

IN THE HIGH COURT OF MADHYA PRADESH**AT INDORE****BEFORE****HON'BLE SHRI JUSTICE ANIL VERMA****ON THE 22nd OF JUNE, 2022****MISC. CRIMINAL CASE No. 17279 of 2022****Between:-****KAILASHCHAND
S/O RAMSWARUPJI GADIYA ,
AGED ABOUT 43 YEARS,
OCCUPATION: BUSINESS BASSI,
P.S. BASSI (RAJASTHAN)****.....PETITIONER*****(BY SHRI ABHAY SARASWAT, ADVOCATE)*****AND****UNION OF INDIA
THROUGH CBN MANDSAUR
NEEMUCH (MADHYA PRADESH)****.....RESPONDENTS*****(BY SHRI MANOJ KUMAR SONI, ADVOCATE)***

This application coming on this day for orders the court passed the following:

ORDER

Applicant has filed this first bail application under Section 439 of the Code of Criminal Procedure, 1973. He is in Jail since 11.3.2022 in connection with Crime No.1/2021 registered at P.S. -

CBN Mandasaur District Neemuch (M.P.) for commission of offence punishable under Section 8/15, 8/18, 25, 29 of NDPS Act.

As per the prosecution story, on 26.8.2021, the respondent/CBN officials got discrete information from the informer that Jai Kumar doing some illegal act in his factory/godown. Acting upon said information, CBN officials while searing the factory/godown which was under the ownership of co-accused Jai Kumar, seized 98 bags of wheat mixed poppy straw total 7841.760 kg, 3 bags containing poppy straw powder weighting 100.190 kg, two bags containing poppy straw husk weighting 21.540 kg, 300 bags containing Afeem Kala Dana (Black Opium) weighting 17557.460 kg and one bag containing 56 kg poppy straw. Four persons were found in the factory namely Jai Kumar, Vishambhar, Rajendra and Anurag Agrawal. It is also alleged that one cheque book of HDFC bank account No. 50200052872479 in cheque No. 000138 to 000175 issued in the name of Padamnath Enterprises. The applicant is proprietor of said firm, due to which he has also been implicated in this matter.

Learned counsel for the applicant submits that applicant is innocent and he has been falsely implicated in this matter. The applicant is in custody since 11.3.2022, nothing has been seized from his possession. He is neither owner of godown nor he is tenant of said godown. Co-accused Jai Kumar filed a forged document of rent agreement dated 1.8.2021 where applicant is shown as tenant

of said godown, the said agreement was not signed by applicant. The applicant is sole butter earner of his family. He is running the business of purchasing and selling Soyabean. He has taken loan from main accused Jai Kumar so that the cheque kept with the main accused. He is permanent resident of Chhittorgarh. Hence, he prays that applicant be released on bail.

Per-contra, learned PL for respondent/CBN opposes the bail application and prays for its rejection by submitting that the seized quantity of contraband is more than 25.57 tons, the present applicant is also a prominent member of inter-state Drug Cartel. There is a bar of Section 37 of NDPS Act. The applicant opened dummy firm and indulged in smuggling activities through his various firms, the applicant signed cheques for several lakhs rupees to a lady Hemlata Kumawat, if bail is given to the applicant, he will repeat the same offence and try to influence the witness and derail the investigation process. He also might abscond therefore, he does not deserve for bail.

Perused the case diary as well as the impugned order of the court below.

Considering all the facts and circumstances of the case, arguments advanced by counsel for the parties, nature and gravity of allegation as also taking note of the fact that huge commercial quantity of contraband has been recovered from the factory owned by co-accused Jai Kumar and as per the rent agreement, same was

given to present applicant on rent, blank cheque book of HDFC bank in the name of applicant was also found on the spot during the search , therefore, on the basis of prima facie evidence available on record, at this stage, present applicant does not deserve for grant of bail.

This first bail application filed by applicant under Section 439 of Cr.P.C. is accordingly dismissed.

C.C. as per rules.

(ANIL VERMA)
J U D G E

BDJ