

HIGH COURT of CHHATTISGARH, BILASPUR

MCRC No. 7029 of 2020

1. Sayyad Sarfaraj Ali, Aged aged about 26 years, s/o Shri Jafar Alo, R/o Laxmi Nagar, Durgapara, Bhilai, District (Revenue & Civil) Durg CG
2. Chandrashekher Patel, Aged about 28 years, S/o Abhimanyu Patel, r/o village – Jharband, Post- Bhanvarpur, PS Tahsil – Basna, District (Revenue & Civil) Mahasamund, CG

---- Applicants (In jail)

Versus

- State of Chhattisgarh Through the Station House officer, Police Station Basna, District Mahasamund Chhattisgarh

---- Respondent

For Applicants : Shri Yogesh Chandra Pandey, Advocate
For Respondent/State : Shri Vikram Sharma, Dy GA

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

04.01.2021

1. Applicants have preferred this application under Section 439 CrPC for grant of regular bail as they have been arrested in connection with Crime No.447 of 2020 registered at Police Station Basna, District-Mahasamund CG for the offence punishable under Section 420 read with 34 of the IPC.
2. Case of the prosecution is that one Jai Kumar Singh, who is an employee of Bayer Company had given a complaint that some persons are selling duplicate product of Natio Fungicides, showing it to be a product of Bayer Company. On the basis of said complaint, Company has sent officials and during the period of visit at the area, they found present applicants in possession of 95 packets of Natio Fungicides in the name of Bayer Company near one 'Dhaba', they were handed over to the Police and three packets have been sent for chemical examination. It was found that the packets seized from the applicants were duplicate items and not the product of Bayer Company, on

the basis of which initially Section 420/34 has been lodged against the applicants. After completion of investigation, Police filed Charge-sheet and final report for the offences punishable under Sections 420, 467, 468, 469 and 471 r/w 34 of the IPC against the applicants.

3. Shri Yogesh Chandra Pandey, learned counsel for the applicants submits that applicant-1 obtained degree of Mechanical Engineering and doing business of Network marketing with K Link Health Care Company. In one of the farmers meet at Durg, he came in contact with one Dinesh Patel, resident of Indore, who brought to his notice about the selling of Nativo Fungicides of Bayer Company with a margin of Rs.300-400/- per kg. Upon which applicant-1 agreed to sell the product of “Nativo Fungicides of Bayer Company”. He contacted Chandrashekher Patel, applicant-2 and included him for the purpose of selling of the product in the area of Tahsil-Basna, District- Mahasamund. He submits that the applicants have agreed to sell the “Nativo Fungicides of Bayer Company” only on the basis of words of Dinesh Patel, resident of Indore. They are not the manufacturers, or dealers nor aware about the product to be duplicate but, they have acted as Salesmen for the purpose of earning their livelihood. Learned counsel submits that the applicants are in jail since 22.09.2020, hence may be enlarged on bail. He also pointed out that the applicants are not having any other criminal antecedents against them.

4. Shri Vikram Sharma, learned Dy Government Advocate for the State opposing the submission made by learned counsel for the applicant submits that from the possession of applicants, 95 packets of “Nativo

Fungicides” showing it to be the product of Bayer Company have been seized, they were selling this duplicate product to the poor farmers and extracting money from them. He further submits that the applicants are not entitled for the benefit under Section 439 of the CrPC.

5. I have heard learned counsel for the parties.

6. Considering the nature of allegations levelled against the applicants, material collected by the Investigating agency, pre-trial detention of the applicants and further that they are not having any criminal antecedents against them, I am inclined to enlarge the applicant on bail.

7. Accordingly, the bail application is allowed. It is directed that the applicants be released on regular bail upon furnishing a bail bond in the sum of Rs.10,000/- (Rupees ten thousand) each with one surety in the like sum to the satisfaction of the Court below concerned on the condition that:

- a) Applicants shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicants shall not in any manner, tamper with the prosecution witnesses.
- c) If the applicants are 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