

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.7380 of 2015

Rinku Khande, S/o Late Shri Maksudan Khande, aged about 24 years, R/o Jarhabhata Mini Basti, P.S. Civil Line, District Bilaspur (C.G.)

---- Applicant

Versus

The State of Chhattisgarh, through Station House Officer of Police Station Civil Line, Bilaspur, Distt. Bilaspur (C.G.)

---- Non-applicant

For Applicant: Mr. Shailendra Dubey, Advocate.

For Non-applicant: Mr. D.R. Minj, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

09/02/2016

1. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on regular bail during trial in connection with Crime No.340/2014, registered at Police Station Civil Line, Bilaspur, Distt. Bilaspur, for the offence punishable under Sections 20 (b) (ii) (B) and 21 (b) of the Narcotic Drugs and Psychotropic Substances Act, 1985.
2. Case of the prosecution, in brief, is that the applicant was found in possession of 240 ampules of Rexogesic (Buprenorphine) and 117 tablets of Nitrazepam. The prosecution has filed an affidavit on 8-2-2016 in which it has been stated as under: -

“5. That, the following is the calculation for Buprenorphine and Nitrazepam seized from the applicant:

Nitrazepam

117 tablets x 10 mg = 1170 mg = 1.17 gms.

Rexogesic (Buprenorphine)

240 ampules (2 ml each) (contains 0.3 mg per ml Buprenorphine) 0.3 mg x 2 = 0.6 mg per Ampule (as

per opinion of Drug Inspector)

240 ampules x 0.6 mg (Buprenorphine) = 144 mg =
0.144 gm.”

3. According to the schedule attached with the NDPS Act, small quantity of Buprenorphine is 1 gm., and commercial quantity is 20 gms., whereas small quantity of Nitrazepam is 20 gms., and commercial quantity is 500 gms.
4. Learned counsel for the applicant submits that the applicant has not committed any offence and he has been falsely implicated in the case, the alleged seized quantity is small quantity and rigour of Section 37 (1) (b) of the NDPS is not attracted in the present case. The applicant is in jail since 16-6-2014 and charge-sheet has already been filed.
5. On the other hand, learned State counsel opposes the application.
6. I have heard learned counsel for the parties and perused the case diary.
7. Taking into consideration the nature and gravity of offence, facts and circumstances of the case, affidavit filed by the State in which quantity of Buprenorphine is said to be 0.144 gm., and quantity of Nitrazepam is 1.17 gms., whereas small quantity is 20 gms., I am of the view that it is a fit case to enlarge the applicant on regular bail. Accordingly, the application is allowed.
8. It is, therefore, directed that the applicant be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court for his appearance as and when directed.

Sd/-
(Sanjay K. Agrawal)
Judge