

**(2020) 06 JH CK 0049**

**In the Jharkhand High Court**

**Case No : A.Bail Application No. 9433 Of 2019**

Rahul Gupta And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

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**Date of Decision : 26-06-2020**

**Acts Referred:**

Drugs And Cosmetics Act, 1940 — Section 17 (B), 17 (B)(e), 18, 18(B), 18 (a)(i), 27(c), 27(d), 28

**Citation : (2020) 06 JH CK 0049**

**Hon'ble Judges : Kailash Prasad Deo, J**

**Bench : Single Bench**

**Advocate : Yadu Nandan Mishra, Rakesh Ranjan**

**Final Decision : Dismissed**

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## **Judgement**

Heard learned counsel appearing for the petitioners and learned A.P.P. for the State.

The petitioners, who are accused for offence under Sections 27(c), 27(d), 28, 18 (a)(i) 17 (B), (e) and 18 (B) of Drug and Cosmetics Act, 1940, pray for anticipatory bail in connection with C/2 Case No. 06 of 2014.

Learned counsel appearing for the petitioners, Mr. Yadu Nandan Mishra has submitted that the prayer for anticipatory bail of these four petitioners had been rejected earlier by this Court vide order dated 01.03.2019 in A.B.A. No. 6818 of 2018 in connection with C-2 Case No. 06 of 2014 instituted under Sections 27(c), 27(d), 28, 18 (a)(i), 17 (B) (e) and 18 (B) of Drug and Cosmetics Act, 1940.

Learned counsel for the petitioners has further submitted that the petitioners have renewed the prayer for anticipatory bail on the ground that the documents have not been annexed with the original prosecution report filed by the Drug Inspector, as such, this Court may verify this fact from the learned lower court. It appears that learned Chief Judicial Magistrate, Jamshedpur has submitted report vide Letter no. 308 / 20 dated 18.03.2020 and the learned District & Additional

Sessions Judge-II, Jamshedpur has also submitted his report vide Letter No. 73 of 2020. It has been explained by the court below that all the documents were placed before the Chief Judicial Magistrate, Jamshedpur who took cognizance of the offence. All the documents were submitted by the complainant- Drug Inspector before the Chief Judicial Magistrate, Jamshedpur who took cognizance of the offence on 03.10.2014. The said reports are already brought on record.

Learned counsel for the petitioners has further submitted that prosecution report i.e. Annexure 1 referred a letter bearing No.969(d) dated 26.12.2013 at Page No.24 of Director-In-Chief, (Aausdhi), State Drug Control Directorate, Jharkhand, authorizing the Drug Inspector for instituting prosecution, but the same has not been brought on record.

Learned A.P.P. for the State has opposed the prayer for anticipatory bail and submitted that on the frivolous grounds the second anticipatory bail application has been renewed as on earlier occasion, the anticipatory bail application was rejected on merit vide order dated 01.03.2019 in A.B.A. No. 6818 of 2018. The present anticipatory bail application has been filed on 22.12.2019 just to delay the process of the Court. The present petition has no merit.

It appears that the said letter is not required to be filed with every complaint case as this letter is instruction/direction of the State issued by the competent authority authorizing Drug Inspector to file the prosecution against the person, in contravention of the provisions of Drug and Cosmetics Act.

Under the aforesaid circumstances, the plea taken by the petitioners is of no help. It appears that frivolous plea has been taken by the petitioners that documents mentioned in the prosecution report has not been originally filed before the court of Chief Judicial Magistrate, Jamshedpur as in each page, the signature of the Chief Judicial Magistrate, Jamshedpur is not there. This court on the basis of report submitted by the Chief Judicial Magistrate, Jamshedpur as well as learned District & Additional Sessions Judge II, Jamshedpur has no reason to believe on such frivolous grounds taken by the petitioners to renew their prayer for bail whose application had been dismissed on merit vide order dated 01.03.2019 passed in A.B.A. No. 6818 of 2018. It is a case where this Court has taken a serious view as because the bandage seized has been sent to the Government analyst/ State Drug Test Laboratory, Namkum and as per the report submitted by the Government analyst, the bandages are not as per specification and not up to the mark in respect of length, width, threads per dm and weight in gm/m<sup>2</sup> and the cracks present in cloth apart from being expired. This court has taken such serious view in the matter, as these bandages are used for surgery and in every type of treatment given to the patients. If the bandage are not used of a proper standard, the infection or septicemia will develop even though the medical treatment is given by the doctor at the best of his capability. Because of such persons, life of the patient is under threat.

Under the aforesaid circumstances, this Court is not inclined to grant anticipatory

bail to these petitioners and it is accordingly, again rejected.

The Interim relief granted earlier vide order dated 06.03.2020 is hereby vacated.

Let a copy of this order be communicated through "FAX" to the Senior Superintendent of Police, East Singhbhum, Jamshedpur for necessary compliance.