

The High Court Of Madhya Pradesh**MCRC-27969-2020***(SOBHAIYA @ BHAGVANDAS ARMO Vs THE STATE OF MADHYA PRADESH)***Jabalpur, Dated : 31-08-2020****Heard through Video Conferencing.**

Mr. Sunil Kumar Pandey, learned counsel for the applicant.

Mr. Rohan Harne, learned P.L. for the respondent/State.

This is the first application under Section 439 of Cr.P.C. for grant of bail on behalf of the applicant as he is in custody since 22.05.2020 in connection with Crime No.131/2020 registered at Police Station Kundam, District Jabalpur for the offences punishable under Section 8/20 of the N.D.P.S.Act.

The allegation against the applicant is that he was found to be in possession of 21 Kg. and 200 grams of Ganja, which was recovered from his house only.

Counsel for the applicant has submitted that the applicant has been falsely involved in this case and otherwise also, out of the total quantity 5 Kg and 200 grams of Ganja was in wet form with leaves and stems. Thus, it is submitted that otherwise also, the quantity is less than the commercial quantity. It is further submitted that the charge-sheet has been filed and the final conclusion of trial will take sufficiently long time in COVID 19 situation. Apart from this there is clear violation of the mandatory provision of Section 50 of the N.D.P.S. Act as the notice given to the applicant does not bear signature. It is therefore, prayed that the applicant be released on bail.

Learned P.L. for the respondent/ State has opposed the prayer, however, it is not denied that there are no criminal antecedents of the applicant. He further submits that looking to the quantity of Ganja recovered from the house of the applicant, no case for bail is made out by the applicant.

Having considered the rival submissions and keeping in view the fact that the applicant has no criminal antecedents, charge-sheet has been filed as also looking to the wet content of the seized material, without commenting on

the merits of the case, the application is hereby **allowed**. It is directed that the applicant **Sobhaiya @ Bhagvandas Armo** shall be released on bail upon his furnishing personal bond in the sum of **Rs.50,000/- (Rs. Fifty Thousand Only)** with separate surety in the like amount to the satisfaction of the concerned C.J.M/trial Court for his appearance before the trial Court on all such dates as may be fixed in this behalf by the trial Court during the pendency of trial.

The prison authorities are also requested to ensure compliance of the order passed by the Supreme Court in Writ Petition No. 1/2020 and ensure that the applicant is examined by the jail doctor before his release.

If the applicant shows symptoms of COVID-19, the doctor shall forthwith direct him to be produced before the appropriate hospital designated for the detection and treatment of COVID-19 patients. If the doctor is of the opinion that the applicant is not affected with the virus, the jail authorities shall ensure his transportation from the jail to his place of residence.

If it is found that the applicant is involved in any other case during the trial, this bail order shall stand cancelled automatically without reference to the Court and the Police will be at liberty to arrest the applicant in the present case also.

A typed copy of this order be forwarded to the Office of the Advocate General and to Shri Rohan Harne, Ld. Panel Lawyer, on their respective email address, for intimation to the Police Station concerned. The office is requested to forward a copy of this order to the Learned Court below.

With the aforesaid, the present application filed under Section 439 of the Cr.P.C. is hereby disposed of.

Certified copy as per rules.

(SUBODH ABHYANKAR)
JUDGE

Vikram

