

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 8081 of 2021**

Harshwardhan Sharma S/o Sanjay Sharma Aged About 27 Years R/o
House No. 34/A, Sector - I, Bajaj Colony, P.S. - New Rajendra Nagar,
District Raipur CG

---- Applicant

Versus

State of Chhattisgarh through P.S. New Rajendra Nagar, District Raipur
CG

---- Non-applicant

For applicant	Mr. Kishore Bhaduri, Sr. Adv. with Shri Savyasachi Bhaduri, Adv.
For non-applicant/State	Mr. B.P. Banjare, Dy. Govt. Adv.

Hon'ble Shri Justice N.K. Chandravanshi**Order on Board****11-11-2021**

1. As per applicant, this is third bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no bail application is pending before any other court. His first bail application MCRC No. 502/2021 was rejected by coordinate bench vide order dated 29-1-2021 on merit. His second bail application MCRC No. 3081/2021 was dismissed by the coordinate bench vide order dated 25-6-2021 because of no change in the circumstances for taking different view of the matter.
2. The applicant has been arrested in connection with Crime No. 309/2020 registered in police station New Rajendra Nagar, Raipur, (CG) for offence punishable under 22(b) of the Narcotic Drugs and Psychotic Substances Act, 1985 (in short 'NDPS Act').
3. Brief facts of the case are that on 9-12-2020 at 15.00 hrs. police of Police Station New Rajendra Nagar received secret information that the present applicant and co-accused Lakhpreet Kaur have kept cocaine inside the vehicle in the house of the present applicant. After complying with the necessary mandatory procedure under Section 42 and 50 of the NDPS Act, police conducted search, in which the applicant was found in possession of 3.62 gms. of cocaine whereas co-accused Lakhpreet Kaur was

found in illicit possession of 3.38 gms. of cocaine.

4. Learned Senior Counsel appearing for the applicant would argue that the applicant has been falsely implicated in this case because his mother who is a social activist has lodged a complaint against the local police for allowing consumption of drugs and other nefarious criminal activities in the Queens Club of India, Raipur. He would next argue that though, earlier two bail applications were dismissed by this Court and SLP (Cr.) No. 5247/2021 has also been dismissed by Hon'ble Supreme Court vide order dated 29-7-2021, but in the present situation, charge sheet has been filed and witnesses of search and seizure and other procedures have turned hostile and they have not supported the case of prosecution at all. This is an important change of circumstance. Co-accused Lakhprit Kaur has been granted regular bail by coordinate bench vide order dated 9-4-2020 passed in MCRC NO. 929/2021. He further contended that the applicant is in jail since 9-12-2020. Out of 17 witnesses, only two witnesses have been examined. Conclusion of trial may take considerable time. Hence, the applicant may be enlarged on bail.
5. On the other hand, the State Counsel opposing the bail application would argue that applicant's first bail application was rejected on merit by the coordinate bench, and his second bail application was also rejected as the coordinate bench found that there was no change in the circumstances for taking a different view of the matter, and Hon'ble Supreme court has also rejected his SLP. He would next argue that the applicant is a habitual offender. As per police record, he is listed as 'Gunda Badmash' and 9 more cases of different nature have been registered against him in different police stations. Trial is going on, there is no change in the circumstance, therefore, his 3rd bail application may also be rejected.
6. I have heard learned Sr. counsel appearing for the applicant and learned State counsel and perused the case diary and the material available on record.
7. First bail application of the applicant was dismissed on merit by the coordinate bench, his 2nd bail application was also dismissed by the same bench finding no change in circumstance warranting

different view. His SLP has also been dismissed by Hon'ble Supreme Court. Hence, this 3rd application under Section 439 of the Cr.P.C. has been filed.

8. As per case diary, charge sheet has already been filed. Two witnesses of search and seizure and other procedures have been declared hostile by the prosecution. Certified copies of deposition of those witnesses have been filed by the applicant, which is found to be an important change in circumstance. As per case of prosecution, 3.62 gms. of cocaine was found from illicit possession of applicant which is very less than commercial quantity. Co-accused Lakhpreet Kaur has been granted regular bail by coordinate bench. Out of 17 witnesses, only two witnesses are said to have been examined. Hence, considering all above facts and also taking into consideration the pre-trial detention period of the applicant, I feel inclined to allow the bail application. Therefore, the application is allowed. It is ordered that if the applicant furnishes two sureties each for a sum of Rs. 50,000/- along with one personal bond of the like sum to the satisfaction of the trial Court concerned for his appearance before the concerned Court as and when directed by the said Court, he be released on bail.
9. CC as per rules.

Sd/-
(N.K. Chandravanshi)
Judge