

(2024) 03 MP CK 0047

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 11290 Of 2024

Satish Kushwaha And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 18-03-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 437(3), 439

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 8, 20, 52A

Citation : (2024) 03 MP CK 0047

Hon'ble Judges : Dinesh Kumar Paliwal, J

Bench : Single Bench

Advocate : Rahul Singh, S. K. Gupta

Final Decision : Allowed

Judgement

Dinesh Kumar Paliwal, J

1. This second application has been filed by the applicants under Section 439 of the Code of Criminal Procedure for grant of regular bail relating to FIR No.20/2024 dated 4.1.2024 registered at Police Station Kuthla, District Katni (M.P.) for commission of offence under Section 8/20 of the NDPS Act, 1985. Applicants are in detention since 04.1.2024.

2. Applicants' first bail application was dismissed as withdrawn and not pressed vide order dated 16.02.2024 passed in M.Cr.C.No.5309 of 2024.

3. As per the prosecution story, on 4.1.2024, 5 kg 500 gms contraband was seized from the possession of applicants by police after complying with the provisions of the Act. When it was weighed, it was found to be 5 Kg 500 gms. After investigation charge sheet has been filed.

4. Learned counsel for the applicants has submitted that applicants have not committed any offence. They are innocent. They have been falsely implicated. Nothing was seized from their possession. It is submitted that as per police

papers only 5 Kg 500 gms cannabis was seized from their possession. When the alleged seized contraband was produced before the JMFC for proceedings under Section 52A of the NDPS Act, the weight was found to be 6 kg 124 gms which makes the entire prosecution story suspicious. If only 5 Kg 500 gms cannabis was seized then it should have been of either the same weight or some lesser weight when produced before the Magistrate. Producing an article in which 6 Kg 124 gms cannabis was kept before the Magistrate, depict that applicants have been falsely implicated. Therefore, it is prayed that the applicants may be released on bail.

5. On the other hand, learned counsel for the State has opposed grant of bail.

6. Considering the submissions made by learned counsel for the applicants and material on record, but without expressing any opinion on the merits of the case, I am inclined to release applicants on bail. Consequently, this second bail application under Section 439 of the Code of Criminal Procedure for grant of bail filed on behalf of applicants, stands allowed.

7. It is directed that applicants - Satish Kushwaha and Amit Kachhi be released on bail on their furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) each with one solvent surety each in the like amount to the satisfaction of the trial Court, for their regular appearance before the trial Court during trial with a condition that they shall remain present before the concerned Court on all the dates fixed by it during trial. They shall abide by all the conditions enumerated under Section 437(3) of Cr.P.C.

8. This order shall be effective till the end of the trial. However, in case of bail jump and breach of any of the conditions of bail, it shall become ineffective.

Certified copy as per rules.