

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 4248 of 2021**

- Vinit Shukla @ Bholu S/o Late Vidyashankar Shukla Aged About 31 Years R/o Block No. 58, Ekta Chowk, Kabirnagar Distt. Raipur, Raipur (Chhattisgarh)

---- Petitioner**Versus**

- State Of Chhattisgarh Through The Station House Officer, P.S. Khamtarai, District Raipur (Chhattisgarh)

---- Respondent

For Applicant	Mr. Sakib Ahmad, Advocate
For Respondent /State	Mr. Arijit Tiwari, Panel Lawyer

Proceedings through Video Conferencing**SB.: Hon'ble Mr. Prashant Kumar Mishra, Ag. CJ****Order On Board****11/8/2021**

1. Heard.
2. This is an application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant, who has been arrested in connection with Crime No.181/2021 registered at Police Station Khamtarai, Raipur (CG) for the offence punishable under Section 22(c) of the Narcotics Drugs and Psychotropic Substances Act, 1985 (in short "the Act").
3. Five accused persons have been found in possession of 980

strips of Nitrozepam Tablets IP Nitrosun-10, each carrying 10 tablets. Thus, the total number of tablets recovered from the possession of the accused persons is 9800 tablets, weighed at 5 kg 488 gm. From the possession of the present applicant and co-accused Yuvraj Sharma, 4000 tablets have been recovered whereas from Narendra Sharma and Pradum Singh, 4000 tablets have been jointly recovered.

4. Learned counsel for the applicant would submit that the actual weight of the psychotropic substance contained in the tablets recovered from the present applicant is less than the commercial quantity, therefore, he is entitled to be released on bail.
5. Per contra, learned counsel for the State would draw attention of the Court to the provisions contained in Section 37 of the Act and the law laid down by the Supreme Court in the matter of **Hira Singh and another Vs. Union of India & Another** [CRA No.722/2017, decided on 22nd April 2020] [2020 SCC Online SC 382].
6. In the matter of **Hira Singh (supra)**, the Hon'ble Supreme Court has held that not only the psychotropic substance but the entire neutral substance would have to be counted for determining the quantity of psychotropic substance.
7. The total weight of the psychotropic substance along with neutral substance recovered from the possession of the accused persons is 5 Kg 488 gm. From the joint possession of the

present applicant and Yuvraj, 4000 tablets, which would be weighed more than the commercial quantity (500 gm), have been recovered. In such case, the laid down by **Hira Singh (supra)** would apply and consequently, the provisions contained in Section 37 of the Act would also come to play. Thus, the applicant is not entitled to be released on bail.

8. Accordingly, the bail application is dismissed with liberty to the applicant to revive the prayer at an appropriate stage.

Sd/-

(Prashant Kumar Mishra)
Acting Chief Justice

Shyna