

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5871 of 2019

- Narendra Gemnani S/o Shri Ramdas Gemnani Aged About 32 Years R/o Santoshi Mandir Gali, Torwa Thana Torwa, District Bilaspur Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Civil Line, District Bilaspur Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Prafull N. Bharat with Mr. Ashutosh Mishra, Advocate.
For Respondent	:	Mr. Sanjay Pathak, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

04/10/2019

1. The applicant has filed this bail application under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him as he is in custody in connection with Crime No.509/2019 registered at Police Station–Civil Lines, Bilaspur District–Bilaspur(C.G.) for the offence punishable under Sections 21 & 22 of the NDPS Act & Section 34 of the IPC.
2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. He is in jail since 04.08.2019. No case is made out against this applicant for the commission of offence under the NDPS Act. Injections of Rexogesic seized from the possession of applicant contain 'Buprenorphine

Hydrochloride' is the drug specified under the Drugs and Cosmetics Act, 1940 and it does not find mention in the list of prohibited drugs contained Schedule of the NDPS Act. It is submitted that although there is mention of 'Buprenorphine' at Sr. No.169 of the list of psychotropic substances specified in the Schedule I of the NDPS Act but that is a different drug. It has been held in the matter of Rajinder Gupta & ors v. State reported in 2006 Cr.L.J. 674 that 'Buprenorphine Hydrochloride' is not a scheduled drug under the NDPS Act and for the purpose of the same it may be an offence under the Drugs and Cosmetics Act and not an offence under NDPS Act. It is further submitted that charge-sheet has already been filed. In these circumstances, it is prayed that he may be enlarged on regular bail.

3. Learned State counsel opposes the bail application and submissions made in this respect.
4. Heard both the parties and perused the case diary.
5. On the date of incident the police-personnel of police-station Torwa, Bilaspur made a seizure of 1500 ampules of Rexogesic injections which contain 'Buprenorphine Hydrochloride' and on that basis the offence has been registered against the applicant.
6. After considering on the submissions made by the counsel for applicant and finding that there is no specific mention of 'Buprenorphine Hydrochloride' in the Schedule I appended to the NDPS Act, for this reason, I feel inclined to allow the application of this applicant.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with one surety in

the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha