

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.1034 of 2020

1. Anil Saini S/o Rotasha Saini Aged About 40 Years R/o Ugrakhedi, Vidyanand Colony, Police Station Chandni Bag, Panipat, District Panipat, Hariyana
2. Sunil Saini S/o Palaram Saini Aged About 43 Years R/o Gali No. 3, Vasant Vihar, Karnal Rural Part -I, Police Station Sadar, District Karnal, Hariyana
3. Rajesh Saini S/o Kashiram Saini Aged About 42 Years R/o Ugrakhedi, Jandik Sarkari Hospital, Police Station Chandni Bag, Panipat, District Panipat, Hariyana
4. Umendra Singh S/o Ramkumar Singh Aged About 37 Years R/o Babel, Police Station Chandni Bag, Panipat, District Panipat, Hariyana

---- Applicants

Versus

State Of Chhattisgarh Through Police Station Kondagaon, District
Kondagaon Chhattisgarh

---- Respondent

For Applicants	:	Mr. Vikash Pradhan, Advocate
For Respondent/State	:	Smt. Hamida Siddiqui, Dy. A.G.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

21/01/2021

Heard.

1. The applicants have been arrested in connection with Crime No.322/2019 registered at Police Station- Kondagaon, District Kondagaon (CG) for the alleged commission of offence under Section 20(B) of NDPS Act.
2. Case of the prosecution is that the applicants were found in possession of 42.800 kg. of ganja which is said to have been seized and offences registered.
3. Prayer for grant of bail is made by learned counsel for the applicants on the ground that the Officer (Assistant Sub-Inspector), who carried out investigation is not empowered to draw proceeding under the NDPS Act. He would submit that the State Government has not issued any notification in this regard. Therefore, he cannot hold either enquiry pre-registration of

offence under various provision of NDPS Act nor can investigation be held by him. He would further submit that in view of all proceedings under Section 42 and Section 52(1) of NDPS Act are rendered without jurisdiction and only on the ground the applicants are praying for grant of bail.

4. On the other hand, learned counsel for the State would submit that the scheme of the provision contained in Section 53 of NDPS Act is meant to empower officer other than police departments not the officer who are otherwise empowered under Cr.P.C. to investigate the offences. It is also submitted that there is no ground made out as to how the proceedings of search and seizure are doubtful so as to make out a case for arriving at satisfaction that there are reasonable ground to believe that the applicants have committed any offence.
5. Taking into consideration the submission of learned counsel for the parties, at this stage, taking into consideration that the proceedings have been drawn by the Assistant Sub-Inspector and forwarded for registration of FIR and charge-sheet has been filed before the Court by the Station House Officer of the concerned Police Station and in the absence of there being any material to show that there is reasonable ground to believe that the applicants have not committed any offence, applicants cannot be granted bail under Section 37(1)(b) of NDPS Act, therefore, the bail application is rejected.

Sd/-
(Manindra Mohan Shrivastava)
Judge