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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 210 of 2021

- Harish Gayakwad S/o Tularam Gayakwad, Aged About 21 Years, Resident of Subhash Chowk, Urla, P.S. Urla, Raipur, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, through the Police Station Telibandha, Raipur.

---- Non-applicant

MCRC No. 213 of 2021

- Harish Gayakwad S/o Tularam Gayakwad, Aged About 21 Years, Resident of Subhash Chowk, Urla, P.S. Urla, Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, through the Police Station Urla, Raipur.

---- Non-applicant

For Applicant – Shri Raza Ali, Advocate.

For State/Non-applicant – Shri Smeer Uraon, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

11-06-2021

1. As the applicant is common in both these cases, therefore, both these applications are being decided by this common order.

2. Both these applications under Section 439 of the Cr.P.C are first bail application before this Court filed by this applicant for grant of regular bail.

MCRC No.210 of 2021 has been filed by the applicant as he has been arrested on 24-11-2020 in connection with Crime No.356/2020 registered at Police Station – Telibandha, Raipur, Chhattisgarh for the offence under Section 21(B), 29 of the N.D.P.S. Act and MCRC No.213 of 2021 has been filed by this applicant as he has been arrested on 04-10-2020 in connection with Crime No.324/2020 registered at Police Station Urla, Raipur, Chhattisgarh for offence under Section 21(B) of the N.D.P.S. Act.

3. It is submitted by learned counsel for the applicant in MCRC No.210 of 2021 that in this case no seizure has been made from this applicant, he has been implicated only on the basis of memorandum statement given by co-

accused persons. Therefore, the applicant is entitled for grant of bail.

4. Learned counsel for applicant in MCRC No.213 of 2021 submits that the applicant is a licensed proprietor of medical store. The medicines that have been seized from his medical store are licensed products of the company which are sold only on the basis of medical prescription to any person. Therefore, the applicant cannot be held responsible for commission of any offence as registered against him. Hence, it is prayed that the applicant may be granted bail.

5. Learned counsel for the State/non-applicant opposes both the applications and submits that there is clear evidence in both the cases against the applicant regarding making sale of prohibited medicines having content of narcotic substances to persons without any prescription and also that he himself was found in possession of such medicines when the search was made. Therefore, no case is made out for grant of bail to this applicant.

6. Heard learned counsel for the parties and perused the case diary.

7. In Crime No.356/2020 of Police Station Telibandha, Raipur a seizure of 144 capsules of SPAS-TRANCAN PLUS was made from co-accused Imran and Sanjay Benwa and offences under Section 21(B) of the N.D.P.S. Act was registered against them. During investigation one of the co-accused made statement that he had purchased the medicines from the medical shop of this applicant. Therefore, this applicant has been alleged as an accused in that case under Section 21(B) of the N.D.P.S. Act.

In Crime No.324/2020 of Police Station Urla, Raipur search was made in the medical store of this applicant which is styled as Aditya Medical Stores, Sarora and 12 bottles of Codistar Syrup, 2100 number of Lomotil Comositioi 2.5 mg. tablets, Spasmax pain 80 tablets and Alpracare 570 tablets were seized from the medical store. The applicant was unable to produce any document regarding purchase of these medicines neither he was able to

produce any register regarding sale of these medicines on prescription as all these medicines have contents which are prohibited under the N.D.P.S. Act.

8. Considered on the submissions and the facts present in the case. As it appears that this applicant had been made accused in Crime No.356/2020 only on the basis of memorandum statement given by the co-accused person and that in Crime No.324/2020 the seizure of medicines that have been made are still being manufactured by the companies as there is exception under Section 8(c) of the N.D.P.S. Act that medicines having content of narcotic substances can be manufactured and sold for medical or scientific purposes. Therefore, I am of this view that this applicant, who has to face trial in both the cases, should be enlarged on bail.

9. Consequently, both these applications filed under Section 439 of the Cr.P.C. for grant of regular bail are hereby allowed. It is directed that the applicant shall be released on bail on his furnishing in each of these cases 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.

10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge