

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6542 of 2016

Avinash Mishra, S/o. Shri Narendra Mishra, Aged About 28 Years, R/o. Kenabandh Bouripara (wrongly mentioned as Bouriparipara in the impugned order dated 28.05.2016), Police Station Ambikapur, Distt. - Surguja (Chhattisgarh).

---- Applicant

Versus

State Of Chhattisgarh, Through the Station House Officer, Police Station Ambikapur, District Surguja, Chhattisgarh.

---- Respondent

For Applicant : Mr. V.K.Pandey, Advocate

For Respondent : Mr. Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

24.10.2016

1. This is the second 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.603/2015 registered at Police Station- Ambikapur, District Surguja (C.G.) for the offence punishable under Section 21(b) of the Narcotics Drugs & Psychotropic Substance Act, 1985. The earlier bail application was dismissed on 15.07.2016 in MCRC No.3725 of 2016.
2. As per the prosecution case, on 24.10.2015 on an information received that the applicant is carrying the brown sugar, he was intercepted and from his possession brown sugar of 7.15 grams worth Rs.1,40,000/- was recovered.
3. Learned counsel for the applicant would submit that the seizure witness namely Ajay Soni and Santosh Singh have been examined

and they have turned hostile and the I.O. is not coming forward; therefore, considering the fact that the applicant is in jail since 24.10.2015 and the prosecution has failed to bring its evidence, the applicant may be released on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail, however, he is not able to dispute the fact that the seizure witness Ajay Soni & Santosh Singh have been examined and they have not supported the case of the prosecution. He further submits he has no information as to why the I.O. has not turned up.
5. Perused the case diary and the documents. Taking into fact that no reason has been assigned by the prosecution as to why the I.O. has not turned up and further considering the fact that the seizure witness have been examined and they have not supported the case of the prosecution and taking into the quantity of the seized brown sugar, which is 7.15 grams, without any observation on merit, I am inclined to release the applicant on bail.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
7. It is directed that the applicant shall be released on bail on furnishing a personal bond for a 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.
8. Learned counsel for the applicant submits that due to typographical mistake, offence under Section 21(b) of Narcotics Drugs & Psychotropic Substance Act is mentioned in the bail application and he prays that the same may be corrected as "offence under Section 22(b) of Narcotics Drugs & Psychotropic Substance Act, 1965".
9. It is ordered as prayed for.

10. Accordingly, the offence under Section 21(b) be read as 22(b) of the Narcotics Drugs & Psychotropic Substance Act. This order will govern the bail under Section 22(b) of the Narcotics Drugs & Psychotropic Substance Act.

Sd/-
(Goutam Bhaduri)
Judge

Ashok