

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6370 of 2023**

- Bhajoram Nandgawal S/o Shridhar Nandgawal Aged About 47 Years R/o Village Kekrajhariya, Police Station Lailunga, District Raigarh (C.G.).

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Lailunga, District Raigarh (C.G.).

---- Non-applicant

(Cause-title taken from Case Information System)

For Applicant : Mr. Ajit Kumar Yadav, Advocate.
 For Respondent-State : Mr. Vikram Sharma, Deputy Government Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice**Order on Board****29.09.2023**

1. The applicant has preferred this First Bail Application under Section 439 of Cr.P.C. for grant of regular bail, as he has been arrested in connection with Crime No. 245/2023, registered at Police Station-Lailunga, District- Raigarh (C.G.) for the offence punishable under Section 20(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985, for short, the NDPS Act.
2. The prosecution story, in brief, is that on 19.08.2023, police of police

Station Lailunga received secret information through informant that Bhojoram Nadgawal resident of Village Kekrajhariya and Ganpat Yadav Resident of Village Pokdega, Police Station- Lailunga in his motorcycle Platina without registration number having illegal intoxicate material like Ganja for the purpose of sale were coming from Odisha to Lailunga. On the basis of such information, the concerned police of police Station- Lailunga reached at the place of incident and after compliance of all the mandatory provisions of the NDPS Act, in three plastic bags, inside 02 piece including 5 packet in total 5.00kg of contraband Ganja seized from the motorcycle of the applicant. Thereafter, an offence has been registered against the the accused person under Section 20 (B) of the Narcotic Drugs and Phychotropic Substance Act, 1985.

3. It has been argued by the learned counsel for the applicant that from the possession of the applicant intermediate quantity of the psychotropic substance ganja has been seized and therefore, it will not attract the rigors of Section 37 of the NDPS Act as the commercial quantity for ganja as prescribed under the schedule is more than 20.00 Kgs. and from the possession of the each applicant only 5.00 kg of contraband *Ganja* has been seized. It has been further argued that there is no criminal antecedent of NDPS Act or any other criminal case against the present applicant, the trial has not yet commenced and the applicant is in jail since 19.08.2023, hence he prays that the applicant be enlarged on bail.
4. On the other hand, the learned counsel for the State opposes the bail application and admit that the applicant has no criminal antecedent under the NDPS Act but there are two *Istagasha* against the

applicant. It is submitted that total 5.00 kg contraband *Ganja* has been recovered from the possession of the present applicant, therefore, their bail application is liable to be dismissed.

5. I have heard learned counsel for the parties and perused the material available on record.
6. After hearing the submissions advanced by learned counsel for the parties as well as considering the quantity of psychotropic substance *Ganja* seized from the possession of the applicant i.e. 5.00 kg, which is less than commercial quantity, the applicant has no criminal antecedent and the conclusion of the trial is likely to take sometime, and further that the applicant is in jail since 19.08.2023, I am of the opinion that the applicant is entitled to be released on bail in this case.
7. Let applicant- **Bhajoram Nandgawal** in Crime No. 245/2023, registered at Police Station- Lailunga, District- Raigarh (C.G.) for the offence punishable under Section 20(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985, for short, the NDPS Act, be released on bail on him furnishing **a personal bond with two local sureties** to the applicant in the like sum to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his

counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fail to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

8. However, this Court hopes and trusts that the trial Court shall make earnest endeavour to conclude the trial expeditiously within a period of six months from the date of receipt of a certified copy of this order, if there is no legal impediment.

9. Office is directed to provide a certified copy of this order to the trial Court concerned for necessary information and compliance.

Sd/-

(Ramesh Sinha)
Chief Justice

