

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6308 of 2020**

- Akshay Mohan Saharay, S/o Shri Mohan Jardu Saharay, Aged About 25 Years, R/o Kalari Ward, P.S. Varora, District-Chandrapur Maharastra.

---- Applicant**Versus**

- State of Chhattisgarh Through: Police Station- Borai, District-Dhamtari Chhattisgarh.

---- Respondent

For Applicant	: Mr. R.S. Patel, Adv.
For Respondent/State	: Mr. Rakesh Kumar Sahu, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****27.01.2021**

1. The accused/applicant has moved this **second bail application** under Section 439 of Criminal Procedure Code for releasing him on regular bail during trial in connection with Crime No. 02/2019 registered at Police Station- Borai, District- Dhamtari, (C.G.) for the offence punishable under Section 20(B)(ii)(C) of the N.D.P.S. Act.
2. The first bail application of the applicant was dismissed as withdrawn with liberty to revive the same after evidence of seizure witnesses vide order dated 21.01.2020 passed in MCRC No. 7761/2019 by this Hon'ble Court.
3. The prosecution story, in brief is that, on 25.02.2019, on the basis of information, police personnel searched and seized about 105 Kgs ganja in three plastic bags (35 Kgs each) from the possession of applicant and the co-accused. Thereafter, offence has been registered against the present applicant.
4. Learned counsel for the applicant submits that the applicant is

innocent and has been falsely implicated in the crime in question. He further submits that the mandatory provisions of the NDPS Act have not been complied with in its letter and spirit. He further submits that the memorandum and seizure witnesses have not supported the prosecution case and turned hostile. He next added that the other co-accused has been granted bail in MCRC No. 4107/2020 and the applicant is in jail since 25.02.2019, there is no likelihood of his case being decided in near future, therefore, the present applicant may be released on bail.

5. On the other hand, counsel for the State opposes the bail application.
6. I have heard learned counsel for the parties and perused the record.
7. Taking into consideration the facts and circumstances of the case, in particular the quantity of ganja and further considering the facts that the memorandum and seizure witnesses have not supported the prosecution case and turned hostile and other co-accused has been granted bail in MCRC No. 4107/2020 and the applicant is in jail since 25.02.2019, the trial is likely to take some time for its final disposal, this Court is of the view that it is a fit case to release the applicant on bail. Accordingly, the application is allowed.
8. Accused/applicant is directed to be released on bail on his executing a personal bond in the sum of Rs. 1,00,000/- with one local surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given to him by the said Court.

**Sd/-
(Rajani Dubey)
Judge**