

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6276 of 2021

- Jagbir Jat S/o Gujar Jat, Aged About 27 Years, R/o Chandhat, Police Station Chandhat, Tahsil and District Palval (Hariyana), Present R/o Lachmipur, Boipariguda, Koraput, Odisha. 764043

---- Applicant

Versus

- State Of Chhattisgarh, Through : Police Station Kondagaon, District Kondagaon, Chhattisgarh., District : Kondagaon, Chhattisgarh

----Non-applicant

For Applicant – Mr. Pawan Kumar Kashyap, Advocate.

For Non-applicant/State – Ms. Shivali Dubey, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

06-10-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 10-06-2021 in connection with Crime No.185/2019 registered at Police Station - Kondagaon, District Kondagaon, Chhattisgarh for the offence under Section 20(B) (ii-C) of Narcotic Drugs and Psychotropic Substances Act, 1985.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 10-06-2021. Charge sheet has been filed. The seizure of the contraband was made from open place, which was passenger waiting room of the bus stand in Kondagaon, therefore, the possession of the contraband cannot be attributed to this applicant. It is also submitted that according to the panchnama itself the bag in possession of this applicant contained only three packets of ganja, whereas, the co-accused person was in possession of four packets of ganja. The weighment procedure was not done separately, all the packets were jointly weighed and the seizure was also jointly made which is erroneous procedure of investigation. It is also submitted that co-accused person Ramjane Mali has been granted bail by

coordinate Bench of this Court in MCRC No.9080 of 2020 by order dated 06-04-2021. Therefore, it is prayed that this applicant be also granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the total quantity of seized contraband is more than commercial quantity and this applicant was in conscious and physical possession of the contraband along with the co-accused person. Therefore, looking to the restrictions under Section 37 of the N.D.P.S. Act, this applicant is not entitled for grant of bail.

4. Heard learned counsel for the parties and perused the case diary.

5. According to the prosecution case, the police have made joint seizure of 27.7 kg. Ganja from the possession of this applicant and co-accused Ramjane Mali.

6. Considered on the submissions. As it is mentioned in the talashi panchnama that this applicant was in possession of three packets of ganja which was separate from four packets which were in possession of the co-accused person, even then the weighment and seizure procedure has been done jointly. This raises question on the investigation procedure. Further, the co-accused person namely Ramjane Mali has been granted bail by the coordinate Bench, therefore, I feel inclined to allow this application.

7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the 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 Court, for his appearance as and when directed.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge