

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 221 of 2019**

Virendra Prasad S/o Rameshwar Prasad Pathak Aged About 40 Years R/o Gandhi Mandir Ward, Bhatapara, District Baloda Bazar-Bhatapara Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Durg Inspector, Baloda Bazar, District Baloda Bazar-Bhatapara Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh.

---- Respondent

For the Applicant : Shri Anil Gulati, Advocate.
For the Respondent/State : Shri Adil Minhaj, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****15.03.2019**

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.

2. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the applicant who is apprehending arrest in connection with Crime No. 1472 of 2018, registered at Police Station Drug Inspector, Baloda Bazar, District Baloda Bazar, Chhattisgarh for the offence punishable under Sections 18(C), 26A, 18A, 18(A)(III), 18(A)(VI) and Section 27B, 28B, 28 and 27D of the Drug and Cosmetics Act.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. Although, he was present in the shop on the date of raid, but he is not the owner of the same shop. The shop is actually owned by one Rajendra Pathak and the applicant was simply working as an employee, therefore, he cannot be held responsible for the articles found in the shop. The case is now pending for trial in which the applicant has to give his appearance and face the trial. Hence, it is prayed that the applicant be enlarged on anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that according to the statement given by Rajendra Pathak, who is the licensee of the shop, the shop was maintained and operated by this applicant, therefore, he cannot refuse his responsibility of possessing the prohibited drugs. Hence, no case is made out for grant of anticipatory bail to the applicant.

5. Heard counsel for both the parties and perused the case diary.

6. On the date of incident, the respondent raided the shop of the cattle feed in which the applicant was found present. Seizure of 937 Oxytocin respules were made from his possession, which is prohibited under the notification of Drugs and Cosmetics Act. Hence, this case.

7. Considered the material present in the record of the Court below. Presently, the case is now pending for trial but there is no requirement of any custodial interrogation of the applicant and he is only required to face the trial. Hence, for these reasons, I feel inclined to grant anticipatory bail to the applicant. The record of the trial Court be remitted back immediately.

8. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the Officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions:

- '(i) that the applicant shall make himself available for interrogation before the Investigating Officer as and when required;
- (ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.'

Sd/-

(Rajendra Chandra Singh Samant)
Judge