

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 968 of 2021**

Arun Kumar S/o Madan Singh, Aged about 20 years,
R/o Village Gotahaar, Police Station Shivsagar,
Distt. Rohtas, Bihar.

---Applicant (in jail)

Versus

State Of Chhattisgarh Through Station House
Officer, Police Station- Duldula, Distt. Jashpur,
Chhattisgarh.

--- Non-applicant/State

For Applicant :- Mr. Sanjeev Kumar Sahu, Advocate
For State :- Mr. Ravi Bhagat, Dy. G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

05/03/2021

- 1.This is the second bail application filed by the application for grant of regular bail in connection with Crime No. 60/2019, registered at Police Station - Duldula, District Jashpur (CG), for offence punishable under Section 20(B) of NDPS Act.
- 2.The first bail application filed by the applicant was dismissed as withdrawn vide order dated 06/10/2020 passed by this Court.

3. Case of prosecution in brief is that 145.500 kgs of ganja was seized from the possession of the present applicant.
4. Mr. Sanjeev Kumar Sahu, learned counsel for the applicant, would submit that after the rejection of the first bail application, three witnesses namely Nandkishore Gupta, Rajkishore Gupta and Bhuneshwar Yadav have been examined and they have turned hostile and even after examination nothing has been said to prove the case of the prosecution qua the seizure and panchnama, therefore, it is a clear case of non-compliance of Sections 50 and 57 of NDPS Act and since the applicant is in jail since 29/08/2019, he may be released on bail.
5. Mr. Ravi Bhagat, learned State counsel, would submit that though prosecution witnesses have been examined and they have turned hostile but the Investigating Officer is yet to be examined, therefore, at this stage, it cannot be held that there is violation of Sections 50 and 57 of NDPS Act.
6. I have heard learned counsel for the parties, considered their submissions and perused the records.

7. True it is that three witnesses namely Nandkishore Gupta, Rajkishore Gupta and Bhuneshwar Yadav have been examined who are seizure witnesses and they have turned hostile and have not supported the case of the prosecution, but still the Investigating Officer and other witnesses have yet to be examined, therefore, at this stage, it cannot be held that there is violation of Sections 50 and 57 of NDPS Act. I am of the considered opinion that this is not a fit case to release the applicant on bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.
9. Certified copy, as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet