

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURMCRC No. 4606 of 2021

1. Suhail Khan S/o Md. Shariful Hasan (Md. Ashraful @ Shariful Khan Wrongly Mentioned In Charge Sheet), Aged About 20 Years, R/o Masjidpara, Surajpur, Police Station Surajpur, Tehsil And District-Surajpur, Chhattisgarh.

---- Applicant

Versus

1. State Of Chhattisgarh Through S.H.O. Police Station-Surajpur District-Surajpur, Chhattisgarh.

---- Respondent

For Applicant

Mr. Pushkar Sinha, Advocate

For Respondent /State

Mr. Vikram Sharma, Dy. Govt. Adv.

*(Proceedings through Video Conferencing)*Order on BoardByPrashant Kumar Mishra, Ag. CJ26/8/2021

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.245/2021, registered at Police Station Surajpur, District Surajpur, C.G., for the offence punishable under Section 21(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985.
3. Applicant was found in possession of 4 Nos. of Wincirex Cough Syrup (kept in full pant of the applicant); and 100 Nos. of

Phencyrex Cough Syrup & 76 Nos. of Wincirex Cough Syrup (kept in plastic bag).

4. Learned counsel for the applicant would submit that the applicant has been falsely implicated, 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 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.
8. At this juncture, learned counsel for the applicant would submit that the seizure witnesses have already been examined, therefore, the trial Court may be directed to expedite the trial.
9. In view of the above, the trial Court shall do well to expedite the trial.

Sd/-
(Prashant Kumar Mishra)
Acting Chief Justice

Gowri