

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7414 of 2020

Akash Rajput S/o Shri Phool Singh Rajput Aged About 22 Years Occupation
Agriculturist, R/o Semari, Police Station Pichhore, District Shivpuri M. P.,
District : Shivpuri, Madhya Pradesh

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Keshkaal, District Kondagaon
Chhattisgarh, District : Kondagaon, Chhattisgarh

---- Respondent

For Applicant	:	Shri Himanshu Pandey, Advocate
For State	:	Ms. Samiksha Gupta, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

29/01/2021

Heard.

1. The applicant is arrested in connection with Crime No.114/2019 registered in Police Station- Keshkaal, Kondagaon (CG) for alleged commission of offence under Section 20 (b) (ii) (C) of the NDPS Act.
2. Case of the prosecution, in brief, is that the applicant and the co-accused were found in a vehicle and upon search, more than 74 kg of ganja was found in respect of which the applicant and the co-accused failed to produce any valid authority for possession.
3. Learned counsel for the applicant would submit that the applicant has been falsely implicated in the alleged commission of offence. Merely because the applicant was also found traveling in the same vehicle, it cannot be held that the applicant was in conscious possession of ganja. He was merely traveling in the vehicle along with the co-accused/driver, and if the vehicle was found containing ganja in a hidden chamber, it cannot be said that the applicant

was in conscious possession. Learned counsel for the applicant next submits that the applicant is neither the owner nor in any manner associated with the co-accused or the owner of the vehicle. He further submits that the provision under Section 42 of the Act was not complied with properly. It is also argued that the applicant is a young boy aged 22 years and it is not probable that he would be involved in trafficking of ganja, therefore, the applicant may be released on bail.

4. On the other hand, learned counsel for the State opposed the bail application by submitting that a prima facie case is made out as upon receipt of information, at the spot, vehicle was intercepted and more than 74 kg of ganja was recovered in the vehicle. The applicant and co-accused/driver were found in the vehicle. No material was placed by the applicant to show that the vehicle was hired or it was a public transport vehicle. Learned State counsel further submits that the proceeding regarding information to higher authority, compliance of Section 50 of the Act, fixation of seal with sample seal, panchnama, weighment, transfer of sample and safe deposit in malkhana have been duly drawn which are supported from statements of independent witnesses who remained present throughout the proceedings.
5. Taking into consideration the submissions made by learned counsel for the parties, particularly taking into consideration that the vehicle was found containing huge quantity of ganja and the applicant and co-accused/driver alone were found in the vehicle, the vehicle being brought from State of Madhya Pradesh, District -Shivpuri and the applicant is shown to be resident of the same area and further that the entire proceedings are supported from case diary statement of witnesses, this Court is unable to form an opinion that there are reasonable grounds to believe that the applicant is not guilty of commission of offence. Therefore, bail cannot be granted in view of the provision contained under Section 37 of the NDPS Act.
6. The application is accordingly rejected.

Sd/-
(Manindra Mohan Shrivastava)
Judge