

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1613 of 2021**

- Dhirendra Mishra S/o Shri Heeralal Mishra Aged About 29 Years (Wrongly Mentioned S/o Heerlal Mishra In The Impugned Order) R/o Gurunanak Ward, (Bhatapara Wrongly Mentioned In The Impugned Order) Charama Police Station Charama District Kanker Chhattisgarh

---- Applicant (In Jail)**Versus**

- State of Chhattisgarh Through Police Station Amanaka District Raipur Chhattisgarh

---- Respondent

For Applicant : Shri Praful N Bharat, Advocate

For Respondent/State : Shri Alok Nigam, Government Advocate

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

25.03.2021

1. Applicant has preferred this application under Section 439 CrPC for grant of regular bail as he has been arrested in connection with Crime No.225 of 2020 registered at Police Station Amanaka, Raipur CG for the offence punishable under Section 20(B) of the NDPS Act.

2. Case of the prosecution, in brief, is that on the basis of secret information received by the Police of Police Station Amanaka, Raipur that some persons are travelling in a Car bearing No.CG 06GE-6006 carrying Ganja with them. On 16.12.2020, Police intercepted the Car, found three persons travelling in the said vehicle and during the course of search, Police seized 5 kg Ganja from the possession of present applicant, 11 kg from Suryakant Nag, and 5 kg from Umesh Manhira @ Dhirendra Mishra. Based on the above seizure of contraband, applicant was arrested and instant crime was registered against the applicant and other two co-accused persons for the offence as mentioned above.

3. Shri Praful N Bharat, learned counsel for the applicant submits that the Car on which the present applicant was travelling intercepted on 16.12.2020 at about 21.50 hours, but Dehati Nalishi was prepared on 17.12.2020 at 17.30 hours. He submits that alleged contraband was in possession of Police Officers. He further submits that when the contraband kept in Malkhadan, packets do not bear the seal. Ganja seized has been sent to forensic lab on 19.12.2020 and it reached there on 21.12.2020. He submits that in view of this sequence of events, case projected against the applicant is doubtful. Quantity of Ganja recovered from the applicant is only 5 kg, which is less than commercial quantity. Applicant is in jail since 17.12.2020 and he is not having any criminal antecedents.

4. Shri Alok Nigam, learned Government Advocate for the State opposing the submission made by learned counsel for the applicant submits that total quantity of Ganja recovered from the Car is of 21 kg. Contraband seized from the possession of present applicant and other two co-accused persons is more than commercial quantity, hence, he is not entitled for the benefit of Section 439 of CrPC.

5. I have heard learned counsel for the parties.

6. Taking into consideration nature of allegation, quantity of Ganja seized from the possession of present applicant, his pre-trial detention and further that he is not having any criminal past of similar offence, I am inclined to enlarge the applicant on bail.

7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail upon furnishing a bail bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) with one local surety in the like sum to the satisfaction of the Court below concerned on the condition that:

- a) Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicant shall not in any manner, tamper with the prosecution witnesses.
- c) If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-

(Parth Prateem Sahu)
JUDGE

padma