

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7294 of 2019**

- Rakesh Soni @ Pappu Soni S/o Shri Gorakh Prasad Soni Aged About 30 Years R/o Village Ganagpur, Police Station Gandhinagar, Civil And Revenue District Ambikapur (Surguja), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The S.H.O., Police Station Ambikapur, District Surguja, Chhattisgarh

---- Non Applicant

For the Applicant	:	Mr. Gyan Prakash Shukla, Advocate
For Non Applicant	:	Ms. Deepti Shukla, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****04.12.2019**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court. No other bail application is pending before any other Court.
2. Earlier, the first bail application of the applicant was dismissed as withdrawn by this Court vide order dated 08.04.2019 passed in MCRC No.231 of 2019.
3. Perused the case diary provided by the learned counsel for the State in connection with Crime No.450/2018 registered at Police Station- Ambikapur, District- Surguja(C.G.) for the offence punishable under Section 21(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985.
4. Case of the prosecution, in brief is that informant Chetan Singh Chandrakar Sub-Inspector posted at Police Station Ambikapur received an information to the effect that one person has toxic cough

syrup. On such information on 13.09.2018 at about 22:05 hours, near Sonpur Chowk he seized 953 number of bottles of RC cough syrup each containing 100 ml from applicant. The codeine and Chlorpheniramine were found in said bottles.

5. Counsel for the applicant submitted that seizure witnesses have been examined in the trial Court who turned hostile and did not support the seizure. Applicant is in jail since 13.09.2018. The entire quantity of solution cannot be taken for the consideration. Thus, applicant may be released on bail.
6. On the other hand, learned counsel for the State opposed the bail application, however, he submitted that 9 other criminal cases have been registered against the applicant out of which 3 under Arms Act, 4 under IPC and 2 under CrPC.
7. Counsel for the applicant further submitted that applicant has been acquitted from 3/4 cases. In the case in hand informant and Investigating Officer is the same person. Thus investigation is vitiated.
8. As per the amended Note No.4 of the schedule of the table of NDPS Act entire quantity of the mixture would be considered.
9. It is true that detention period of accused is a considerable factor for deciding the bail application but equally it is also true that other circumstances like gravity of the offence, impact of granting bail to the accused on society are also material and important factors for disposal of the bail application.
10. What would be effect if informant and I.O. is the same person would be considered at the time of the disposal of the case.
11. Looking to the above mentioned facts and circumstances of the case, looking to the quantity of contrabands, looking to the seriousness of the offence, looking to the impact of granting bail to the accused on society, the second bail application is rejected.

Sd/-

(Sharad Kumar Gupta)
Judge