

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRCA No. 1167 of 2021**

- Prabhu Prajapati S/o Shri Shyam Bihari Prajapati, Aged about 35 years, Occupation Business (Chemist) R/o Main Road, Sahupara, Surajpur, P.S. & Tehsil Surajpur, District Surajpur (C.G.).

-----Applicant**VERSUS**

- State of Chhattisgarh through Station House Officer Surajpur, District Surajpur (C.G.).

-----Non-applicant

For Applicant	: Mr. Surfaraj Khan, Advocate.
For Non-applicant- State	: Mr. Roshan Dubey, P.L.

Hon'ble Shri Parth Prateem Sahu, Judge**ORDER****23/09/2021**

1. The applicant has preferred this application under Section 438 of Cr.P.C for grant of anticipatory bail as he apprehends his arrest in connection with Crime No.368/2021 registered at Police Station Surajpur, District Surajpur (C.G.) for the offence punishable under Section 21 (C) of the N.D.P.S. Act.
2. As per the case of prosecution, on 18/08/2021 a secret information was received by the police that some persons are carrying illicit psychotropic substance and traveling in Durg to Ambikapur train. On this information, the police intercepted one Auto Rickshaw at Railway Station, Vishrampur and found Divyadeep Singh in possession of 200 numbers of Rexogesic injections, each containing 2 ml and 100 numbers of Avil injections, each containing 10 ml. Based on recovery, the aforementioned offence was registered. During course of investigation, memorandum statement of Divyadeep Singh was recorded, wherein he stated that he was transporting the injections for the medical shop of the applicant. Based on the memorandum statement of co-accused Divyadeep Singh, the applicant is arrayed as accused in the instant crime.

3. Mr. Surfaraj Khan, learned counsel for the applicant would submit that the applicant is running a medical shop at Surjapur under the license issued by the competent authority. He submits that after the incident, police rushed and searched the shop of applicant. During search they have not found any incriminating article from the shop connecting the applicant in commission of alleged crime. He further submits that unless and until any seizure of illicit psychotropic drug is made from the possession of the applicant, he cannot be involved in crime. He further submits that co-accused Divyadeep Singh is residents of Surajpur and only to save himself, he named the applicant as accused in the present crime. Hence, prayer is made to enlarge the applicant on anticipatory bail.
4. On the other hand, Mr. Roshan Dubey, learned State counsel opposes the submissions made by learned counsel for the applicant and submits that based upon the secret information, police intercepted co-accused Divyadeep Singh who in his memorandum statement has narrated the facts and involvement of the applicant in the instant crime. He further submits that co-accused Divyadeep Singh has specifically stated that he was transporting psychotropic drug on the instructions of the applicant, for his medical shop. Hence, the applicant is not entitled to get benefit under Section 438 of CrPC.
5. I have heard learned counsel for the respective parties.
6. Taking into consideration, the nature of allegations, the fact that the applicant is made accused only on the basis of memorandum statement of co-accused Divyadeep Singh from whose possession the illicit psychotropic drug was seized and as per the statement of learned State counsel, there is no criminal antecedent registered against the applicant of similar nature who is running medical shop, without commenting anything on merits of the case, I am inclined to allow the bail application.
7. Accordingly, application is allowed and it is directed that in the event of arrest of applicant in connection with the aforementioned crime, he shall be released on anticipatory bail by the Officer arresting him on his executing a personal bond in the sum of Rs. 25,000/- with one surety in the like sum to the satisfaction of the concerned

arresting Officer. The applicant shall also abide by the following conditions:

- (i) that the applicant shall make himself available for interrogation before the Investigation Officer as and when required;
- (ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
Judge

rahul