

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4093 of 2016

Manish Khare, S/o. Shri Prakash Khare, Aged About 40 Years, R/o. Arya Colony, Tifra, Bilaspur, District Bilaspur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Police Station Chakarbhata, District Bilaspur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Malay Shrivastava, Advocate

For Respondent : Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri
Order On Board

16.09.2016

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.350/2014 registered at Police Station- Chakarbhata, District Bilaspur (C.G.) for the offence punishable under Section 304-II, 308, 120-B, 420, 270, 276, 467, 468, 471 r/w Section 34 of Indian Penal Code.
2. As per the prosecution case, the present applicant is a Chemist in the Kavo Pharma who has supplied certain medicine & injection along-with Kavita Laboratory & Kavita Pharmaceutical, which were owned by the family members of the present applicant.

It is further case of the prosecution that the State Government through Chief Medical and Health Officer (CMHO) on 08.11.2014 organized a sterilization camp at Seth Nemichand Jain Cancer Hospital, Pendari (Sakri) in which Dr. R.K.Gupta has performed Tubectomy procedures (TT operations) of 83 females. Thereafter, all 83 patients who had undergone TT operations were given the medicines in shape of medicine kit prepared and provided by the BMO, Takhatpur, containing Ciprocine-500 (antibiotic) and other

medicines and they were discharged from the camp on the same day i.e. 08.11.2014 and after reaching their respective residences and as per advice of the Doctor all the female patients took the medicine namely Ciprocine-500 as advised which were given to them in the hospital with the medicine kit, immediately thereafter they developed the symptom of pain, vomiting, nausea, congestion in the respiratory system and other discernible complications including brisk fall of blood pressure etc. and they got admitted in the District Hospital, Chhattisgarh Institute of Medical Science and also in Apollo Hospital, Bilaspur, for their treatment but out of 83 patients, 13 female patients died.

It is further case of the prosecution that said medicine Ciprocine-500 supplied by M/s. Kavita Laboratories were found to be substandard and containing Zinc Phosphide which is used for killing rats and the samples of the seized medicine Ciprocine-500 were sent to Shree Ram Institute for Industrial Research Centre, National Institute of Immunology, New Delhi and also to Qualichem Laboratories, Nagpur for chemical examination and report has been received in which presence of Zinc/ Aluminum Phosphide based on phosphine gas has been found and according to report sent by National Institute of Immunology, New Delhi, 500 mg of Ciprocine 500 has capacity to cause acute toxic shock in Rats within 24 hours and in that view of the matter above stated offences have been registered against the applicant and other co-accused persons by two police stations and applicant herein has been arrested in connection with the aforesaid offences and charge sheet has been filed against the applicant/ accused.

3. Learned counsel for the applicant would submit that one of the partner namely Rajesh Khare has been enlarged on bail by the

Hon'ble Supreme Court by an order dated 29.04.2016 in Special Leave to Appeal (CrI.) No.2056/2016 which was converted into Criminal Appeal No.419/2016 and the case of the present applicant is better than the person who has been enlarged on bail. He submits that the allegation against the applicant is that he was only working as Chemist in the Kavo Pharma. He further submits that as per the direction, the State has filed an affidavit of Lakhan Patle which would show that the custodial interrogation of the applicant is not necessary and the charge sheet has been filed, therefore, the applicant may be released on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the case diary and the documents. The documents would show that one of the accused Rajesh Khare has been enlarged on bail in Criminal Appeal No.419/2016 by the Hon'ble Supreme Court. It is not disputed that the charge sheet has been filed and according to the statement of Lakhan Patle, CSP, Civil Lines, Bilaspur, no custodial interrogation is required. Considering the fact that one of the co-accused has been enlarged on bail and in the present case no further custodial interrogation is required, I am inclined to release the applicant on bail.
6. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
7. It is directed that the applicant shall 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 trial Court, for his appearance as and when directed.

Sd/-
(Goutam Bhaduri)
Judge

