

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 844 of 2021

1. Babla alias Sajid Khan S/o Munawar Khan Aged About 22 Years R/o Atal Awas Gughri Road Room No.03, Kawardha P. S. Kawardha, District Kabirdham Chhattisgarh
2. Banti alias Sahid Khan S/o Munawar Khan Aged About 24 Years R/o Atal Awas Gughri Road Room No.04, Kawardha P. S. Kawardha, District Kabirdham Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh, through the Station House In-charge, Police Station Kawardha, District Kabirdham Chhattisgarh

----Non-applicant

For Applicants – Shri Sandeep Shrivastava, Advocate.

For Non-applicant/State – Smt. Hamida Siddiqi, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

21-06-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicants for grant of regular bail. The applicants have been arrested on 13-10-2020 in connection with Crime No.551/2020 registered at P.S. - Kawardha, District Kabirdham, Chhattisgarh for the offence under Section 20 (B) of the N.D.P.S. Act.

2. It is submitted on behalf of the applicants that both the applicants have been falsely implicated. They are not connected with the offence committed. The only reason that the applicants were arrested was this, that they were found nearby the vehicle, in which the contraband was being transported. There is no such evidence that these applicants were the persons in possession of that vehicle. Similarly, some contraband was seized from one house, but there is no evidence that these applicants were the persons in possession of that house. The statement of the vehicle owner has been recorded in the investigation, she has not stated anything against these applicants. The statement of the house owner has not been recorded by the

police. It is further submitted that the compliance of Section 41 and Section 50 of the N.D.P.S. Act has not been made and the I.O. doing investigation have no authorization under the N.D.P.S. Act to make the investigation. The applicants are in jail since 13-10-2020. Hence, for these reasons it is prayed that the applicants be enlarged on bail.

3. Learned counsel for the State/non-applicant opposes the submission and the application submitting that there is ample evidence present in the diary and the investigation against these applicants. The procedure under Section 41 and 50 of the N.D.P.S. Act has been fully complied before organizing search and seizure to recover the contraband from these applicants. The evidence shows that these applicants are directly connected with commission of the offence in this case of seizure of huge quantity of cannabis which is commercial quantity. Hence, the application may be rejected.

4. Heard learned counsel for the parties and perused the case diary.

5. According to the prosecution case, Police Station Kawardha received confidential information that pickup vehicle bearing registration No. CG 04 JD 8833 loaded with cannabis is lying stationary on the spot. The police raided the spot and found the applicants present from whom the seizure have been made. The quantity of ganja (cannabis) seized is 250 kg. from the vehicle and from the house nearby.

6. Considered on the submissions. The present situation is this, that as per the diary statements of the witnesses, the seizure of the contraband has been made from these applicants and others. In such a case Section 37 of the N.D.P.S. Act mentions of the restrictions which has to be strictly followed. As on the basis of the evidence present in the case diary it cannot be held that the applicants are not guilty of the offence and that they are not likely to commit such offence while on bail, hence, for these reasons I do not feel inclined to allow this application.

7. Consequently, this application filed by the applicants under Section 439 of the Cr.P.C. for grant of regular bail is hereby rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Aadil