

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 469 of 2021

- Jagdish Agrawal, S/o Shri Badri Narayan Agrawal, aged about 75 years R/o - Village Saundar, Tehsil Sadak-Arjuni, P.S. - Duggipar, District - Gondiya (Maharashtra),

---- Applicant

Versus

- State of Chhattisgarh Through P.S.- O.P. Tumdibod, District - Rajnandgaon (CG)

---- Non-applicant

For Applicant	:	Mr. Achyut Tiwari, Advocate
For Non-applicant	:	Mr. Rakesh Sahu, Dy. Govt. Advocate

Hon'ble Mr. Justice Parth Prateem Sahu
Order On Board

24/03/2021

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicant as he apprehends his arrest in connection with Crime No.32/2021 registered at Police Outpost- Tumdibod, District Rajnandgaon for commission of offence punishable under Section 21 (b) of the Narcotic Drugs and Psychotropic Substances Act, 1985.
2. The prosecution story, in brief, is that on 18.2.2021 on receipt of secret information that one person is in search of customers to sell narcotic drugs, the police of Police Outpost Tumdibod had intercepted co-accused Sagar Pandaya, searched him and seized 90 tablets of Nitrovet-10 from his possession. Total weight of drugs seized has been mentioned as 51.3 gram. On the basis of memorandum statement of co-accused Sagar Pandaya, present applicant, who is running a medical stores in the name & style of 'Agrawal Medical Stores' in village Saundar (Maharashtra), has been made accused in the crime in question.

3. Mr. Achyut Tiwari, learned counsel for the applicant submits that present applicant has been made accused only on the basis of memorandum statement of co-accused from whose possession contraband article has been seized. No other material has been collected by the prosecution indicating involvement of present applicant in offence in question. He further submits that applicant is 75 years old suffering with various age-old ailments and presently applicant is taking treatment as in-patient in Shri Shyam Hospital & Trauma Centre, Sakoli (Maharashtra) and in support thereof has also placed on record medical certificate issued by Dr. Devesh N Agrawal of Shri Shyam Hospital & Trauma Centre, Sakoli (Maharashtra) and other documents dated 8.3.2021 issued by the Medical Officer, Sub-District Hospital, Sakoli, District Bhandara (Maharashtra). He further submits that as per medical certificate, the applicant needs intermittent oxygen and requires one attendant for 24 hours to take care of him. In these circumstances, he prays that the applicant be extended benefit under Section 438 of CrPC.
4. On the other hand, learned State counsel opposes the application and submits that as per memorandum statement of co-accused Sagar, the drugs seized from his possession have been purchased by him from the medical store of present applicant. The materials available in the case diary *prima facie* show involvement of applicant herein in the crime in question. Hence, he is not entitled for benefit under Section 438 of CrPC.
5. Taking into consideration the nature of allegations, materials collected by prosecution, looking to the age i.e. 75 years, and medical ailments of present applicant, as stated by learned counsel for applicant based on Annexure P-3 filed along with application, without commenting anything on merits of case, I am inclined to grant anticipatory bail to the applicant.
6. Accordingly, the application is allowed and it is directed that in the event of arrest of applicant in connection with the crime in

question, he shall be released on anticipatory bail by the officer arresting him on his executing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :

- (i) that the applicant shall make himself available for interrogation before the Investigating Officer as and when required;
- (ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-

(Parth Prateem Sahu)

Judge

roshan/-