

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.1680 of 2020

Avinash Rai @ Monu, S/o Shri Chitranjan Rai, aged about 25 years, R/o Village Manjhwapara, Jarhabhatha, Police Station Civil Line, Tahsil & District Bilaspur (C.G.)

(In Jail)
---- Applicant

Versus

State of Chhattisgarh, Through Station House Officer, Police Station Civil Line, District Bilaspur (C.G.)

---- Non-applicant

For Applicant:	Mr. Amit Singh, Advocate.
For Non-applicant:	Mr. Gagan Tiwari, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

15/05/2020

1. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on regular bail during trial in connection with Crime No.131/2020, registered at Police Station Civil Lines, Bilaspur, for the offence punishable under Sections 21 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985.
2. Case of the prosecution, in brief, is that the applicant was found in possession of 150 Nitrocin Tablets, 8 Rexcojeshic injections, 9 Avil injections and cash of ₹ 300/- and thereby committed the offence.
3. Learned counsel for the applicant submits that this is the first bail application filed on behalf of the applicant for grant of regular bail, the applicant has not committed any offence and he has been falsely implicated in the case. He further submits that the trial is likely to take some time and no useful purpose will be served by keeping the applicant in jail. The applicant has been arrested on 24-2-2020. He further submits that the psychotropic substance seized from the

applicant is more than small quantity, but less than commercial quantity.

4. On the other hand, learned State counsel opposes the application.
5. I have heard learned counsel for the parties.
6. It is not in dispute that Rexogesic tablet has an ingredient of buprenorphine which is a psychotropic drug and finds place at entry No.169 of the notification issued under the NDPS Act, 1985 dated 16-7-1996 and small quantity has been defined as 1 gm., whereas commercial quantity is 20 gms.. The total quantity of buprenorphine seized in the present case is 16 ml. which is more than small quantity, but less than commercial quantity. Similarly, Nitrocen-10 tablets consist of Nitrazepam which is recorded at entry No.221 of the notification dated 16-7-1996 issued under the NDPS Act, 1985 and small quantity has been defined as 20 gms., whereas commercial quantity has been defined as 500 gms.. In the present case, total Nitrocen tablets seized from the present applicant comes to 1500 mg., which is less than small quantity.
7. Considering the fact that total quantity of buprenorphine seized from the present applicant is 16 ml., which is more than small quantity, but less than commercial quantity and Nitrocen tablets seized from the present applicant is less than small quantity and considering the pretrial detention of the applicant, I am of the view that it is a fit case to enlarge the applicant on regular bail. Accordingly, the application is allowed.
8. It is, therefore, directed that the applicant be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court for his appearance as and when directed.
9. However, it is made clear that this Court has not recorded any finding

on the quantity of drug seized from the applicant and the trial Court would be free to reach to its own conclusion regarding the quantity of drug seized from the applicant. The finding recorded by this Court is only for the purpose of deciding the bail application under Section 439 of the CrPC.

10. It is further made clear that if the applicant has already been released on bail pursuant to the bail bonds already furnished in view of the order passed by the High Power Committee constituted in compliance of the order of the Supreme Court of India dated 23-3-2020 in the matter of **In Re : Contagion of COVID 19 Virus in Prisons** (Suo Motu Writ Petition (C) No.1/2020), he need not furnish bail bonds afresh and the bail bonds already furnished shall be deemed to be the bail bonds furnished in compliance of the order of this Court, but if he has not furnished bail bonds earlier, then he will be required to furnish bail bonds.

Sd/-
(Sanjay K. Agrawal)
Judge