

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7451 of 2023**

Sushil Kumar Sahu S/o Shri Ram Das Sahu Aged About 43 Years R/o Village Pangrikala, Police Station Dongargaon, District : Rajnandgaon, Chhattisgarh

---- Applicant**Versus**

State of Chhattisgarh Through The Police Station Dongargaon, District : Rajnandgaon, Chhattisgarh

---- Non-Applicant

(Cause Title taken from Case Information System)

For Applicant : Mr. Sumit Shrivastava, Advocate.

For Non-Applicant : Mr. Jitendra Pali, Deputy Advocate General.

Hon'ble Mr. Ramesh Sinha, Chief Justice

Order on Board**21/12/2023**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who were have been arrested in connection with Crime No. 274/2023 registered at Police Station Dongargaon, District - Rajnandgaon (C.G.) under Section 20(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985.
2. Case of the prosecution, in brief, is that on 04.10.2023, the Police received a secret information from by the informant and on the basis of said information the police has seized 2.100 KG of contraband Ganja from the possession of the present applicant. Thereafter, the case has been registered against the applicant.

3. It has been argued by learned counsel for the applicant that the applicant has been falsely implicated in this case and the contraband article i.e. Ganja was not seized from the exclusive possession of the applicant. He further submits that that prosecution agency has not followed the provisions under Section 42 of the NDPS Act and not taken search warrant from the superior authority. He also submits that from the possession of the applicant intermediate quantity of Ganja has been seized and therefore, it will not attract the rigors of Section 37 of the NDPS Act as the commercial quantity of ganja as prescribed under the schedule is 20 kg and from the possession of the applicant only 2.100 KG has been seized. It is further submitted that the applicant is in jail since 04.10.2023 and the conclusion of the trial is likely to take quite long time. Therefore, he prays for grant of regular bail to the applicant.
4. On the other hand, learned Panel Lawyer, appearing for the State/non-applicant would oppose the bail application and submit that the charge-sheet has been filed in the present case before the competent Court. He further submits that from the possession of the applicant, only 2.100 KG of Ganja has been seized which is an intermediate quantity, however, there is one criminal antecedent of the applicant relating to the year 2021 under Section 151, 107 and 168 of the IPC. Hence, he may not be released on bail.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. Taking into consideration the facts and circumstances of the case that though the applicant has one antecedent relating to the year 2021

under section 151, 107 and 168 of the IPC, however, looking to the quantity of Ganja seized which is 2.100 KG which is much less than the commercial quantity and falls under the intermediate quantity, and also considering the fact that the charge-sheet has been filed in the present case, this Court is of the view that the applicant is entitled to be released on bail in this case.

7. Let the Applicant – **Sushil Kumar Sahu**, involved in Crime No. 274/2023 registered at Police Station Dongargaon, District - Rajnandgaon (C.G.) under Section 20 (B) of the Narcotic Drugs and Psychotropic Substances Act, 1985, be released on bail on his furnishing **personal bond** with **two sureties** 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 fails 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 applicants are 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, if there is no legal impediment.
9. Office is directed to send a certified copy of this order to the trial Court concerned for necessary information and compliance forthwith.

Sd/-
(Ramesh Sinha)
Chief Justice