

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2108 of 2017

Saddam Hussain @ Vikki, S/o. Tajjamun Hussain, Aged About 20 Years,
Caste Muslim, Occupation Labour, R/o. Ramanujnagar, Chandni Chowk,
P.S. Ramanujnagar, District Surajpur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Police Station
Ramanujnagar, District- Surajpur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Nishikant Sinha, Advocate

For Respondent : Mr. Sameer Behar, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

13.04.2017

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.187/2016 registered at Police Station- Ramanujnagar, District Surajpur (C.G.) for the offence punishable under Section 21(B) of Narcotic Drugs & Psychotropic Substances Act. The first bail application was dismissed as withdrawn on 14.12.2016 in MCRC No.7909 of 2016.
2. As per the prosecution case, on 20.09.2016, on a raid being conducted in a Dhaba, from three persons Cough Syrup 430 numbers and Phency Rex-T SPASM Oproxylon Plus Tablet, Alprasate-05 Tablet 10992 numbers were seized, which were containing the narcotic drugs. Thereby, the offence has been committed.

3. Learned counsel for the applicant would submit that the seizure witness in this case have been examined and they have not supported the case of the prosecution, therefore, no case is made out; consequently, the applicant may be released on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perusal of the order of first bail application shows that simplicitor withdrawn was made without any liberty to repeat the same. Furthermore, this Court cannot evaluate the entire facts and evidence by picking up the statement of the seizure witness, as in NDPS cases, the statement of I.O. is also relevant. Therefore, it would not be proper to evaluate the entire case by examining the statement of the seizure witness as it would amount to usurp the power of the trial Court and adjudicate the case on merit while hearing the case on bail. Considering the same, I am not inclined to entertain this second bail application.
6. Accordingly, the second bail application filed under Section 439 of Cr.P.C. is dismissed. However, the Trial Court is requested to expedite the trial.

Sd/-
(Goutam Bhaduri)
Judge