

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.5644 of 2020

Sunil Gabel S/o Saroj Gabel Aged About 26 Years R/o Gram Sakarri, Tehsil-
Malkharod, District- Janjgir-Champa, Chhattisgarh ---- **Applicant**

Versus

State Of Chhattisgarh Through- The Station House Office, Police Station
Kharsiya, District Raigarh, Chhattisgarh ---- **Respondent**

For Applicant	:	Shri Jitendra Shukla with Shri Sumit Singh Rathore, Advocates
For Respondent/State	:	Smt. Fouzia Mirza, Additional A.G.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

21/01/2021

Heard.

1. The applicant has been arrested in connection with Crime No.111 of 2020 registered at Police Station- Kharsiya, District Raigarh (CG) for the alleged commission of offence under Section 21 of NDPS Act.
2. Case of the prosecution is that the applicant and co-accused were found carrying 240 bottles of syrup containing codeine phosphate in commercial quantity.
3. Learned counsel for the applicant would submit that the present applicant has been arrested though the applicant is not at all involved in the alleged commission of offence. It is submitted that present applicant was not knowing about the contents of the container which contained 240 bottles of syrup and only bonafide, upon being asked by the co-accused, he was transporting the same without having knowledge that it is a psychotropic substance. Therefore, it cannot be said to be a case of conscious possession. Next submission is that the applicant's grand-father and mother both are sick and therefore there is no one to look after them except the applicant. Therefore, on this ground also the applicant prays for grant of bail. It is also submitted that investigation is complete, charge-sheet has also been filed and therefore, there is no need for custodial interrogation anymore

and at this stage, the applicant may be granted bail as he is a young boy aged 26 years and he is a student.

4. On the other hand, learned State counsel would submit that the bail application of the co-accused Jitendra Kumar Gabel, Deendayal Gabel and Ramesh Yadav have been rejected by this Court vide common order dated 14.07.2020 passed in M.Cr.C. No.2042 of 2020 and MCRC No.2734/2020. Learned State counsel would submit that prima facie case is made out against the present applicant because he was found in possession of the psychotropic substance and what he states before this Court is only a matter of self-defence.
5. Having considered the submission of learned counsel for the parties and also having gone through the order dated 14.07.2020 passed by this Court in bail application of the co-accused, particularly, taking into consideration that the recovery is also alleged to have been made from the present applicant, in the absence of there being any material to show that there is reasonable ground for believing that the applicant is not guilty of alleged commission of offence against him and that the application of co-accused is similarly situated has already been rejected, therefore, present is not a fit case for grant of bail to the applicant. Therefore, the application is rejected.

Sd/-
(Manindra Mohan Shrivastava)
Judge