

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3563 of 2020**

Shamshad Ahmad, son of Mustaque Ahmad, aged about 30 years, Occupation Vehicle Mechanic, R/o Rasulpur, P.S. and Tahsil Ambikapur, District Surguja (CG).

---- Applicant**Versus**

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

---- Non-applicant

For Applicant	: Mr. Sumit Singh Rathore, Advocate
For Non-applicant	: Mr. D.K. Tiwari, Dy.G.A.

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

05.08.2020

1. This is the fourth bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court.
2. Perused the case diary provided by the counsel for the State in connection with Crime No.281/2019 registered at Police Station Ambikapur, District Surguja for the offence punishable under Section 21(C) of N.D.P.S. Act.
3. The first, second and third bail applications of the applicant were rejected on merits by this Court vide orders dated 29.08.2019, 22.10.2019 and 16.01.2020 passed in M.Cr.C. No. 4396/2019, M.Cr.C. No.6640/2019 and M.Cr.C. No.144/2020 respectively considering prima facie case against him.
4. Case of the prosecution, in brief, is that on 16.05.2019 Probationer Deputy Superintendent of Police Harish Patil posted at Police Station Ambikapur received a secrete information from informant. After completing some formalities, he seized 44 numbers bottles of RC Cough Syrup each 100 ml, 32 numbers of bottles Elturex-T cough syrup each 100 ml, 44 numbers of bottles Phencyrex Syrup each 100 ml, total numbers of bottle is 120. Total quantity of syrup as 12 liters equal near about 12 kg. In each bottle RC cough syrup and Elturex-T cough syrup codeine Phosphate IP 10 mg was found. In each bottle of Phencyrex cough syrup Chlorpheniramine Maleate IP 4 mg was found.
5. Counsel for the applicant submitted that the applicant is in jail since 16.05.2019. Out of 15 prosecution witnesses, 10 prosecution witnesses have been examined before the trial Court and numbers of

them turned hostile and did not support the prosecution case. The applicant is a sole bread earner of his family. He has not committed any rare offence which is punishable with life imprisonment, hence the applicant may be released on bail.

6. On the other hand, counsel for the State opposed the bail application. However, he submitted that there is no criminal antecedent is reported against the applicant as per police case diary.

7. This is well settled legal principle that the detention period of accused and delay in trial are considerable factor for disposal of the bail application, but it is also true that seriousness of the offence and impact of granting bail to the applicant on society are more material and important factors, which cannot be overlooked.

8. This is also well settled legal principle that while dealing with the bail application, the Court can neither scrutinize the evidence nor appreciate the evidence. Only the trial Court is competent to do so at the time of appreciation of the evidence. This is also well settled legal principle that the Court cannot touch the merit and demerit of the case.

9. Turning hostile of some witnesses is itself not a sufficient ground to enlarge the applicant on bail.

10. Looking to the above mentioned facts and circumstances of the case, this Court finds that it is not a fit case where the applicant may be released on bail in the fourth round of litigation. Consequently, his fourth bail application is rejected. However, the trial Court is directed to expedite the trial and conclude the case preferably within a period of three months from the resuming regular work of the Court.

11. Certified copy as per rules.

SD/-

(Sharad Kumar Gupta)
JUDGE

L/-