

**HIGH COURT OF MADHYA PRADESH : BENCH AT INDORE**  
**(SINGLE BENCH : HON. Mr. JUSTICE VIVEK RUSIA)**

M.Cr.C. No. 27370 of 2021  
(Kailash S/o. Khumsingh. V/s. State of M.P.)

**Date: 18.06.2021 :**

Applicant by Ms. Archana Maheshwari, Advocate.

Respondent/State by Mukesh Sharma, Panel Advocate.

Heard the learned counsel for the parties through video conferencing.

**ORDER**

This is a repeat (2<sup>nd</sup>) application filed under Section 439 of Cr.P.C. by the applicant - Kailash S/o. Khumsingh, who has been arrested by the Police on 11.1.2021 in connection with Crime No.13/2021 registered at Police Station Bistan, District Khargone for the offence punishable under Section 8/20 of the Narcotic Drug Psychotropic Substances (NDPS) Act. The first application was dismissed as withdrawn on 17.3.2021 after arguing for some time.

As per prosecution story, on 11.1.2021 on the basis of a discrete information the applicant along with one another was apprehended. The pillion rider Vinod fled away from the spot. On the search, 10 Kg. of 'Ganja' was recovered from the possession of the applicant. Since the applicant failed to give satisfactory reply, license, etc., therefore, FIR has been registered against him.

Learned counsel for the applicant submits that there is no progress in the trial. He is in jail since 11.1.2021 and he is the first offender. She further submits that in similar facts and circumstances, even in the case of higher quantity of the contraband the bail has been granted by the coordinate Bench of this Court. She has filed copy of two such orders passed by the coordinate Bench.

Learned Panel Lawyer for the respondent/State opposes the bail application and prays for its rejection.

This repeat (2<sup>nd</sup>) application has been filed within three months. Although there is no minimum sentence prescribed for the offence u/s. 8/20 of the NDPS Act, but looking to the quantity of the contraband,

the applicant has failed to establish that he has been falsely implicated in this case and that there is no recovery of the contraband from him. The criteria for second bail application is only the changed circumstances. Except the period of custody i.e. three months after rejection of the first application, there is no change in the circumstances. Each bail application is liable to be decided on the basis of its own facts and circumstances. In the opinion of this Court, no case for grant of bail is made out.

Accordingly, this repeat M.Cr.C. is dismissed.

**( VIVEK RUSIA )**  
**JUDGE**

Alok/-