

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Proceeding through video conferencing****MCRC No. 4230 of 2021**

- Manish Kumar Sanvadiya S/o Rajkumar Sanvadiya Aged About 32 Years Caste Agrawal, R/o Old Bazar Chowk, Sasha, Police Station Pamgarh, District Janjgir Champa Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through: Station House Officer, Police Station Pamgarh, District Janjgir Champa Chhattisgarh.

---- Respondent

For Applicant - Shri Goutam Khetrapal, Advocate.
For Respondent/State - Shri Vikram Sharma, Dy. Government Advocate.

Hon'ble Shri Prashant Kumar Mishra Ag. Chief Justice
Order on Board**10-08-2021**

1. Heard.
2. The applicant has preferred the first bail application under Section 439 of the Cr.P.C., as he has been arrested in connection with Crime No.214/2021, registered at Police Station – Pamgarh, District- Janjgir- Champa (C.G.) for the offence punishable under Section 21, 22 of the Narcotic Drugs and Psychotropic Substances Act.
3. The applicant has been found in illicit possession of 120 bottles, each containing 100 ml of Onerex cough syrup.

4. Shri Goutam Khetrpal, learned counsel for the applicant submits that the house where from the illicit contraband has been recovered does not belong to the applicant, therefore, prima facie, he cannot be held responsible.
5. Learned State counsel would object to the applicant's prayer for grant of bail on submission that the applicant having been found commercial quantity of contraband from his possession, in view of Section 37 of the N.D.P.S. Act and read with the law laid down by the Hon'ble Supreme court in the matter of **Hira Singh & Anr. Vs Union of India & Anr.** in CRA No.722/2017 wherein it has been held that not only psychotropic substance but the neutral substance would also be measured/weighed to determine the quantity of the contraband. According to him, the contraband recovered in this case is more than the commercial quantity, therefore, in view of the Section 37 of the Act, the applicant is not entitled to be released on bail.
6. On the previous date of hearing, this Court has allowed time to learned State counsel to seek instructions from the Investigating Officer with respect to the ownership of the subject premises. Today, Shri Vikram Sharma, learned State counsel submits that the house belongs to one Sandeep Agrawal who happens to be the maternal uncle of the applicant. According to learned State counsel, the applicant's Adhaar Card is on same address and moreover, in this bail application also he has mentioned the same address, where from the contraband has been recovered.
7. At this juncture, Shri Goutam Khetrpal, learned counsel for the applicant would controvert the submission. He says that in the recovery memo, the subject place is said to be situated in Ward No.8, Sasha and one of the witness Churamani Sahu says that his house is also at Ward No.2, Sasha. Thus, the argument is that Sasha is a bigger area spreading in different Ward numbers.
8. Be that as it may, the fact remains that the subject house is officially owned by Sandeep Agrawal and not by the present applicant, therefore, I am inclined to release the applicant on bail.

9. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on his executing a personal bond for a sum of Rs.50,000/- with one surety for the like amount to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given by the said Court.

SD/-

(Prashant Kumar Mishra)
Acting Chief Justice

Amardeep