



2024:CGHC:40684

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**MCRC No. 7156 of 2024**

Vinod Kumar Audholiya S/o Rajju Audholiya Aged About 36 Years R/o  
Ganiyari, P.S. Sakri, District Bilaspur, Chhattisgarh.

**... Applicant**

**versus**

State Of Chhattisgarh Excise Circle, Darri Gevra, P.S. Darri, Korba,  
District Korba, Chhattisgarh.

**... Non-Applicant**

---

For Applicant : Mr. Rajendra Kumar Patel, Advocate.  
For Non-Applicant : Mr. Malay Jain, Panel Lawyer.

---

**Hon'ble Mr. Ramesh Sinha, Chief Justice**

**Order on Board**

**16/10/2024**

1. This is the first bail application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the applicant who has been arrested in connection with Crime No. 61/2024 registered at Police Station Darri Gevra, P.S. Darri, Korba, District Korba (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 the basis of secret information the Police of Police Station Darri Gevra, P.S. Darri, Korba, District Korba (C.G.) seized 5 Kgs of illegal Ganja from the vehicle bearing registration No.CG-10-BQ-9133 through which the applicant is traveling. Thereafter, the case has 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 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 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 of ganja as prescribed under the schedule is more than 20 kgs and from the possession of the applicant only 05 Kgs of Ganja has been seized. It is further submitted by the learned counsel for the applicant that the applicant has no criminal antecedent and he is in jail since 09.08.2024 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 counsel 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 and also endorse the said submission that the applicant has no criminal antecedent. He further submits that from the possession of the applicant contraband article *i.e.* 05 Kgs of Ganja is seized, therefore, the present applicant is not entitled for grant of 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 the applicant has no criminal antecedent and the contraband article *i.e.* 05 Kgs of Ganja recovered from the possession of the applicant is less than the commercial quantity and the charge-sheet has been filed in the present case before the competent Court, this Court is of the view that the applicant is entitled to be released on bail in this case.
7. Let the Applicant - **Vinod Kumar Audholiya**, involved in Crime No. 61/2024 registered at Police Station Darri Gevra, P.S. Darri, Korba, District Korba (C.G.) under Section 20(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985, be released on bail on their 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 269 of Bharatiya Nyaya Sanhita.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence, proclamation under Section 84 of BNSS. 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 209 of the Bharatiya Nyaya Sanhita.

(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 351 of BNSS. 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. 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**