

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.8564 of 2021

1. Anjeem Tazzar, S/o Kamaruddin, aged about 32 years, Occupation Driver, R/o Village Khatikana, Sasni, Police Station and Tahsil Sasni, District Hathras, Uttar Pradesh.
2. Himanshu Sharma, S/o Rakesh Sharma, aged about 32 years, Occupation Transporter, R/o Village Bramhpuri, Sasni, Police Station and Tahsil Sasni, District Hathras, Uttar Pradesh.

(In Jail)

---- Applicants

Versus

State of Chhattisgarh, Through the District Magistrate, Kawardha / Station House Officer, P.S. Chilphy (wrongly mentioned as Bodla), District Kabirdham (C.G.)

---- Non-applicant

For Applicants: Mr. T.K. Jha, Advocate.

For Non-applicant / State: -

Ms. Sunita Jain, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. AgrawalOrder On Board10/12/2021

1. The accused/applicants have moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing them on regular bail during trial in connection with Crime No.13/2020, registered at Police Station Chilphy, Distt. Kabirdham for the offence punishable under Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act').
2. This is the second bail application filed on behalf of the applicant for grant of bail.

3. Case of the prosecution, in brief, is that the applicants were found in possession of 49.640 Kgs. of Ganja and thereby committed the offence.
4. Mr. T.K. Jha, learned counsel for the applicant, would submit that the seizure witnesses namely, Mitthu Lal Yadav (PW-1) and Khemdas (PW-2) have been examined and they have not supported the case of the prosecution, therefore, the applicants are entitled to be released on bail, as they are in custody since 5-2-2020.
5. Ms. Sunita Jain, learned State counsel, would submit that in view of Section 37(1)(b) of the NDPS Act, since commercial quantity of Ganja has been seized from the applicants, they are not entitled to the privilege of bail.
6. I have heard learned counsel for the parties and considered the rival submissions made herein-above and also went through the case diary.
7. Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, taking into consideration the material available on record and since commercial quantity of Ganja i.e. 49.640 Kgs. has been recovered from the two accused / applicants and in view of the provisions contained in Section 37(1)(b) of the NDPS Act, I am not inclined to grant bail to the applicants and therefore the bail application is rejected.

Sd/-
(Sanjay K. Agrawal)
Judge