

**(2018) 08 CHH CK 0309**

**Chhattisgarh High Court**

**Case No:** Miscellaneous Criminal Case (MCRC) No. 4265 Of 2018

Narendra Singh Rajput

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

**Date of Decision:** Aug. 27, 2018

**Acts Referred:**

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

**Hon'ble Judges:** Sanjay Agrawal, J

**Bench:** Single Bench

**Advocate:** Abhishek Sharma, Vijay Bahadur Singh

**Final Decision:** Allowed

**Judgement**

Sanjay Agrawal, J

1. The Applicant has filed this application under Section 439 Code of Criminal Procedure for grant of regular bail as he is in custody since 03.05.2018

in connection with Crime No.13/2018 registered at Police Station - Keregaon, District Dhamtari (CG) for the offence punishable under Section 20(b)

of the Narcotic and Psychotropic Substances Act, 1985 (for short 'the NDPS Act').

2. The case of the prosecution in brief is that on the basis of a secret information that on 03.05.2018 at 5.30 pm, the Applicant is allegedly transporting

the contraband article ganja illegally and based upon this, a search was made and accordingly, 8 kgs of ganja was recovered from the possession of

the Applicant. Thereafter, a case was registered under the aforesaid provision.

3. Learned Counsel for the Applicant would submit that the Applicant has been falsely implicated in connection with the aforesaid crime. He submits

further that the quantity of the said contraband article as recovered from the possession of the Applicant is of a small quantity as prescribed under the notification issued by the Central Government and the Applicant is in jail since 03.05.2018 and therefore, he may be enlarged on bail. It is submitted further that during the pendency of this bail application, charge sheet has already filed on 31.05.2018.

4. On the other hand, learned counsel for the State opposed the prayer for bail by submitting inter alia that since the alleged contraband article was transported illegally by the Applicant, therefore, he is not entitled to be released on bail as the punishment provided under the said offence is for 10 years with fine which may also extend to Rs. 1 lakh. According to him, the offence is serious in nature, and therefore, the Applicant is not entitled to be enlarged on bail.

5. I have heard learned Counsel for the parties and perused the entire case diary carefully.

6. Having considered the facts and circumstances of the case and that by taking into consideration the fact that the contraband article (ganja), so seized from the possession of the Applicant, Narendra Singh Rajput is of 8 kgs, which is less than the commercial quantity as per the notification issued by the Central Government under Clauses (viiia) and (xxiii-a) of Section 2 of the NDPS Act, and that by considering further that since the Applicant is in jail since 03.05.2018 and the charge sheet has already been filed, I am inclined to enlarge him on bail.

7. Accordingly, the bail application is allowed and the Applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand Only) with one surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the concerned trial Court on each and every date as and when directed by the said Court.

8. It is made clear that I have not entered into the merits of the case and the trial Court shall not be influenced by any of the observations of mine while allowing this bail application.

Certified copy as per rules.