

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2502 of 2018

- Kamal Agrawal S/o Narayan Agrawal, Aged About 45 Years, R/o- Agrasen Chowk, Sakti, Police Station Sakti, District- Janjgir-Champa, Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Station House Officer, Police Station- Sakti, District- Janjgir-Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

----Non-applicant

For Applicant – Shri Rajeev Shrivastava, Advocate.

For Non-applicant/State – Shri Ashok Swarnkar, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

02-07-2018

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 21-03-2018 in connection with Crime No.165/2018 registered at P.S. - Sakti, District- Janjgir-Champa, Chhattisgarh for the offence under Section 21(b) of Narcotic Drugs and Psychotropic Substances Act, 1985.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. The applicant is in jail since 21-03-2018. Charge sheet has been filed after completion of the investigation. No case is made out against this applicant. It is also submitted that the applicant is a mentally challenged person. A report has been received from the Jail Superintendent and Mental Hospital Sendari, which has not denied that the applicant is a mentally challenged person. Hence, under these circumstances, it is prayed that the applicant may be granted regular bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that a huge quantity of narcotic substances has been seized from

the possession of this applicant and presently there is no such evidence in record to show that the applicant is a mentally challenged person. Also, earlier two preventive proceedings were initiated against this applicant. Hence, he is not entitled for grant of bail.

4. Heard learned counsel for the parties and perused the case diary.

5. Case of the prosecution is this, that a raid was conducted by police personnel of P.S. Sakti, District Janjgir-Champa in the medical store of this applicant, in which, Colorixe Syrup 282 piece, R.C. Courgh 2417 piece, Boltix 520 piece, Anzilum Tablet 2250 flap per flap contained 15 tablet, total quantity of syrup 3,21,900 M.L. and total quantity of the tablet 16,875 M.G. were seized. On verification, it was found that the applicant was having licensed medical store, but, his licence was expired prior to one year of the date of the raid. The medicines so seized have contents of narcotic substances and on the basis of this, the FIR has been registered against this applicant.

6. Considered on the material present in the case diary. The seizure that has been made according to the Schedule of the N.D.P.S. Act is of commercial quantity. The submission made by learned counsel for the applicant that he is mentally challenged is not altogether rejected at this stage because in the report that has been received from the mental hospital it is stated that the applicant shall be required to be admitted and observed for two weeks before coming into conclusion about his mental illness, which is not a finding to show that the applicant is mentally sound, further, at present, charge sheet has been filed, and also looking to the discrepancies that has been pointed out by the applicant in the case itself, I am of this view that the applicant should be released on regular bail during pendency of the trial against him.

7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. 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 Court, for his appearance as and when directed.

8. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Aadil