

**(2018) 09 CHH CK 0399**

**Chhattisgarh High Court**

**Case No:** Miscellaneous Criminal Case (MCRC) No. 7174 Of 2018

Gopal Sao

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

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**Date of Decision:** Sept. 26, 2018

**Acts Referred:**

- Code Of Criminal Procedure, 1973 - Section 439
- Narcotic Drugs And Psychotropic Substances Act, 1985 - Section 20(B)

**Hon'ble Judges:** P. Sam Koshy, J

**Bench:** Single Bench

**Advocate:** Vikas Pradhan, Arvind Dubey

**Final Decision:** Allowed

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**Judgement**

P. Sam Koshy, J

1. The present is a repeat application filed under Section 439 of CrPC seeking for grant of bail to the Applicant who is in jail since 22.11.2017 in

connection with Crime No. 285/2017 registered at Police Station- Sarsiva, District Balodabazar-Bhatapara, for the offence punishable under Sections

20(b) of the N.D.P.S. Act.

2. The earlier bail application stood dismissed as withdrawn, vide order dated 10.4.2018 passed in M.Cr.C. No. 1167/2018.

3. Case of the prosecution is that on 22.11.2017 the Applicant and the another co-accused person were travelling on a motorcycle and were found to

be in possession of 12kg of cannabis.

4. Learned Counsel for the Applicant submits that on two grounds the repeat bail application has been filed. Firstly, the material seizure witnesses

have all turned hostile during the course of evidence. Secondly, the prosecution case itself stands vitiated in the light of the recent decision of the

Hon'ble Supreme Court in the case of Mohan Lal v. The State of Punjab (in Criminal Appeal No. 1880/2011 decided on 16.08.2018), whereby the

Hon'ble Supreme Court was of the view that in case the informer and investigating officer are same person, the investigation cannot be said to be a

fair investigation to have been conducted and would therefore vitiate the entire investigation.

5. Perusal of the facts of the present case would reveal that in the instant case the informer is one Amit Gupta, who is the Inspector, and the

investigation also has been done by the same Inspector Amit Gupta. Therefore, it is a case which would fall squarely within the four corners of the

ratio laid down by the Hon'ble Supreme Court in the aforesaid judgment.

6. Given the said fact and in the light of the judgment of the Hon'ble Supreme Court in the case of Mohan Lal (supra), this this Court is of the opinion

that prima facie a strong case is made out for grant of bail to the Applicant.

7. Accordingly, the application for grant of bail is allowed. It is ordered that the Applicant shall be released on bail on his furnishing a personal bond for

a sum of Rs.25,000/- with one surety of the like sum to the satisfaction of the concerned Trial Court for his appearance as and when directed by the

Trial Court.