

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 144 of 2020**

Shamshad Ahmad, son of Mustaque Ahmad, aged about 30 years, Occupation Vehicle Mechanic, R/o Rasulpur, P.S. and Tahsil Abmikapur, 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. Praveen Shrivastava, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****16.01.2020**

1. This is third 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 bail application of the applicant was rejected on merits by this Court vide order dated 29.08.2019 passed in M.Cr.C. No.4396/2019 considering prima facie case against him. His second bail application was also rejected on merits by this Court vide order dated 22.10.2019 passed in M.Cr.C. No.6640/2019 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 in the case in hand both the seizure witnesses have turned hostile and did not support the

prosecution case. The applicant is in jail since 16.05.2019. There are some contradiction in the statement of Shashikant Yadav (P.W.-10). He drew my attention on para No.3 of true copy of statement of Shashikant Yadav (P.W.10), which is the part of bail application.

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 seizure witnesses is itself not a sufficient ground to enlarge the applicant on bail. Moreover in the case in hand, the main Investigating Officer has to be examined.

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 third round of litigation. Consequently, the third bail application is rejected. However, the trial Court is directed to expedite the trial and conclude the case as soon as possible from the date of receipt of certified copy of this order.

11. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE