

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5158 of 2019**

Mohd. Yakub Khan, son of Mohd. Nasim Khan, aged about 30 years, R/o Mominpura, BSNL Tower, Police Station and Tahsil Ambikapur, District Surguja (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Gandhi Nagar, Ambikapur, District Surguja (CG).

---- Non-applicant

For Applicant	: Ms. Sangeeta Soni, Advocate
For Non-applicant	: Mr. Ravi Maheshwari, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****29.08.2019**

1. This is the second bail application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.212/2018 registered at Police Station Gandhi Nagar, Ambikapur, Civil and Revenue District Surguja for the offence punishable under Sections 21(C) of N.D.P.S. Act.
2. The first bail application of the applicant was rejected on merits by this Court vide order dated 29.01.2019 passed in M.Cr.C. No.9510/2018 considering prima facie case against him.
3. Prosecution story in brief is that on 02.09.2018 at about 17:50 hrs at Old Sainik School Road, Gangapur Sub Inspector Sanjay Shrivastava posted at police station Gandhi Nagar seized 22 bottles of R.C. cough syrup and 8 bottles of Wincerex cough syrup, total 30 bottles, each containing 100 ml cough syrup from the bag hanging on handle of the motorcycle bearing registration No.C.G.15CK5817. The said motorcycle

was in the possession of the applicant. Total 3 liters cough syrup was seized from the possession of the applicant. In the cough syrup codine phosphate was found.

4. Counsel for the applicant submitted that the applicant is an innocent person and has been falsely implicated in the case. She further submitted that five prosecution witnesses including seizure witness have been examined before the trial Court, who turned hostile and as such, the applicant may be released on bail.

5. Counsel for the State opposed the bail application. However, he submitted that there is no criminal antecedent against the applicant.

6. In the case in hand, Investigating Officer is to be examined. Mere turning hostile of seizure witness is not itself a sufficient circumstance to release the applicant on bail and looking to this fact that there is no such change in the circumstances of the case on the strength of which the applicant is entitled to get the benefits of Section 439 of CrPC in the second round of litigation. Consequently, the second bail application is rejected.

7. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE

L/-