

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUROrder reserved on 17-12-2020Order delivered on 06-01-2021**MCRC No. 7123 of 2020**

1. Sonu @ Leeladhar S/o Late Krishna Gond Aged About 24 Years,
2. Kailash Netam S/o Sahdev Netam, Aged About 30 Years

Both are R/o Khodro, Police Station Rajpur , District Balrampur Ramanujganj Chhattisgarh.

---- Applicants**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Rajpur , District Balrampur Ramanujganj Chhattisgarh.

---- Respondent

For Applicants :- Mr. Gautam Khetrapal and Mr. Jitendra Shrivastava, Advocate
For Respondent /State:- Mr. Sudeep Agrawal, Dy.A.G

Hon'ble Mr. Justice Prashant Kumar Mishra**CAV Order**

1. Heard.
2. The applicants have preferred this first bail application under Section 439 of CrPC, as they are arrested in connection with Crime No.166/2020, registered at Police Station Raipur,

District- Balrampur Ramanujganj, for the offence punishable under Section 21(A) of the NDPS Act 1985.

3. As per the prosecution case applicant No.1 Sonu @ Leeladhar was found in illicit possession of 4 bottles (100 ml. each) of Choroneniramine maleat codine phosphate syrup of Maharex Company whereas applicant No.2 Kailash Netam was found in illicit possession of 5 bottle (100 ml. each) of same syrup total valued at Rs.1215/-.
4. Learned counsel for the applicants would submit that the quantity of psychotropic substance recovered from the applicants is less than the commercial quantity, therefore, the applicants are entitled to be released on bail. He would further submit that the rigor of Section 37 of the NDPS Act is not applicable in the present case, in view of the fact that the seized quantity of contraband is less than the commercial quantity.
5. Per contra, learned counsel for the State would oppose the bail application. He would submit that not only the psychotropic substance, but the neutral substance is also taken account for while measuring the quantity of contraband, therefore, the applicants are not entitled to be released on bail.
6. Even taking the psychotropic substance together with the neutral substance, the quantity of cough syrup having

contraband is 400 ml. from the applicant No.1 and 500 ml. from the applicant No.2. If the entire quantity is taken to be in joint possession of the applicants then also it comes to 900 ml. whereas the commercial quantity is 1000 gm i.e. 1 kg as per Entry No.28 of Notification bearing S.O. 527(E) dated 16-7-1996 issued by the Government of India. The quantity recovered from the applicants is, thus, less than the commercial quantity.

7. Considering the facts situation of the case; particularly considering the fact that the applicants are in jail since 3-9-2020 i.e. for more than 4 months; and also the fact that the concerned SHO has not reported any previous antecedents of their involvement in committing similar nature of crime, this Court is inclined to release the applicants on bail.
8. Accordingly, the application is allowed and the applicants are directed to be released on bail on each of them executing a personal bond for a sum of Rs.50,000/- with one surety for the like amount to the satisfaction of the trial Court. They are directed to appear before the trial Court on each and every date given by the said Court.

SD/-

(Prashant Kumar Mishra)
Judge