearing for Mohd. Irfan Khan would submit that involvement of the present applicant is on a feeble evidence of Crane Operator - Anurag Soni which, by itself, is not sufficient to involve the applicant in the conspiracy. The allegations of transfer of money by this applicant to the mother of Wasim after getting this money from Muradabad, does not lead anywhere because Wasim is not the accused in the case. Therefore, transfer of any money in the account of mother of Wasim is not an incriminating circumstance. The applicant, as has been stated by the prosecution witnesses in their case diary statements, is a police mukhbir and when he was taken into custody, he disclosed that it is present applicant who had informed the police that the truck loaded with *ganja* is standing on road due to mechanical failure. But later on, when the investigation started, the police officers resiled from their statement and the applicant - Irfan Khan has been involved in the present case.

As far as applicant - Anees Haidar is concerned, the argument of learned counsel appearing for this applicant is that he is not at all involved in the alleged commission of offence because though the vehicle is registered in his name, during investigation, when he was called upon by the investigating authorities, he disclosed before them, written agreement of lease of the vehicle by him in favour of Wasim and that is a notarised document executed in presence of the witnesses. It is further submitted that this applicant has fully co-operated with the investigation and as and when he was called, he always appeared before the authorities to co-operate with the investigation. Though the notary and other persons have started denying their signatures in the documents, no hand writing experts' report has been obtained before believing the statement that such document was not notarized nor witnessed by anyone.

4. On the other hand, learned State counsel opposes prayer for grant of bail and submits that in the present case, a conspiracy was hatched under which, a truck loaded with *ganja* was being transported to Jamgaon. But due to mechanical failure, the truck was left lying on the road at a particular place loaded with *ganja*, which was fully known to the applicant - Irfan Khan because Anurag Soni, the Crane Operator has clearly stated that on 29/10/2019, he received a call from a phone number, which was found to be of Irfan Khan, for immediate removal of the truck from the spot. The other witness of the police

including a Police Constable Mr. Abid Khan have stated that Irfan Khan used to receive money from Muradabad and used to transfer it to the account of mother of Wasim. Therefore, his involvement is *prima facie* made out.

As far as applicant – Anees Haidar is concerned, it is argued that the so called agreement of lease is a forged and fabricated document because during investigation, statement of the notary was recorded and he denied having notarised or signed any such document. The so called witness of the said agreement Mohd. Haidar has also denied being witness to any such agreement of vehicle by the applicant – Anees Haidar in favour of Wasim. The records of the notary were also seized and that also does not show that there was any agreement, as claimed by the applicant, was ever executed. It is submitted that in the investigation, from the vehicle, two more number plates were found.

5. On consideration of submission of learned counsel for the parties, the charge sheet discloses that prior to date of receipt of information on 30/10/2019, on 29/10/2019, the Crane Operator – Anurag Soni was contacted by applicant – Irfan Khan for removal of the truck from the spot. During investigation, the phone number, from which call was received, is found to be that of applicant- Irfan Khan. Moreover, when the statement of this accused was recorded after taking him into custody, he stated that such a call was given to the Crane Operator on the instructions of police officers but there is no material to support the said statement. It is submitted that there are material with regard to money trail also.

As far as applicant – Anees Haidar is concerned, in view of what has been disclosed in the records of the charge sheet and the case diary, notary as well as witnesses both have denied execution of any agreement of lease by applicant – Anees Haidar in favour of Wasim. Their statements have also been placed on record and therefore, there is considerable force in the submission of officer of investigation agency that *prima facie* agreement appears to be forged.

6. In view of consideration of submission and material on record, this Court is unable to record satisfaction that there are reasonable grounds for believing that the accused are not guilty of the offences alleged. Merely because the accused have co-operated with the investigation or that they are not likely to commit any offence while on bail, cannot be a ground for grant of bail in view of scheme of Section 37 of the NDPS Act. Unless satisfaction is arrived at as stated above, bail cannot be granted. Accordingly, both the applications are rejected.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge