

M.Cr.C.No.8777/2013
Ashok Singh Vs. State of M.P.

26/12/2013

Shri M.S. Yadav, Advocate for the applicant.

Shri F.A. Shah, Panel Lawyer, for the respondent/State.

Heard on the bail application.

Perused the case diary.

This is first bail application under Section 439 of Cr.P.C. The applicant has been arrested in Crime No.393/2013 registered at Police Station, Hazira, District Gwalior (M.P), for the offence punishable under Section 15 (Kha) NDPS Act.

As per prosecution case, on receipt of information that the applicant was carrying Poppy straw (Doda Chura) for selling, police force reached near temple and saw the applicant having a plastic bag. He was inspected and interrogated. He disclosed his name and on being searched 7 Kgs Poppy straw (Doda Chura) was seized from his possession without having any licence.

It is submitted by the learned counsel for the applicant that the applicant has falsely been implicated. He has not committed any offence. The quantity alleged to have been seized does not come within the purview of commercial quantity, which is 50 Kg. Applicant is in custody since 07.10.2013. Trial will take some time. On these grounds learned counsel for the applicant prays for grant of bail.

The application is opposed by the learned Panel Lawyer and submits that applicant has criminal antecedents and as many as 15 criminal cases of various types of nature have been registered against the applicant.

On perusal of the case diary, the quantity alleged to have been seized is above than the minimum quantity, however, it is less than commercial quantity which is 50 Kg. Learned counsel for the applicant has shown the copy of the judgment passed in Sessions Trial No.294/2010, 107/2003 and Criminal Case No.16418/2006 in which applicant has been acquitted. On perusal of the list of the Criminal cases registered against the applicant, it appears that no case under the provision of NDPS Act except present one is registered against the applicant. The offences registered against the applicant are of Public Gambling Act, Arms Act and Excise Act.

Considering the aforesaid facts and circumstances of the case coupled with the fact that the applicant is in custody since 07.10.2013, charge sheet has been filed and trial is likely to take time, but without commenting on the merits of the case, the application is allowed. It is directed that the applicant shall be released on bail on his furnishing personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety in the like amount to the satisfaction of **Trial Court/Committal Court.**

This order will remain operative subject to compliance of the following conditions by the applicant :-

1. The applicant will comply with all the terms and conditions of the bond executed by him;
2. The applicant will cooperate in the investigation/trial, as the case may be;
3. The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicant shall not commit an offence similar to the offence of which they are accused;
5. The applicant will not seek unnecessary adjournments during the trial; and

6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

A copy of this order be sent to the Court concerned for compliance.

C.C. as per rules.

(D.K.Paliwal)
Vacation Judge

Vin*