

**THE HIGH COURT OF MADHYA PRADESH**

**M.Cr.C. No.25115/2021**

(Paliya Vs. State of M.P.)

**Indore, Dated:18/06/2021**

Heard through video conferencing.

Shri Vivek Singh, learned counsel for the applicant.

Shri Siddharth Jain, learned Panel Lawyer for the respondent / State of Madhya Pradesh.

They are heard. Perused the case diary / challan papers.

This is the **first** application under Section 439 of Criminal Procedure Code, 1973, as he / she is implicated in connection with Crime No.252/2020 registered at Police Station Pati, District Barwani (MP) for offence punishable under Section 8/20 of the N.D.P.S. Act, 1985. The applicant is in custody since 20/09/2020.

Allegation against the applicant is that he was found in possession of 820 *Ganja* plants weighing around 167 kg.

Counsel for the applicant has submitted that the charge sheet in the present case has already been filed and so far as the weight of *Ganja* plants so seized is concerned, it also includes its roots, soil, branches, leafs etc. and as such the actual quantity of the *Ganja* plants is much less than the one which is shown by the prosecution. It is further submitted that the bar under Section 37 of the NDPS Act would not be applicable in the present case and as such there is no minimum sentence provided and the applicant is in jail since 20/09/2020, there are no criminal antecedents against the applicant

and the final conclusion of the trial is likely to take sufficient long time. Hence, it is submitted that the bail application be allowed and he be released on bail.

Counsel for the respondent / State, on the other hand has opposed the prayer and it is submitted that no case for grant of bail is made out, however, it is not denied that there are no criminal antecedents against the applicant.

Having considered the rival submissions, on perusal of the case diary and taking note of the fact that the allegation is in respect of possession of plants only which also includes its roots, soil, branches, leaf etc. and the charge sheet in the present case has already been filed, there are no criminal antecedents against the applicant, he is in jail since 20/09/2020 and the final conclusion of the trial is likely to take sufficient long time, in the considered opinion of this Court, the applicant's application deserves to be allowed.

Accordingly, without commenting on the merits of the case, the application filed by the applicant is allowed. The applicant is directed to be released on bail upon furnishing a personal bond in the sum of **Rs.1,00,000/- (rupees one lakh)** with one solvent surety of the like amount to the satisfaction of the trial Court for his/her regular appearance before the trial Court during trial with a condition that he / she shall remain present before the court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3) Criminal Procedure Code, 1973.

It is also observed that if the applicant is found in any of the criminal activities, after his / her release on bail, then the present bail order shall stand cancelled without further reference to this Court; and the State / prosecution will be free to arrest the accused in the present case also.

This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Certified copy as per rules.

**(Subodh Abhyankar)**  
**Judge**

krjoshi