

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURMCRC No. 3704 of 2021

1. Adil Khan S/o Rahim Khan, Aged About 21 Years R/o Talapara, Near Ghodadana School, Police Station Civil Line, Bilaspur, District Bilaspur Chhattisgarh

---- Applicant

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station Civil Line, District Bilaspur Chhattisgarh

---- Respondent

MCRC No. 4209 of 2021

1. Mayank Pandey S/o Shri Surendra Pandey Aged About 20 Years R/o Bharati Nagar, Gali Number 4, Thana Civil Line, Bilaspur, District Bilaspur Chhattisgarh

---- Applicant

Versus

1. State Of Chhattisgarh Through Police Station Civil Line, Bilaspur, District Bilaspur Chhattisgarh

---- Respondent

For respective
Applicants

Mr. Amit Singh & Mr. K.P.S. Gandhi, Adv.

For Respondent /State

Mr. Arjit Tiwari, Panel Lawyer

(Proceedings through Video Conferencing)

Order on BoardByPrashant Kumar Mishra, Ag. CJ

5/8/2021

1. Since both the bail applications are arising out of crime No.493/2021 they are being considered and decided by this common order
2. The applicants have preferred these bail applications under Section 439 of the Cr.P.C. for grant of bail as they have been arrested in connection with Crime No.493/2021, registered at Police Station Civil Lines, Bilaspur, C.G., for the offence punishable under Section 21, 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985.
3. Both the applicants have been found in illicit possession of 150 bottles of Onerex cough syrup each containing 100 ml. containing Chorpheniramine Maleat IP 4 mg. And Codine Phosphate IP 10 mg.
4. Learned counsel for the applicants would argue that the quantity of psychotropic substance is small quantity, therefore, the applicants are entitled to be released on bail.
5. Learned counsel for the State, *per contra*, would oppose the bail applications. He would refer to the provisions contained in Section 37 of the NDPS Act and the decision rendered by the Supreme Court in ***Hira Singh and Another v Union of India & Another*** (2020 SCC OnLine SC 382). Learned State counsel would also submit that there are previous criminal antecedents against the applicant Adil Khan (MCRC No.3704 of 2021) in respect of his involvement in committing the offence under the provisions of the Chhattisgarh Excise Act.

6. In ***Hira Singh*** (supra) the Supreme Court observed that while calculating the quantity of contraband, the entire quantity along with neutral substance has to be taken into account.
7. The quantity of Onerex cough syrup recovered from the joint possession of the present applicants is 15000 ml., which is even more than the commercial quantity of 1000 ml. Therefore, the accused was found in possession of commercial quantity and, as such, the parameters provided under Section 37 of the NDPS Act would apply and there being no material, *prima facie*, proving that the applicants may not be involved in the crime, I am of the opinion that present is not a fit case to release the applicants on regular bail.
8. Accordingly, both the bail applications are rejected.

Sd/-

(Prashant Kumar Mishra)
Acting Chief Justice

Gowri