

**ORDER BELOW EXH.28**

(Passed on 8<sup>th</sup> November, 2023)

1] This is successive second application under Section 439 of the Code of Criminal Procedure for release on bail. I have heard learned Advocate for the accused, learned APP and perused charge-sheet.

2] Briefly stated the prosecution case against eight accused and one Juvenile in conflict with law is that on 08/06/2022 the police of RPF were checking New Delhi Andra Pradesh Express, below berth No.1 to 12 in coach No.S-5 they found bag kept from which pungent smell was coming and when they asked lady accused Sonam, she has not given satisfactory answer and in the bags kept under berth No.1 to 12 they found the accused were travelling by keeping Ganja in their bags and eight bags of the accused were checked in presence of panchas and Gazetted officer i.e. Tahsildar and total 106.807 Kg. Ganja was found, panchnama was prepared, photographs were taken, from the accused mobiles, railway tickets were also seized. At that time the accused No.8 Sonu Thakur i.e. the present applicant had run away so he was caught later on. The Juvenile in conflict with law was produced before the Juvenile Justice Board, charge-sheet has been filed

against remaining accused for the offences under Section 20(B) II ( C), 29 of NDPS Act.

3] As per the applicant/accused he is law abiding and peace loving citizen. He has been falsely implicated in the case. He was not present when accused No.1 to 6 were caught by police. There is no material against him in charge-sheet. Only on the basis of statement of co-accused he cannot be kept behind bar. Bar of Section 37 of the NDPS Act is not applicable against him. He does not have criminal antecedents.

4] Learned APP opposed the application and submitted that in charge-sheet this accused has made disclosure giving details of his activity at Visakhapatnam along with other accused and their stay in Hotel. The register of concern Hotel indicate that this accused made signature while taking room in those Hotels. There is CDR on record which connect with other accused. Reservation chart indicates his name as passenger along with other accused.

5] In the application the accused has mentioned that it is his first bail application, but apparently that statement is incorrect because as per record of the instant case he had filed application

No.2755/2022 Decided on 10/01/2023 and charge-sheet has been filed in the Court on 02/12/2022. In that order already material against this accused was discussed and his application rejected on merit.

6] The submission made by Learned APP are supported by documents filed in charge-sheet. CCTV footage of accused in hotels is also seized. The case is about seizure of more than 106 Kg. Ganja which is commercial quantity. Bar of Section 37 of the NDPS Act is attracted. Further it also appears that this accused has previous criminal cases. So it cannot be said that he does not have flight risk. Therefore, there is no substance in the present application to be considered by reevaluating the material in the charge-sheet. There are no changes circumstance brought out by the accused and in-fact filling of successive application resulting in delay in framing of charge. Therefore, I pass the following order.

**ORDER**

Application is hereby rejected.

Date : 08/11/2023

(P.Y.Ladekar)  
Special Judge (NDPS  
Court) and A.S.J.-3,Nagpur