

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 5587 of 2021**

Mukesh Duggal, S/o. Ram Mehar Duggal, aged about 26 years, R/o. Khanda Khedi, Tehsil- Hansi 2, District- Hisar, Haryana.

---- Applicant**Versus**

State of Chhattisgarh, Through : Officer In-charge- Police Station- Farasgaon, District- Kondagaon, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Shubham Singh, Advocate with Mr. Priyanshu Gupta, Advocate
For Respondent/State	: Mr. Amit Kumar Verma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****27/08/2021**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.99/2020, registered at Police Station – Farasgaon, District – Kondagaon (C.G.) for the offence punishable under Section 20 (B) (ii) (C) of Narcotic Drugs Psychotropic Substance Act.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is in jail since 09.10.2020. The applicant was employed only as a driver

of the pick-up truck and on the instructions given by the owner of the vehicle, he had taken some luggage from Jagdalpur to Raipur. The applicant was not aware and not conscious of the presence of the contraband amongst the luggage, which was loaded in the truck. Therefore, he has been falsely implicated. There is no connection to show that the applicant was the possessor of the contraband. Relying on the order of this Court in *M.Cr.C. No. 2681 of 2021*, passed on 28.05.2020, it is submitted that in a similar case, the applicant was in possession of the commercial quantity, had been granted bail by the Coordinate Bench of this Court. The applicant has also relied on the order of the Supreme Court in *S.L.P. (Cri.) No. 136 of 2021*, decided on 09.04.2021, in which the Hon'ble Supreme Court has granted bail to the applicant in similar case. Reliance has also been placed on the order of the Supreme Court in *S.L.P. (Cri.) No. 3478 of 2019*, decided on 28.01.2020, in which the applicant was granted bail in similar case. Hence, it is prayed that this applicant may also be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the applicant was found in possession of huge quantity of contraband. Whatever submissions have been made are the defence raised by the applicant, which shall be considered only in the trial. At present, there is a prima-facie case present against the applicant. It is also submitted that the applicant is resident of Haryana, therefore, in case he is released on bail, he may not be available for trial. Hence, this application for grant of regular bail be rejected.

4. I have heard the learned counsel for both the parties and perused the case diary.
5. As per the prosecution case, police personnel of Police Station – Farasgaon, District – Kondagaon stopped pick-up truck bearing registration No. HR-56-B-2438, which was occupied and driven by the present applicant. On making search of the vehicle, 10 plastic bags were found, which were containing 243.340 Kg. Ganja. Seizure was made from the possession of this applicant.
6. Considered on the submissions. The grounds raised by the applicant that he was not conscious possession of the luggage in the pick-up truck is required to be proved in defence as it is being contested by the respondent side. For the present looking to the conditions as laid down in the provision under Section 37 of the N.D.P.S. Act, there is nothing present in favour of the applicant for grant of bail. Hence for this reason, this Court is of the opinion that present is not a fit case, in which, the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge