

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURMCRC No. 9313 of 2020

1. Ramesh Kumar Sande S/o Late Pandu Ram Sande Aged About 22 Years R/o C/o Amandas House , House No. 1659, Block No. 104, Boriyakala , Police Station Tikara Para, Raipur , District Raipur Chhattisgarh.

---- Applicant

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station New Rajendra Nagar Raipur , District Raipur Chhattisgarh.

---- Respondent

For Applicant

Mr. Krishna Kumar Dixit, Advocate

For Respondent /State

Mr. Anshuman Shrivastava, Panel Lawyer

Hon'ble Mr. Justice Prashant Kumar MishraOrder on Board10/3/2021

1. Heard.
2. The applicant has preferred this first bail application under Section 439 of the Cr.P.C. for grant of bail as he has been arrested in connection with Crime No.291/2020 registered at Police Station New Rajendra Nagar, Raipur (CG), for the offence under Section 21(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985.
3. Applicant was found in illicit possession of 85 bottles of cossex cough syrup each containing 100 ml of syrup.

4. Learned counsel for the applicant would submit that the applicant has been falsely implicated inasmuch as the contraband belongs to Jai Singhania of Jai Medicos, who is a licensee and the applicant being his servant was proceeding for distributing the medicine to different retailers. He would also submit that the offence would fall under the Drugs and Cosmetics Act and not under the NDPS Act.
5. Learned counsel for the State, *per contra*, would oppose the bail application.
6. Present is not a case where the licensee has been found to violate the terms of licence so that the offence under the Drugs and Cosmetics Act will be registered. At the time of recovery the applicant was found selling the seized contraband and when enquired he did not produce any licence or other instrument under which he was entitled to lawfully possess the contraband. Since the cough syrup contains psychotropic substance, possession of the same would be an offence under the NDPS Act.
7. The Supreme Court in the case of ***Hira Singh & Anr. v Union of India & Anr.*** [CRA No.722/2017] held that not only psychotropic substance but the neutral substance would also be measured/weighed to determine the quantity of the contraband.
8. Therefore, the applicant having been found in possession of 8500 ml of contraband, I am of the opinion that present is not a fit case to release the applicant on regular bail.
9. Accordingly, the bail application is rejected.

Sd/-

(Prashant Kumar Mishra)
Judge

Gowri