

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1536 of 2021**

1. Vijay Kumar S/o Layak Singh Rajput, Aged About 25 Years R/o Sabalpur, Police Station Jasrana, District Firojabad (U.P.)
2. Hemraj, S/o Shri Krishna Kushwaha, Aged About 22 Years R/o Pachwah, Police Station Jasrana, District Firojabad (U.P.)

---- Applicants**Versus**

State of Chhattisgarh Through Police Station Chilfi,
District Kabirdham (C.G.)

---- Non-applicant

 For Applicants : Shri H.B. Agrawal, Senior Advocate with
 Ms. Richa Dwivedi, Advocate
 For Non-applicant/State : Shri Shrikant Kaushik, P.L.

(Proceedings through Video Conferencing)
Hon'ble Shri Justice Parth Prateem Sahu

Order on Board**09.07.2021**

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicants, who are in custody since 31.10.2020 in connection with Crime No.40 of 2020 registered at Police Station Chilfi, District Kabirdham, C.G. for commission of the offence punishable under Section 20-B of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('N.D.P.S. Act').
2. Case of the prosecution is that, Police of Police Station Chilfi received secret information that contraband ganja is being transported illegally in Truck bearing No.DL-GC-1569. On the

basis of secret information, Police intercepted the Truck and during search, recovered 12 bags from cabin of the Truck. Upon opening of the bags, they found total 218 packets containing contraband ganja. Total 455 Kgs. of ganja has been recovered, based upon which, instant crime was registered against the applicants.

3. Shri H.B. Agrawal, learned senior counsel for the applicants submits that there is non-compliance of provisions of Section 50 of the N.D.P.S. Act. He further submits that Police who made the search, has not obtained search warrant from the competent authority, hence, whole investigation proceeding is vitiated.
4. Shri Shrikant Kaushik, learned Panel Lawyer representing the State while opposing the submissions made by learned counsel for the applicants submits that Police received secret information on 31.10.2020 at about 3.10 PM with regard to transportation of illegal contraband ganja. He further submits that as there was paucity of time and Truck could have passed from the barrier, *Panchnama* has been prepared for initiating proceeding without obtaining search warrant, which is a part of case diary. It is contended that Police has drawn proceeding strictly in accordance with provisions of law and consent for search has been recorded, which is also available in the case diary. It is further contended that

contraband ganja was recovered from the cabin of Truck and huge quantity of illegal contraband ganja was seized, hence, applicants are not entitled for grant of bail.

5. I have heard learned counsel for the parties and perused the case diary.
6. Considering the nature of allegations, quantity of contraband ganja i.e. 455 Kgs from the cabin of Truck and submission of learned counsel for the State that *Panchnama* was prepared mentioning reasons for not obtaining the search warrant and all procedure to be followed, I do not find it a fit case to enlarge the applicants on bail. Accordingly, bail application is dismissed.

Sd/-

(Parth Prateem Sahu)
Judge