

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 836 of 2021**

Niranjan Kumar Singh, S/o. Shivdani Singh, aged about 61 years, R/o. Fathamudha, Jute Mill Ward No. 33, Raigarh, Chhattisgarh.

---- Applicant

Versus

Government of India, Through : Directorate of Revenue Intelligence, 7th Floor, D. Block, I.P. Bhawan, I.P. Estate, New Delhi. Through Director, DRI, Civil Lines, Raipur (C.G.)

---- Respondent

AND**M.CR.C. No. 2800 of 2021**

Amit Kumar Tiwari, S/o. Shri Harendra Tiwari, aged about 33 years, R/o. Village Badaki Sanadiya, Post Ratanpur, Ps Muffasil, District Bhojpur (Bihar).

---- Applicant

Versus

Government of India, Through : Intelligence Officer, DRI, Raipur, District -Raipur (C.G.)

---- Respondent

For Applicant (in M.Cr.C.No. 836 of 2021)	: Mr. Shailendra Dubey, Advocate
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For Applicant (in M.Cr.C.No. 2800 of 2021)	: Mr. Dheerendra Pandey, Advocate
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For Respondent	: Mr. Ramakant Mishra, Asst. S.G.
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Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****09/06/2021**

- Both the bail applications are heard and decided together by this common order as they are arising out of the same crime number and incident.

2. These are the first bail applications filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants, who have been arrested in connection with Crime No.33/2020, registered at Police Station – DRI, District – Raipur (C.G.) for the offence punishable under Section 8 (c), 20 (b) (ii) (c), 27-A and 29 of N.D.P.S. Act.
3. It is submitted by the learned counsel appearing on behalf of the applicant (in M.Cr.C. No. 836 of 2021) that the applicant has been falsely implicated in this case. This applicant is resident of Raigarh, who is Dhaba owner and also has a garage for repair and body building of the trucks. It is not denied that this applicant had prepared secret chambers in the truck of the co-accused persons on their request, regarding which, he had doubts and on his asking it was replied that these chambers are being prepared to carry food articles as the vehicles have to go on long run. The statement of the applicant – Niranjana Kumar Singh recorded by the investigation officer is not admissible in evidence in trial. Reliance has been placed on the judgment of **Tofan Singh Vs. State of Tamil Nadu**, reported in **(2013) 16 SCC 31**. The applicant was not present on the spot, when the truck of the co-accused persons were seized and the contraband was recovered. Therefore, he has no connection with the case concerned and he has neither abetted nor conspired for such commission of offences. Therefore, it is prayed that the applicant may be enlarged on regular bail.
4. It is submitted by the learned counsel appearing on behalf of the applicant (in M.Cr.C. No. 2800 of 2021), that the applicant has been

falsely implicated in this case. This applicant has no connection with the crime committed. This applicant has operated the customer service point under the license of State Bank of India. Various persons come and go to avail the services provided by the center of this applicant. Only statement present, which has been made a ground to array this applicant is that he had made some money transfer on the instruction of one Sanjay Singh. This applicant had no knowledge about the source of the money and the entitlement of recipient. Hence, he has no connection with the offence committed. He is in jail since 22.12.2020. Therefore, it is prayed that the applicant may be enlarged on bail.

5. Learned Assistant Solicitor General appearing on behalf of the respondent opposes both the bail applications and the submissions made in this respect. It is submitted that as regards the applicant Niranjan Kumar, there is evidence present about direct assistance given by him in preparation of secret chambers in the truck, which were specifically used for transportation of contraband. His statement recorded in the investigation reveals that the applicant was aware that the secret chambers may be used for some illegal activities. This is the act of conspiracy and it is clearly covered by the ratio laid down by the Supreme Court in case of **V.C. Shukla Vs. State of Delhi**, reported in **AIR 1980 SC 1382**. Further this applicant has criminal antecedents as he was earlier prosecuted for a case under C.G. Excise Act, which shows his criminal background. Therefore, he is not entitled for grant of bail.
6. He would further submit that the applicant – Amit Kumar Tiwari has clear involvement in this case. He has transferred money into various

accounts on the instruction of one person and the same money was used for transportation of contraband and this act was clearly covered under Section 27-A of N.D.P.S. Act. Further Section 35 of N.D.P.S. Act provides that there is reverse burden upon the accused persons to prove that they have not committed the offence. Hence, this applicant is also not entitled for grant of bail.

7. In reply, it is submitted by the learned counsel appearing on behalf of applicant (in M.Cr.C. No.836 of 2021) that there is nothing to show the mens rea on the part of the applicant, therefore, he has no complicity in the commission of offence registered against him. Hence, he is entitled for grant of bail.
8. In reply, the learned counsel appearing on behalf of the applicant (in M.Cr.C. No.2800 of 2021) also submits that there is no statement given by any witnesses against this applicant regarding his involvement. Therefore, the application should be allowed.
9. I have heard the learned counsel for both the parties and perused the case diary.
10. According to the prosecution case, on 01.10.2020, D.R.I, Raipur received secret information regarding transportation of contraband on the basis of which, Truck bearing registration No.P.B.-06/G-5533 was stopped and searched. 450 Kg. and 432 gm Ganja was found stored in the secret chambers of the truck. Seizure of the same was made from Vikramjeet Singh, Charanjeet Singh and Surendra Singh.
11. Considered on the submissions. Investigation shows that only evidence is the statement of the applicant Niranjana Kumar Singh

himself that he has constructed secret chambers in the truck. The investigation is required to be made further for collecting evidence on the point of conspiracy of the applicant – Niranjan Kumar Singh. Similarly the applicant – Amit Kumar Tiwari has made some money transfer on the instruction of one Sanjay Singh. It appears that there is no evidence that he was the person, who has financed for all the activity that are alleged. Hence, under these circumstances, this Court is of the opinion that present is a fit case, in which, the both the applicants should be enlarged on regular bail.

12. Accordingly, both the bail applications filed under Section 439 of the Cr.P.C. are allowed.
13. It is directed that applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge