

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6253 of 2021**

Sakha Ram Chakrawarti S/o Shri Bhanu Ram Chakrawarti,
Aged About 35 Years R/o. Village Mahuadih, Thana and Tahsil
Bagicha, District Jashpur (C.G.) Present R/o Village Korami,
Thana Sirgitti, District Bilaspur, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through, Station House Officer, Police
Station Sirgitti, District Bilaspur Chhattisgarh.

---- Non-applicant

For Applicant : Mr. Sunil Sahu, Advocate

For Non-applicant/State : Mr. Uddhav Sharma, Govt. Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****28.10.2021**

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 06.05.2021 in connection with Crime No.199 of 2021 registered at Police Station Sirgitti, District Bilaspur (C.G.) for commission of offence punishable under Sections 304 of Indian Penal Code and Sections 12 & 13 of the Chhattisgarh State Upacharyagriha Tatha Rogopchar Sambandhi Sthapanaye Anugyapan Adhiniyam, 2010 (for short 'Adhiniyam, 2010').
2. Case of the prosecution, in brief, is that applicant who is practicing as homeopathy doctor, during lock-down period from 05.05.2021 to 06.05.2021, has sold homeopathy medicine, which contained alcohol in higher ratio. After consuming homeopathy liquor

purchased by deceased persons, they died. Merg was intimated to concerned Police Station. Based upon which, aforementioned crime was registered against the applicant and was arrested.

3. Mr. Sunil Sahu, learned counsel for the applicant would submit that after due investigation of crime, charge-sheet has been submitted by Investigating Agency against the applicant for commission of offence under Section 304 of IPC and Section 12 & 13 of the Adhiniyam, 2010. The offence under Section 12 & 13 of the Adhiniyam, 2010 provides for imposition of fine/penalty only for violation of the provisions of Adhiniyam, 2010. The applicant has not committed any act with intent to cause death of any person. The applicant is a registered homeopathy doctor and practicing in homeopathy. Deceased persons have taken homeopathy medicine for their suffering on account of cough and cold. Looking to the facts and circumstances of the case, in which, aforementioned incident happened and the fact that applicant in jail since 06.05.2021, he may be enlarged on regular bail.
4. Per contra, Mr. Uddhav Sharma, learned Govt. Advocate for the State opposing the submissions made by learned counsel for the applicant, would submit that during the course of investigation, police seized certificate of BHMS issued from the college under AYUSH. The medicines available with the applicant was also seized and it was sent to Drug Inspector, who stated that said liquid homeopathy medicine containing alcohol of 91%. In the postmortem report, cause of death is shown to be poisoning alcohol, hence, applicant is not entitled for bail. However, he does

not dispute that applicant is practicing as homeopathy doctor as per material available in the case diary.

5. I have heard learned counsel for the parties.
6. Taking into consideration facts and circumstances of the case, nature of allegations the manner, in which, aforementioned incident took place, certificate of BHMS issued in favour of applicant has been seized from his possession during the course of investigation, period of detention, without commenting on the merits of the case, I am inclined to release the applicant on regular bail.
7. Accordingly, the application is allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one local surety in the like sum to the satisfaction of the trial Court concerned on the conditions that;

a) He shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.

b) He shall not, in any manner, tamper with the prosecution witnesses.

c) If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge