

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2136 of 2017

1. Apsar Ahmad @ Bablu, S/o. Sher Mohammad, Aged About 26 Years, Caste Musalman, Occupation Labour, R/o. Mahalpara Road, Dabripara, Baikunthpur, Police Station Baikunthpur, District Korea, Chhattisgarh.
2. Vikash Kashyap @ Vikky, S/o. Sajjan Kashyap, Aged About 21 Years, Occupation Labour, R/o. Junapara, Baikunthpur, Police Station Baikunthpur, District Korea, Chhattisgarh.

---- Applicants

Versus

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

---- Respondent

For Applicants : Mr. T.K.Jha, Advocate

For Respondent : Mr. S.K.Mishra, 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 applicants who have 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 on merit on 11.01.2017 in MCRC No.8553 of 2016.
2. Case of the prosecution, in brief, is that on information being received that the applicants were in possession of Narcotic Drugs, a raid was conducted by the police party and from the possession of the applicants Phencyrex Cough Syrup 420 pieces, Alprasate-

05, Calprazalam Tablets 8400 & Spasma Proxyvon Plus 2592 were seized and thereby, the offence was committed.

3. Learned counsel for the applicants would submit that the seizure witness namely Vijay Singh & Ram Prasad have been examined and they have not supported the case of the prosecution, therefore, applicants may be released on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Considering the fact that earlier case was dismissed on merit, it would not be proper for this Court to evaluate the entire case by picking up the statement of two 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. It cannot be ignored that it is a case of NDPS and the statement of I.O. would also be relevant. 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.

Sd/-
(Goutam Bhaduri)
Judge