

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURMCRC No. 4233 of 2021

1. Jayad Hussain @ Sahrukh S/o Sarafat Ali Aged About 28 Years
R/o Irani Dera, Block No. 14, Qt. No. 5, Pandri Thana, Police
Station Pandri, District Raipur Chhattisgarh

---- Applicant

Versus

1. State Of Chhattisgarh Through Police Station Pandri, District
Raipur Chhattisgarh

---- Respondent

For Applicant	Mr. P.K. Patel, Advocate
For Respondent /State	Mr. Vikram Sharma, Dy. Govt. Adv.

*(Proceedings through Video Conferencing)*Order on BoardByPrashant Kumar Mishra, Ag. CJ3/8/2021

1. Heard.
2. The applicant has preferred this bail application under Section 439 of the Cr.P.C. for grant of bail as he has been arrested in connection with Crime No.93/2021, registered at Police Station Pandri, District Raipur, C.G., for the offence punishable under Section 20(B), 21(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Sections 25 & 27 of the Arms Act.
3. Applicant was found to conceal 6.500 kgs. Ganja and 55 bottles of Onerex Cough Syrup containing codeine psychotropic

substance each containing 100 ml. in total 5500 ml. during search of his house at 00.15 am on 21-5-2021.

4. Learned counsel for the applicant would submit that the applicant has been falsely implicated. He has no previous antecedents, therefore, he deserves to be released on bail.
5. Learned counsel for the State, *per contra*, would oppose the bail application. 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).
6. In the case at hand, the applicant was found in possession of 5500 ml. Of Onerex cough syrup, therefore, in view of law laid down by the Supreme Court in ***Hira Singh*** (supra), while calculating the quantity of contraband, the entire quantity along with neutral substance has to be taken into account, 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 applicant may not be involved in the crime, I am of the opinion that present is not a fit case to release the applicant on regular bail at this stage.
7. Accordingly, the bail application is rejected. However, the applicant would be at liberty to revive the prayer at an appropriate stage.

Sd/-

(Prashant Kumar Mishra)
Acting Chief Justice

Gowri