

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR SUCCESSIVE REGULAR BAIL -
BEFORE CHARGESHEET) NO. 607 of 2024**

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ALPESHBHAI RAMANLAL PRAJAPATI
Versus
STATE OF GUJARAT

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Appearance:

MR JAL SOLI UNWALA, SENIOR ADVOCATE WITH
MR. JIT P PATEL(6994) for the Applicant(s) No. 1
MS. NIYATI K JUTHANI(7014) for the Applicant(s) No. 1
MR KARTIK V PANDYA(2435) for the Respondent(s) No. 2
MR CHINTAN DAVE, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY**Date : 31/01/2024****ORAL ORDER**

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with **File No.NCB/AZU/CR-08/2023 registered with Narcotics Control Bureau, Ahmedabad Zonal Unit.**

2. Learned Senior Advocate appearing on behalf of the applicant submits the substance bottles in question had been procured by the present applicant from M/s. Windlas Biotech Ltd, Dehradun on the basis of the license for storage of the said substance. The license in favour of the present applicant to store the said substance was very much in force when the present applicant had procured the said license. The license had expired on 19.04.2023, whereas the substance in question was procured by him much prior thereto. The investigation of the offence is

over and charge-sheet is filed. There are no other antecedents against the present applicant.

2.1 Learned Senior Advocate has submitted that in other similar cases, this Court has considered the case of respective applicants for grant of regular bail. He, therefore, submitted to allow the present application and enlarge the applicant on regular bail subject to suitable conditions.

3. Learned advocate for the respondent no.2 has opposed the present application, inter alia, contending that the substance seized from the possession of the present applicant was of commercial quantity of Codeine Phosphate, and therefore, rigors of Section 37 of the Act would be applicable to the fact of the present case.

3.1 Learned advocate for the respondent no.2 has submitted that there is material available on record indicating the fact that the present applicant was in constant touch with the other co-accused - Vasant Purohit to whom the applicant had supplied 3423 bottles of the very said substance. Thus, there is an active participation on the part of the present applicant in commission of offence in question. He, therefore, submitted to dismiss the present application.

4. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence.

5. Heard learned advocates for the parties and perused the material available on record. From the record, it appears that on 14.05.2023, a secret information was received by the Intelligence Officer of the N.C.B. that the co-accused - Vasant Purohit had concealed huge quantity of bottles of Codeine based Cough Syrup at his place without having any valid license. On the basis of the said information, raid was carried out at the place of said Vasant Purohit and 3423 bottles of Codeine based Cough Syrup were seized from the place. The said Vasant Purohit was not holding any license for storage of the said medicines. During the course of investigation, it was revealed that the said bottles were procured by the said Vasant Purohit from the present applicant, and therefore, a raid was carried out at the place of present applicant and 5000 bottles of Cough Syrup containing Codeine Phosphate were seized from the godown belonging to the present applicant. The record indicates that the said goods were procured by the present applicant on 15.04.2023. At the relevant time, the present applicant was possessing valid license for storage of the substance in question. The said license had expired on 19.04.2023. Even after the said license had expired on 19.04.2023, the present applicant was found to have stored the substance in question without there being any valid license in his favour operative after 19.04.2023. It was also recorded by the Investigating Agency that the batch numbers were intentionally removed from the bottles by the present applicant. The present applicant had also sold 3423 bottles of the said Codeine based Cough Syrup to the said co-accused Vasant Purohit without any bill or authorization. The said co-accused Vasant Purohit was also not holding any license for dealing in

the substance in question. The quantity of the substance seized from the present applicant is of 5000 + 3423 bottles of 100 ml each. The record indicates that each bottle of 100 ml contained Cough Phosphate to the extent of 2.5%.

6. So far as the aspect of consideration of other applications for similar offences is concerned, in those cases, either the applicants were holding valid license for the substance or they were sought to be implicated on the basis of statements of co-accused only. Whereas, in present case, the applicant was not holding any license for dealing in the substance in question and the applicant was found in conscious possession of 5000 bottles and had sold 3423 bottles without any bill. Considering the same, the application being devoid of any merit and the same is hereby dismissed.

(M. R. MENGDEY,J)

GIRISH