

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3156 of 2021**

1. Kailash Sahni, S/o Rajendra Sahni, Aged About 28 Years R/o - Kodarkatta, Post - Barji, Police Station - Motipur, District - Muzaffarpur, Bihar.
2. Santosh, S/o Rajmangal Sahni, Aged About 20 Years R/o - Village And Post - Barji, Police Station - Motipur, District - Muzaffarpur, Bihar.

---- Applicants**Versus**

- State of Chhattisgarh, Through - S.H.O Police Station - G.R.P, Raipur District - Raipur, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Pushkar Sinha, Advocate.
For State/respondent	: Mrs. Hamida Siddiqui, Dy. Adv.General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****17/08/2021**

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicants for grant of regular bail to them as they are in custody in connection with Crime No.24/2021 registered at Police-Station-G.R.P, Raipur, District-Raipur(C.G.) for the offence punishable under Section 20(C) of the N.D.P.S. Act.
2. It is submitted by the learned counsel for the applicants, that the applicants have been falsely implicated in this case. They are in jail since 08.04.2021. The trial Court has framed charges, in which, the charge under Section 20(C) of NDPS Act has been framed against the

applicant No.1 and charge under Section 20(B) of NDPS Act has been framed against the applicant No.2. The applicant No.1 was earlier granted temporary bail and he has complied with the terms and conditions and has surrendered after the completion of bail period, therefore, it is prayed that both applicants may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that the commercial quantity of ganja has been made by applicant No.1. Similarly, applicant No.2 was also in his company when in total 39.650kg ganja was being transported in train. It is further submitted that applicant No.1 has a criminal antecedent, therefore, the application be rejected.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. As per prosecution case, it is alleged that 22 kg ganja has been seized from the possession of applicant No.1 and 17.650kg ganja has been seized from the possession of applicant No.2, when the same was being transported by them.
6. Considered on the submissions. As regard the applicant No.1, quantity of ganja seized from his possession is commercial quantity, therefore, according to the Section 37 of the NDPS Act, no observation or finding can be given by this Court in that respect, which is provided under this provision. However, in the matter of applicant No.2, his case being of ganja more than small quantity, but less than commercial quantity his prayer can be considered. For the reason, that the case is

pending for trial and the trial is likely to take some time, therefore, I feel inclined to allow the application of applicant No.2. However, looking to the previous cases against the applicant No.1, and also that he was in possession of commercial quantity of ganja he does not appear to be entitled for grant of regular bail, his application is rejected

7. Accordingly, the bail application of applicant No.2 is allowed. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha