

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7212 of 2020**

Samaru Pujari S/o Narsingh Pujari Aged About 37 Years R/o Village Netal
Gundi Kutni Police Station Matali, District Malkangiri (Orissa)., District :
Malkangiri *, Orissa

---- **Applicant**

Versus

State Of Chhattisgarh Through The Kondagaon District Kondagaon
Chhattisgarh., District : Kondagaon, Chhattisgarh

---- **Respondent**

For the Applicant	:	Shri Pravin Kumar Tulsyan, Advocate
For the State	:	Shri Raghvendra Verma, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**04/01/2021**

1. Heard.
2. Case diary is available.
3. This is the second bail application under Section 439 of the CrPC.
4. Earlier first bail application of the applicant was rejected by this Court vide order dated 27/10/2018 passed in MCRC No. 7198/2018 considering *prima facie* case against him.
5. Perused the case diary provided by the counsel for the State in connection with the Crime No.10/2018 registered at Police Station Kondagaon, District Kondagaon (C.G.) for the offence punishable under Section 20 (b) (2-b) of NDPS Act.
6. Case of the prosecution, in brief is that on 08/01/2018 at Narayanpur Tiraha, Kondagaon Sub Inspector Krishna Sahu, DCRB Branch SP Office Kondagaon seized one Mini Truck bearing registration number KL-06G-8685 from the possession of applicant and co-accused Sukhdev Das. In that truck 658 Kgs. And 500 grams ganja was found, which was also seized from the applicant and co-accused Sukhdev Das.
7. Counsel for the applicant submitted that applicant is in jail since January 2018, out of 24 witnesses only four witnesses have been

examined, both two seizure witnesses have turned hostile and did not support the prosecution case, co-accused Sukhdev Das enlarged on bail by co-ordinate Bench of this Court and the case of applicant is identical to that accused hence principle of parity is applicable in the case in hand, in these circumstances applicant may release on bail.

8. On the other hand, counsel for the State opposes the bail application.
9. This is true that detention period of the accused and delay in trial are material factors for disposal of the bail application filed by the accused but equally it is also true that seriousness of the offence, impact of granting bail to accused on society are more important and material factors for disposal of the bail application filed by the accused.
10. Mere turning hostile of some witnesses is itself not a ground to enlarge the accused on bail.
11. This Court has rejected the first bail application of the accused on 27/10/2018, thereafter on 19/06/2020 co-ordinate Bench enlarged on bail to the co-accused Sukhdev Das. The case of Sukhdev Das is identical to the case of applicant. The order of co-ordinate Bench does not reveal that this aspect was considered that earlier first bail application of applicant was rejected by this Court. Hence in the case in hand principle of parity is not applicable.
12. Looking to the above mentioned facts and circumstances of the case, this Court finds that this is not a fit case where applicant may release on bail in second round of litigation. Consequently, second bail application of the applicant is rejected. However trial Court is directed to expedite the trial and dispose of the case as soon as possible preferably within a period of four months from the date of receipt of copy of this order. Trial Court is also directed to submit the progress report in every two months.

Sd/-
(Sharad Kumar Gupta)
Judge