

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURMCRC No. 9035 of 2020

1. Royden Buthello S/o Harold Buthello Aged About 29 Years
R/o-Flat No. 20, Arunodaya CHS Ltd., A Wing, Manipada,
Sunder Nagar, Kalina University, Near Buth Vihar, Kalina
Santacruz East, Mumbai-400098

---- Applicant

Versus

1. State Of Chhattisgarh Through - S.H.O., Azad Chowk Police
Station, District- Raipur (Chhattisgarh)

---- Respondent

MCRC No. 9473 of 2020

1. Ashish Joshi S/o Shri Yojraj Joshi Aged About 36 Years R/o
Vikas Colony, House No. 64, Sector-5, Karnal, Police Station
And District- Karnal (Haryana)

At Present R/o Ishita Paradise 504, New Rajendra Nagar,
Tahsil And District- Raipur (C.G.)

---- Applicant

Versus

1. State Of Chhattisgarh Through The Station House Officer
Police Station Azad Chowk, Raipur, Chhattisgarh

---- Respondent

MCRC No. 179 of 2021

1. Shreyansh Jhabak S/o Ramesh Jhabak Aged About 36 Years
R/o Sakin Panchsheel Nagar, Police Station Civil Lines,
District Raipur, Chhattisgarh

---- Applicant

Versus

1. State Of Chhattisgarh Through The Station House Officer
Police Station Azad Chowk, District Raipur, Chhattisgarh

---- Respondent

For Applicants :

- Shri Vimal Patel, Shri D.M. Galani & Shri Neeraj Choubey,
Advocates [MCRC No.9035 of 2020]
- Shri Jitendra Gupta, Advocate [MCRC No.9473 of 2020]
- Shri Shailendra Dubey & Ms Shivali Dubey, Advocates
[MCRC No.179 of 2021]

For Respondent /State :

- Shri Alok Nigam, Govt. Advocate

Investing Officer :

- Shri Ashwani Rathore, Inspector and Shri Priyesh John, Sub
Inspector–Investigating Officers of Police Station Azad
Chowk, Raipur, are also present.

Order On BoardByPrashant Kumar Mishra, J.29-01-2021

1. Since all the bail applications are arising out of crime
No.232/2020 they are being considered and decided by this
common order.

2. The applicants have preferred these bail applications under Section 439 of CrPC, as they are arrested in connection with Crime No.232/2020, registered at Police Station Azad Chowk, Raipur (CG), for the offence punishable under Sections 22(b), 29 & 27 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity 'the Act'). *[As per the final report]*.
3. As per the prosecution case, the police of Police Station Azad Chowk, Raipur, received a secret information at about 15.15 hours on 21-10-2020 to the effect that one person is engaged in selling illicit Narcotic drugs or psychotropic substance near Ashram Tiraha. After taking down the information in the *Rojnamcha Sanha, mukhbir* panchnama was prepared; two witnesses were summoned; and two Constables reached the place of occurrence. Seeing the police team the accused started running away who was chased; cordoned off; and taken into custody on which he disclosed his name as Royden Buthello who was served with notice under Section 50 of the Act and on search, after obtaining his consent, he was found to be possessed of 9 gms. 990 mg. of cocaine (when weighed along with polythene wrap), which was weighed at 9 gms. 240 mg. without polythene wrap. The accused Royden could not produce any documents of his lawful possession of cocaine, therefore, he was arrested and information was sent to the higher officer as required under Section 57 of the Act. In his disclosure statement the applicant informed the police that he ordinarily visits Chhattisgarh and Odisha in connection with his transporting business. During his visits to Raipur he met co-accused Shreyansh Jhabak, Nikita Panchal and Ashish Joshi in a party. Whenever he used to

come to Raipur he stays in the house of Shreyansh & Nikita and used to enjoy cocaine by arranging parties. This applicant used to supply cocaine to co-accused Nikita Panchal, Ashish Joshi & Shreyansh and these persons, in turn, sell it to other customers in parties organized at different hotels of Raipur. He further disclosed that he purchased cocaine from his Nigerian friends Patrick Chisom & Patrick Igwebuike. In the parties organized at Raipur James, David & Honey also used to attend to whom he was selling cocaine and later on Shreyansh started directly purchasing cocaine from Patrick Chisom. When Patrick Igwebuike was arrested his disclosure statement was recorded on 29-10-2020. As per his memorandum he used to supply cocaine to the present applicant.

4. Learned counsel appearing for the applicant Royden Buthello would submit that this applicant had gone to Talcher (Odisha) in connection with his transport business. Four constables of Police Station Azad Chowk, Raipur, abducted and brought him to Raipur and framed in a false case. Applicant has already preferred writ petition before this Court bearing WPCR No.686 of 2020 seeking CBI (Central Bureau of Investigation) enquiry into the matter. Learned counsel would further submit that the applicant is an Income Tax payee having roots in the society, therefore, considering the quantity of cocaine allegedly recovered from him he is entitled to be released bail. Learned counsel would next submit that the mandatory provisions contained in Sections 42, 50, 55 & 57 of the Act have not been complied with. According to the learned counsel, there are serious defects in the investigation due to which the prosecution may not be

able to prove its case against the applicant, therefore, the applicant deserves to be released on bail.

5. Learned counsels appearing for the applicants Shreyansh Jhabak & Ashish Joshi would submit that in this particular case there is no recovery from them and they have been arrayed only on the basis of statement of co-accused, therefore, they deserve to be released on bail.
6. Learned counsel appearing for the State, *per contra*, would submit that the present applicants are operating a drug racket/mafia at Raipur. Cocaine has been recovered from the applicant Shreyansh Jhabak in Cr.No.255/2020 registered at police station City Kotwali, Raipur. There are ample evidence against all the accused persons connecting them with the crime with the aid of Sections 27 & 29 of the Act. Learned counsel would further submit that considering the seriousness of the crime and lethal effect of cocaine like drugs amongst the youth, the applicants are not entitled to be released on bail. Learned counsel would also submit that the prosecution has duly complied with all the mandatory provisions under the Act.
7. I have heard learned counsels appearing for the parties at length and perused the case diary.
8. These bail applications were heard along with bail applications filed by several accused persons, out of total 15 accused in Cr.No.255/2020, however, since the present bail applications arise out of a different crime of different police station, they are being considered and decided by under this separate order.

9. The question as to whether the accused Royden Buthello was abducted and brought to Raipur will be examined by a different Bench while considering his WPCR No.686 of 2020. For the present, I am only concerned with the issue as to whether the applicant is entitled to be released on bail in this case. Applicant Royden, co-accused Patrick Igwebuiké along with Shreyansh Jhabak, Nikita Panchal and Ashish Joshi appear to be the backbone of drugs trade in the State of Chhattisgarh. It is Royden who brings drugs after having purchased from Patrick Igwebuiké & Patrick Chisom from Mumbai & Goa. Even if psychotropic substance recovered from him is of intermediate quantity i.e. more than smaller but less than commercial quantity, the fact that these applicants are the main persons who are running drugs trade in the State of Chhattisgarh, the offence is so serious that they do not deserve to be released on bail.
10. It is to be borne in mind that in a murder case, the accused commits murder of one or two persons, whereas those who deal in narcotic drugs are instrumental in causing death bit-by-bit to a number of innocent young victims. It causes deleterious effects and a deadly impact on the society. If they are released on bail they may continue their trade and cause further damage to the society.
11. In Cr.No.255/2020 registered at Police Station City Kotwali, Raipur, commercial quantity of psychotropic substance cocaine & MDMA has been recovered from the accused persons. The present applicants are accused in the said crime also. In a bunch of cases bearing M.Cr.C.Nos.7850 of 2020 and other connected matters today this Court has dismissed

bail applications of the applicants therein including the present applicants Shreyansh Jhabak & Ashish Joshi. It is, thus, clear that the applicants are habitual in committing offence under the Act, therefore, they are not entitled to be released on bail.

12. It is also to be seen that the Delhi High Court in *Joyce Karoung v. Narcotics Control Bureau*¹ has held that for all those persons who are major link in the entire operation have to be treated in the same manner as if they have taken part in trading and trafficking of drugs, therefore, their act is no less serious and they are also not entitled to be released on bail.
13. Considering entire facts situation of the case and particularly considering the seriousness of the offence and the nature of evidence available on record, this Court is not inclined to grant bail to the applicants.
14. Accordingly, all the bail applications are rejected.

Sd/-

(Prashant Kumar Mishra)
Judge

Gowri

¹ Bail Appln.1086 of 2018 (decided on 2-6-2018) : MANU/DE/2279/2018