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**(2018) 07 CHH CK 0138**

**Chhattisgarh High Court**

**Case No:** Miscellaneous Criminal Case (MCRC) No. 4011 Of 2018

Brijendra Sarthi

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

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**Date of Decision:** July 2, 2018

**Acts Referred:**

- Code Of Criminal Procedure, 1973 - Section 439
- Narcotic Drugs And Psychotropic Substances Act, 1985 - Section 21(B)

**Hon'ble Judges:** Sanjay K. Agrawal, J

**Bench:** Single Bench

**Advocate:** D. N. Prajapati, Ashish Surana

**Final Decision:** Allowed

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**Judgement**

Sanjay K. Agrawal, J

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has

been arrested in connection with Crime No.55/2018, registered at Police Station-Baikunthpur, District Koriya (CG), for the offence punishable under

Sections 21(B) of Narcotic Drugs and Psychotropic Substance Act, 1985.

2. Case of the prosecution, in brief, is that applicant and other co- accused persons were found in possession of 118 grams of Codiene Phosphate and thereby committed the aforesaid offence.

3. Learned counsel for the applicant would submit that the applicant is innocent person has falsely been implicated in crime in question. He would

further submit that quantity of Codiene Phosphate seized is the small quantity under the law as the commercial quantity is 1kg and the applicant is in

jail since 15.03.2018 and charge-sheet has already been filed, therefore, he may be released on regular bail.

4. On the other hand, learned counsel for the State would oppose the bail application and submit that for the offence under Section 21(B) of the NDPS

Act, punishment prescribed is imprisonment for 10 years with fine which may extend up to one lakh rupees whereas applicant is in detention since last

three months and, therefore, the applicant is not entitled to be released on bail.

5. I have heard learned counsel appearing for the parties and perused the case diary.

6. Taking into consideration the facts & circumstances of the case; further taking into consideration the nature & gravity of the offence; and the fact

that applicant is in detention since 15.03.2018, charge sheet has already been and the fact that quantity of medicine recovered is less than the

commercial quantity and the other co-accused namely Vinayak Sahu has already been enlarged on bail on 25.06.2018 in M.Cr.C. No. 3267 of 2018,

this Court is of the opinion that present is a fit case, in which, the applicant should also be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the 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 the concerned trial Court, for his appearance as and when directed.

Certified copy, as per rules.