

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 7679 of 2020**

- Ritesh Agarwal S/o Late Shri Ghanshyam Das Agarwal Aged About 32 Years R/o Abhishek Vihar, Phase-01, D-27, Mangla, P.S.-Civil Line, Tah. And Distt.- Bilaspur (Chhattisgarh)

----- Applicant**Versus**

- State Of Chhattisgarh Through- P.S. Sarkanda, Dist-Bilaspur (Chhattisgarh)

----- Respondent

For Applicant	:-	Mr. Ravindra Sharma, Advocate
For Respondent-State	:-	Mr. Rajendra Tripathi, PL

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board**13/01/2021**

1. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.855 of 2020, registered at Police Station Sarkanda, Dist.- Bilaspur C.G., for the offence punishable under Section 21, 22 of the NDPS Act.
2. Case of the prosecution, in brief, is that applicant was found in illicit possession of 28 bottles of Onerex cough syrup containing 100 ml of syrup in each bottle.

3. Learned counsel for applicant would submit that the quantity of psychotropic substance in the seized contraband would not be over and above of the commercial quantity, therefore, he is entitled for bail. He would also submit that a false case has been fastened on the applicant and the mandatory provisions have not been duly complied.
4. Learned State counsel would oppose the prayer for grant of bail.
5. Considering the law laid down by the Supreme Court in the matter of **Hira Singh & Anr. vs Union of India & Anr.** in CRA No.722/2017, wherein, it has been held that not only the actual psychotropic substance but the neutral substance would also be measured/weighed to determine the quantity of the contraband, therefore, considering that 2800 ml of cough syrup has been recovered from the present applicant which is more than the commercial quantity, in view of the Section 37 of the Act, I am not inclined to release the applicant on bail.
6. Accordingly, the bail application is rejected.

SD/-
(**Prashant Kumar Mishra**)
Judge