

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.4568 of 2021**

- Mahanand Das S/o Late Dhawan Das Aged About 35 Years Occupation Agriculture R/o Dandgao (Gamheripara), P. S. And Tahsil Lundra District Surguja Chhattisgarh

----Petitioner

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Lundra District Surguja Chhattisgarh

---- Respondent

For Applicant	:	Shri Sanjay Pathak, Advocate
For Respondent/State	:	Shri Lalit Jangde, Dy.GA

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****31/08/2021**

Heard.

1. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.104/2020 registered at Police Station Lundra, District Surguja for the offence punishable under Section 21(C) of the NDPS Act. The applicant was arrested on 02-10-2020.
2. This is repeat bail application. Earlier bail application was dismissed as withdrawn.
3. Case of the prosecution is that upon receipt of secret information, the applicant was intercepted and from his possession, commercial quantity of psychotropic substance was seized.
4. Learned counsel for the applicant would submit that the applicant has been falsely implicated. He further submit that the place, wherefrom the psychotropic substance alleged to have been seized, does not belong to the applicant and not owned by him nor from his possession. He next submit that the applicant has remained in jail for long time and seizure witnesses have also been examined and they have not supported the prosecution case, therefore, there is material to show that the applicant is not involved in the alleged commission of offence and falsely implicated. It is lastly submitted that the

provision under Section 50 of the NDPS Act has been violated.

5. On the other hand, learned counsel for the State/non-applicant opposes the bail application by submitting that according to the prosecution, when house was searched in presence of the applicant, psychotropic substance were found in the house, in respect of which, the applicant has failed to produce any valid authority of possession. It is also submitted that the physical presence of the applicant in the house, when psychotropic substance were seized, shows that it was in his actual possession. It is submitted that since search was made in the house, provisions contained under Section 50 of the NDPS Act may not be applicable for the applicant.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that according to prosecution case, when house was searched, psychotropic substance were found in presence of the applicant in the house itself and that Investigating Officer has not been examined so far as also looking to the commercial quantity of psychotropic substance and further taking into consideration that the present is a case of recovery of commercial quantity of psychotropic substance is not from the body of the applicant, but, from the house of the applicant, I am not inclined to grant bail to the applicant. The bail application is therefore, rejected.

Certified copy as per rules.

SD/-
(**Manindra Mohan Shrivastava**)
Judge