

(2023) 02 MP CK 0003

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 2155, 2156 Of 2023

Neeraj Prajapati And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 02-02-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 437(3), 439

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 8, 21, 22

Drugs (Control) Act, 1950 — Section 5, 13

Citation : (2023) 02 MP CK 0003

Hon'ble Judges : Nandita Dubey, J

Bench : Single Bench

Advocate : Anurag Shivhare, DK Paroha

Final Decision : Allowed

Judgement

Nandita Dubey, J

These are the first application on behalf of the present applicant under section 439 of the Cr.P.C. for grant of bail.

The applicant is in custody since 27.11.2022 in connection with Crime No.715/2022 & 718/2022 registered at Police Station Jamodi District Sidhi for the offences punishable under Sections 8, 21, 22 of NDPS Act and Sections 5/13 of Drugs Control Act.

As per the prosecution, on an information 8160 bottles of cough syrup were seized from the bags, which were lying in an open place near the culvert. During the investigation, it came to the knowledge from checking the batch number of bottles of the cough syrup that the said material i.e. the medicines were sent from Bansal Enterprises, Delhi to the AV Pharma. During the investigation, statements of some eye-witnesses, who have seen applicant Neeraj Prajapati taking out the bags of cough syrup from the loading auto, have been recorded. They have stated that they saw loading auto carrying all these bags which were

taken down from the loading auto by the present applicant, who came there on a motorcycle and stayed there for sometime.

Learned counsel for the applicant submits that the applicant Neeraj Prajapati has been falsely implicated. Co-accused Ashish Vishwakarma is having a valid license to sell wholesale drugs, which is also on record, and applicant Neeraj Prajapati is working as labour with co-accused Ashish Vishwakarma. It is stated that this was validly purchased for sale from the Bansal Enterprises, Delhi and the bills in this regard are available on record. It is stated that a complaint has been made to the SP Sidhi that the concerned police officials have falsely implicated him in the case, and despite available all the documents, have illegally seized the said medicines from the bypass sidhi.

However, this fact has been disputed by the counsel for the State. According to the prosecution, these medicines are to be used for smuggling. However, there is no document on record to show that applicant Neeraj Prajapati was earlier engaged in such kind of activity.

Considering the aforesaid and looking to the documents available on record and the fact that there is no criminal antecedent of present applicant, without adverting into the merits of the case, these applications filed under Section 439 of Cr.P.C. are allowed.

It is directed that applicant Neeraj Prajapati in MCRC No.2155/2023 and MCRC No.2156/2023 shall be released on bail on his furnishing a personal bond each in the sum of Rs.1,00,000/- (Rs. One Lakh only) with two sureties of the like amount to the satisfaction of the concerned trial Court for his presence before the said Court on all the dates of hearing fixed in this regard during the trial. It is further directed that the applicant shall also comply with the provisions of Section 437(3) of Cr.P.C.