

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7694 of 2021**

- Sagar Pandaya, S/o Late Ujjawal Pandaya, aged about 29 years, R/o Prabhat Nagar, PS Lalbagh, Rajnandgaon, Tehsil & District Rajnandgaon (CG).

---- Applicant (In Jail)**Versus**

- State of Chhattisgarh Through the Out Post Tumdibod, Police Station Dongargaon, District Rajnandgaon (CG).

---- Non-applicant

For Applicant	:	Mr. S.S. Baghel, Advocate
For Non-applicant	:	Mr. G.I. Sharan, Govt. Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order On Board****22/10/2021**

1. This is second application under Section 439 of CrPC for grant of regular bail to applicant who is in custody since 18.1.2021 in connection with Crime No.32/2021 registered at Police Outpost Tumdibod, Police Station Dongargaon, District Rajnandgaon (CG) for commission of offence under Section 21(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985.
2. First bail application of applicant was dismissed as withdrawn by this Court vide order dated 23.3.2021 with liberty to file afresh after examination of seizure witnesses.
3. Mr. S.S. Baghel, learned counsel for applicant submits that after dismissal of first bail application by this Court, seizure

witnesses have been examined before the trial Court on 15.9.2021. Hence, this second application for grant of regular bail may be considered.

4. Case of prosecution is that on 18.1.2021 on receipt of secret information that one person is searching customers in Bus Stand, Tumdibod to sell prohibited drug namely Nitrave 10, police reached on spot, apprehended applicant and on search being made, six packets of Nitrave-10 tablets were seized from his possession. Based on seizure of aforementioned narcotic drug, instant crime is registered against applicant.
5. Mr. S.S. Baghel, learned counsel for applicant would submit that applicant has been falsely implicated in crime in question. Seizure witnesses namely Akash Nirmalkar (PW-3) and Bhuwan Lal Patel (PW-4) have been examined before the Court below concerned, they have not supported prosecution case and turned hostile. Hence, applicant, who is in custody since 18.1.2021, may be enlarged on regular bail.
6. Mr. Gurudev I Sharan, learned Government Advocate for the State opposes the submissions made by learned counsel for applicant and submits that in view of fact that applicant was found in illegal possession of prohibited drug 'Nitrave-10', he is not entitled to be released on regular bail. However, learned State Counsel does not dispute submission of applicant's counsel of examination of seizure witnesses before the Court below.

7. Considering the facts and circumstances of case, period of detention i.e. from 18.1.2021, the fact that seizure witnesses have been examined by the Court below, without commenting anything on merits of case, I am inclined to release applicant on regular bail.

8. Accordingly, application is allowed and it is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of trial Court concerned on the conditions that;

- he shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.
- he shall not, in any manner, tamper with the prosecution witnesses.
- if 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

roshan/-