



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 11th September, 2024

MISC. CRIMINAL CASE No. 36523/2024

Bunty @ Bansilal Nagda

Versus

Union of India

Appearance:

Shri Palash Choudhary- Advocate for the applicant.

Shri Manoj Kumar Soni- Advocate for the respondent.

ORDER

- 1] Heard finally, with the consent of the parties.
- 2] This is the **third** bail application filed by the applicant under Section 438 of the BHARTIYA NAGRIK SURAKSHA SANHITA, 2023/section 439 of Criminal Procedure Code, 1973, as he is implicated in connection with Crime No.2/2020 registered at Police Station CBN, Mandsaur for offence punishable under Sections 8/15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as "NDPS Act"). The applicant is in custody since 21/1/2023.
- 3] His second application MCRC.No.19836/2024 has been dismissed by this Court vide order dated 22.5.2024 whereas his first



application MCRC.No.25644/2023 has also been dismissed as withdrawn by this Court vide order dated 4.6.2023.

4] The allegation against the applicant is that he was involved in the aforesaid case wherein 1185.700 Kgs of poppy straw has been seized from the possession of co-accused Premnath S/o Shankar nath.

5] The present application has been filed by the applicant on the ground of period of incarceration as the applicant is lodged in jail since 21/1/2023, and also on the ground that the other co-accused person Mukesh has been granted bail by this Court vide order dated 15.4.2024 passed in MCRC.No.10515/2024 while relying upon the decision rendered by the Supreme Court in the case of **Nitish Adhikhary @ Bapan Vs. State of West Bengal passed in Special Leave to Appeal (Crl.No.5769/2022)**.

6] Learned counsel for the applicant has also submitted that in the initial search the respondents have not found any gunny bags from the flour mill of the applicant, and in the subsequent seizure memo certain gunny bags have been found resembling the bags in which the contraband was being transported, and thus, the aforesaid subsequent seizure memo is dubious in nature, hence the application may be allowed.

7] Counsel for the respondent/CBN on the other hand has vehemently opposed the prayer, and it is submitted that considering the earlier dismissal of the applicant's bail application on merits, no new grounds for interference are made out. It is submitted that in the earlier order, this Court has already taken into account the order



passed by the Supreme Court in the case of **Nitesh Adhikary @ Bapan (supra)**.

8] Having considering the rival submissions, and on perusal of the case diary as also considering that the earlier application was dismissed on merits, this Court does not find it to be a fit case to reconsider the case of the applicant as this Court is unable to come to a conclusion that that there are reasonable grounds for believing that the applicant has not committed the offence or that he would not commit any other offence if released on bail as per the mandate of Section 37(1)(b)(ii) of the NDPS Act.

9] Accordingly, the MCRC stands *dismissed*.

(SUBODH ABHYANKAR)
JUDGE

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