

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4174 of 2016

- Mohib Ali S/O Shoukat Ali Aged About 24 Years R/O Imambada Chowk, Farid Nagar, Ward No. 7, Supela, Police Station Supela, Distt. Durg Chhattisgarh
- Gulrej Ali S/O Shoukat Ali Aged About 30 Years R/O Imambada Chowk, Farid Nagar, Ward No. 7, Supela, Police Station Supela, Distt. Durg Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Supela, District Durg Chhattisgarh

---- Respondent

For Applicants : Mrs. Fouzia Mirza, Advocate
For Respondent/State : Mr. Vivek Singhal, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

28-07.2016

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants who have been arrested on 30-05-2016 in connection with Crime No. 504 of 2016, registered at Police Station Supela, District Durg (CG) for the offence punishable under Section 21(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985.
2. As per prosecution case, on a report being made by one T.M. Yadav on 29-5-2016 medical shop of the applicants namely Chhattisgarh Medical Stores was raided and from the possession of the applicants following drugs were recovered and thereby the aforesaid offence was committed.

1) Alprazolam	1710	tablets	each 05 mg
2) Cyrex	400	bottles	(Codeine phosphate 10 mg each 05 ml)

3) Kuffcare-C	460	bottles (Codeine phosphate 10 mg each 05 ml
4) Choco syrup	94	bottles (Codeine phosphate 10 mg each 05 ml
5) Kodex syrup	100	bottles (Codeine phosphate 10 mg each 05 ml

3. Learned counsel appearing for the applicants would submit that the applicants are license holders to run the medical shop which would be evidence from Annexure A/2 and expiry of the license of the applicants is till 31-12-2016 and December and 10-12- 2017. It is further contended that on a query made by the Police, from the Drugs and Cosmetic Department by letter dated 30-5-2016, it was informed that medical shop owner can keep those drugs, but he is not authorized to sell the aforesaid drugs without prescription of the Doctor. It is further submitted that the applicants being owners of the running medical medical shop have not committed any offence, charge sheet has been filed, they are in jail since 30-5-2016 and no further investigation is required, therefore, they may be released on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. I have heard learned counsel for the parties and have also perused the case diary and the documents.
6. Perused the license which would show that the licence appears to be expiring on 31-12-2016 and 10-12-2017 and the licensing authority is Food and Drug Administration. Further, the letter dated 30-5-2016 would show in answer to a query it is stated that the drugs which were shown were allowed to be kept by the licensee's medical shop, however, he is not authorized to sell the same without prescription of the Doctor.

7. Taking into consideration the facts and circumstances of the case, the applicants were running the medical shop with valid license and considering the fact that the charge-sheet in this case has been filed and the applicants are in jail since 30-5-2016, this court is inclined to release the applicants on bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed and it is directed that the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court for their appearance as and when directed.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Raju