

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 9730 of 2018**

1. Bhagirathi Sahu S/o Late Shri Chaitram Aged About 68 Years R/o Village- Bakimongara, District- Korba, CG
2. Prahlad Kumar Sahu S/o Shri Kheekram Aged About 48 Years R/o Village- Sasha, Pamgarh, District- Janjgir- Champa, CG

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station- Kusmunda, District- Korba, CG

---- Respondent

MCRC No. 2301 of 2019

- Sandeep Yadav S/o Rajendra Yadav Aged About 25 Years R/o Village - Chhindpur, Police Station And Tahsil Pali, District - Korba CG

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Out Post Hadi Bazar, Police Station - Kusmunda, District - Korba CG

---- Respondent

MCRC No. 34 of 2019

- Abhitesh Shukla S/o Shri Shyma Charan Shukla Aged About 22 Years R/o Bankimongra, Tahsil Katghora, P. S. Bankimongra, District Korba Chhattisgarh, District : Korba, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through P. S. Katghora, District Korba Chhattisgarh, District : Korba, Chhattisgarh

---- Respondent

MCRC No. 7027 of 2018

- Jai Prakash Alias Chhota Rathore S/o Late Roopchand Rathore Aged About 28 Years R/o Mudhali, Out Post Hardibazar, Distt. Korba CG

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Out Post Hardibazar, Police Station Kusmunda, Distt. Korba CG

---- Respondent

For applicants (MCRC 9730/2018)
 For applicant (MCRC 2301/2019)
 For applicant (MCRC 34/2019)
 For applicant (MCRC 7027/2018)
 For non-applicant/State

Ms. Shivali Dubey, Adv.
 Mr. Vikas Pandey, Adv.
 Ms. Shivali Dubey, Adv.
 Mr. Vivek Kumar Tripathi, Adv.
 Mr. Vikram Dixit, GA and Mr. Vinod Tekam Panel Lawyer.

Hon'ble Shri Justice Sharad Kumar Gupta

20-6-2019

1. As all these bail applications arise out of same crime number of same police station, they are being disposed of by this common order.
2. MCRC No. 9730/2018, MCRC No. 34/2019, and MCRC No. 7027/2018 are first bail applications under Section 439 of the Cr.P.C. preferred by the their respective applicants before this Court and their no bail application is pending before any other court. MCRC No. 2301/2019 is second bail application preferred by the applicant Sandeep Yadav. His earlier bail application was dismissed as withdrawn by this Court on 29-10-2018 in MCRC No. 6029/2018.
3. Perused the case diary.
4. The applicants have been arrested in connection with Crime No. 208/2018 registered in Police Out post Hardibazar, police station Kusmunda, Distt. Korba (CG) for offence punishable under Section 22(3) of INPS Act/34, IPC.
5. Prosecution story in brief is that on 29-7-2018 at about 13.50 hours at Mudhali Chowk at village Ralia, Inspector Vijay Chelak posted at Out post Hardi Bajar seized from applicant Jaiprakash alias Chhota Rathore 90 bottles of Onerex syrup, each containing 100 ml. Total quantity which was seized from him was 9,000 ml = 9 ltr = about 9 kg.
6. On very day at about 14.00 hour at Mudhali Chowk at village Ralia, Inspector Vijay Chelak seized from applicant Sandeep Yadav 30 bottles Onerex syrup each containing 100 ml. Total quantity which was seized from him was 3,000 ml = 3 ltr = about 3 kg and also seized 60 Alpra Zolam tablets each 0.5 mg. Total quantity of tables was 300 mg = 0.3 gm.
7. On very day at about 7.30 hour from the basement of the house of applicant Bhagirathi Sahu at Shanti nagar Banki Mongra, Inspector Vijay Chelak seized Spasmo Proxyvon+ capsule, number 41,764. He also seized 720 bottles of Onerex syrup each containing 100 ml. Total quantity which was seized from him was 72,000 ml = 72 ltr = about 72 kg. He also seized 180 bottles of Cadoglam syrup, each containing 100 ml, total quantity is 18,000 ml = 18 ltr = about 18 kg.
8. Counsel for the applicants Bhagirathi, Jaiprakash alias Chhota Rathore, Sandeep Yadav submitted that some witnesses have been examined who turned hostile. They also submitted that applicants are in jail since long back. Counsel for the applicant Bhagirath Sahu further

submitted that due to sipage alleged seized articles were kept in basement. In the case in hand NDPS act does not apply. As per the provisions of Section 20 of Drugs and Cosmetics Act a police officer cannot take search of medical shop. Hence they be released on bail.

9. On the other hand, the State Counsel opposed the bail application. He further submits that no criminal antecedent has been reported against applicants in the police case diary.
10. From the possession of accused Abhitesh Shukla, CCTV was seized.
11. From the possession of applicant Prahlad nothing was seized.
12. As per the FSL report in aforesaid syrup Codine was present and Alpra Zolam was present in the tablets. As per Annexure A-2 which is part of the charge sheet father of applicant Bhagirathi namely Krishna Kumar was the proprietor of Raj Medical Corner, its licence was renewed from 13-4-2017 to 12-4-2022.
13. As per the Annexure A-4 which is part of bail petition Raj Medical Corner had purchased 10,800 number of Spasmo Proxyvon from Tirupati Farma which is less than alleged seized quantity of tablets. 980 bottles of Onerex were also purchased by Raj Medical Corner.
14. Looking to the above facts and circumstances of the case the bail applications of applicants **Bhagirathi Sahu, Jaiprakash alias Chhota Rathore and Sandeep Yadav are rejected.**
15. Looking to the above facts and circumstances of the case, the bail applications of applicants **Prahlad Kumar Sahu and Abhitesh Shukla**, are allowed. It is ordered that if **Prahlad Kumar Sahu and Abhitesh Shukla** each furnishes one solvent surety for a sum of Rs. 25,000/- along with one personal bond of the like sum to the satisfaction of the trial Court concerned with condition that they shall appear before the court concerned at 11.00 am as and when directed, they be released on bail.
16. CC as per rules.

Sd/-
(Sharad Kumar Gupta)
Judge