

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 372 of 2021**

- Avinash Rai S/o Chitranjan Rai Aged About 25 Years R/o Majhwapara Jarhabhatha, Bilaspur, Police Station - Civil Line, District Bilaspur Chhattisgarh.

---- Applicant**Versus**

- State of Chhattisgarh, Through - Station House Officer, Police Station - Civil Line, District - Bilaspur Chhattisgarh.

---- Respondent

For Applicant	:	Ms. Madhunisha Singh, Advocate on behalf of Shri Amit Singh Chauhan, Advocate.
For Respondent-State	:	Shri Ashish Tiwari, Government Advocate.

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

17.06.2021

1. Heard on the application filed under Section 439 of Cr.P.C. This is the first bail application filed for grant of regular bail. The Applicants have been arrested on 02.01.2021 in connection with Crime No. 12/2021 registered at Police Station Civil Line, Bilaspur, District Bilaspur (C.G.) for offence punishable under Sections 21, 22 of Narcotic Drugs & Psychotropic Substance Act.
2. It is submitted by the learned counsel for the Applicant that the Applicant has been falsely implicated in this case. The Applicant is in jail since 02.01.2021. Charge-sheet has been filed and trial has not making any progress. It is prayed that the bail may be granted to the Applicant.
3. The learned counsel for the State opposes the application and submits that it is a case of possession of commercial quantity of Psychotropic Substance and the judgment of the Hon'ble the Supreme Court in ***Hira Singh vs. Union of India*** reported in ***(2020) SCC online 382*** is very clear on this point, therefore, the offence committed by the Applicant is under Section 21 (c) of Narcotic Drugs & Psychotropic Substance Act and hence, the Applicant is not entitled to grant of bail.

4. I have heard the learned counsel for the parties.
5. According to the prosecution case, the seizure of 43 numbers of injection ampoules which contained REXOGESIC 02 ML, in which, BUPRENORPHIN HYDROCHLORIDE content was 0.3 MG of BUPRENORPHIN and 44 bottles of RTX-Care syrup of Chorpheniramine maleate ip 4 mg, codeine phosphate ip 10 mg, were seized from the possession of the Applicant, hence this case.
6. Considered on the submissions. Although Hon'ble the Supreme Court held in the case of **Hira Singh** (supra) that the whole mixture of any substance including the neutral agents shall be taken into account for calculation of total content, but the notification specifying the small and commercial quantity makes mention of the quantity of these items in weight only. There is seizure of the articles that are in liquid form therefore, there description in volume mentioned. It does not appear to be comparable with the weight and further taking into consideration that the Applicant is in jail since 02.01.2021 and the trial has not made any progress, therefore, I am inclined to allow this bail application.
7. Consequently, the application filed by the Applicant under Section 439 of Cr.P.C for grant of regular bail is hereby allowed.
8. It is directed that the Applicant shall 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.

Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge