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MCRC-47318-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE PRAMOD KUMAR AGRAWAL

MISC. CRIMINAL CASE No. 47318 of 2025

DR.PRAVEEN SONI

Versus

THE STATE OF MADHYA PRADESH

.....
Appearance:

Shri Shashank Shekhar - Senior Advocate with Shri Bhoopesh Tiwari - Advocate for applicant.

Shri Harpreet Singh Ruprah - Additional Advocate General with Shri C.M. Tiwari - Government Advocate and Shri Aakash Malpani - Advocate for State.

Shri K.K. Pandey and Shri Aditya Parashar - Advocates for objector.
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Reserved on : 02.02.2026

Pronounced on : 17.02.2026
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ORDER

This is the first application filed by the applicant under Section 483 of the BNSS, 2023 for grant of regular bail relating to Crime No.296/2025 registered at Police Station - Parasiya, District Chhindwara (M.P.) for the offences punishable under Sections 105, 276 of BNS and Section 27(A) of Drugs and Cosmetics Act, 1940 (for brevity, "Act of 1940"). Applicant is in detention since 05.10.2025.

2. As per the prosecution story, a complaint was lodged by the Dr. Ankit Sehlaam, Block Medical Officer, Community Health Center Parasiya vide Crime No. 296/2025 for an offence under section 105, 276 of B.N.S.



2023 along with Section 27(A) of Drugs and Cosmetics Act, 1940, which has been reported at Parasiya District Chhindwara, *inter alia* contending that the present applicant Dr. Praveen Soni has been posted as Child Specialist in Community Health Center Parasiya District Chhindwara who has prescribed certain dose of cough syrup to the children "patients", because of which some reaction took place in the kidney of those children resulting in kidney failure because of which some children died after being referred to Medical College Hospital Nagpur (Maharashtra) and the said medicine has been sold by the co-accused, who was working in M/s Apna Medical Store owned by the present applicant. On the basis of aforesaid, Police registered the case against the present applicant under the aforesaid Sections.

3. Learned senior counsel for the applicant submits that applicant is innocent and has been falsely implicated in the present case. He is in custody since 05.10.2025. It is further submitted that present applicant is posted as Child Specialist in Community Health Center Parasiya, District Chhindwara. His reputation is very good in the society and he is being honoured by the local habitants at Parasiya. He is neither the manufacturer of the medicine namely "Coldriff Syrup" nor the Director nor having any role in manufacturing the alleged cough syrup. It is further submitted that applicant had no knowledge that any adulteration in manufacturing the alleged cough syrup had been done. He is not responsible for any adulteration being done by the others. It is further submitted the present applicant is prescribing the said medicine since 20 years. It is further submitted that for the faults of others, applicant cannot be prosecuted for this offence because he has not



committed this offence. It is further submitted that the alleged cough syrup was manufactured after getting valid licence. Certain formalities are required in manufacturing the drug as per the Drugs Rules, 1945 and that have been complied with and the drug/cough syrup was approved. It is further submitted that the alleged cough syrup was manufactured and sold by Sresan Pharmaceuticals Ltd. It is further submitted that when this medicine was prescribed, at that time it was not banned. The alleged medicine was first time banned on 04.10.2025. It is further submitted that the applicant is the practitioner doctor and any criminal case cannot be registered against him without enquiry. In this regard, he has placed reliance upon the decision of the Supreme Court in the case of *Jacob Mathew Vs. State of Punjab, (2005) 6 SCC 1*. It is further submitted that on the basis of the aforesaid judgment, State Government has issued a circular dated 28.10.2011 to the all Collectors and Superintendent of Police that without enquiry, criminal case should not be registered against the practitioner doctor. He has also placed reliance upon the decision passed by the co-ordinate Bench of this Court in the case of *Dr. Rajesh Batra Vs. The State of M.P. and another, on 12.03.2024 in M.Cr.C. No.8190/2020*. Conclusion of trial will take considerable time. Hence, he prayed that the applicant may be granted regular bail.

4. Learned Additional Advocate General for State has submitted that applicant is posted as Child Specialist in Community Health Center Parasiya, District Chhindwara and his clinic is situated adjacent to M/s. Apna Medical Store whose proprietor is his wife Smt. Jyoti Soni who is also co-accused in this case. Present applicant has prescribed "Coldriff" cough syrup to the



children who were aged about 3-4 yeras. The Government Laboratory and Drug Department reports conclusively establish that the said cough syrup contained Diethylene Glycol (DEG) at 46.28% W/V, whereas the permissible pharmacopoeial limit is 0.1% W/V. DEG is a well known nephrotoxin especially fatal in children and the cause of death was acute kidney failure/Acute Tubular Necrosis (ATN). It is further submitted that as per the circular bearing File No.04-01/2022-DC (Misc.-47) issued by Government of India, Directorate General of Health Services Central Drugs Standard Control Organization (FDC Division) on 18.12.2023, the fixed dose compound to the children below the age of 4 years was banned. In spite thereof, the present applicant (doctor) prescribed the cough syrup which is fixed dose compound.

4.1 It is further submitted that patient Vedansh Pawar aged about 2 yeras and 5 months was suffering from fever, cold, cough and sneezing, therefore, parents of the said patient consulted Dr. Praveen Soni (present applicant herein) and he prescribed the said cough syrup. When the patient did not get any relief, then on 11.09.2025, parents of the said child took him at Nagpur where he consulted the Senior Doctor, Shri Praveen Khapekar, who runs Astha Children Hospital at Nagpur since 22 years. Doctor Praveen Khapekar examined the said child and found that child was vomiting and he was not able to pass urine and he was also facing problem in breathing. At that time, parents of the said child told him that he consulted Dr. Praveen Soni, Child Specialist posted in Community Health Center Parasiya, District Chhindwara, then Dr. Praveen Khapekar told that Dr. Praveen Soni is my



friend, and then Dr. Praveen Khapekar called Dr. Praveen Soni and talked to him in front of the parents of that child in the night of 11.09.2025, and told him that the child (patient) is suffering from severe disease. He also told Dr. Praveen Soni that in 1998 at Delhi, due to DEG-contaminated cough syrup, 33 children were died and maybe this time also, there is possibility of same reaction. It is further submitted that despite information given by Senior Doctor, Praveen Khapekar, the present applicant continued to prescribe the cough syrup. Present applicant had specific prior knowledge of an identical fatal incident, even then he continued to prescribe the said cough syrup even after cautioned by senior doctor Praveen Khapekar. In this case, this cough syrup "Coldriff" which contains toxic DEG (Diethylene Glycol) exposure, was the cause of death of more than 26 innocent children who were below the age of 4-5 years.

4.2 It is further submitted by learned AAG that applicant is the husband of Jyoti Soni (co-accused), proprietor/owner of M/s. Apna Medical Store. The present applicant used to prescribe "Nextro-PL" cough syrup, but the said cough syrup was not available in the Apna Medical Store, therefore, the co-accused used to sell "Coldriff Syrup" without the prescription. It is further submitted that when the applicant used to prescribe the alleged cough syrup then he received 10% commission on each bottle and co-accused gained profit of Rs.23/- per bottle. Hence the present applicant and co-accused received commission and profit in prescribing and selling the alleged cough syrup. They all were in collusion and every one received commission/profit as per his/her respective role. It is further submitted that



in this case, more than 26 innocent and minor children are died and this cough syrup/Coldriff Syrup caused harm in the large scale for public health. It is further submitted that when applicant came to know that children are being died due to the said medicine, then applicant alongwith the co-accused destroyed the evidence regarding cough syrup. The applicant was in contact with other co-accused persons for handling, distribution and destruction of Coldriff syrup which shows the conspiracy between them. Present applicant was also in direct contact with the manufacturer Sresan Pharamaceuticals Ltd through Medical Representative because he used to get commission.

4.3 It is further submitted that the applicant was aware that the children were developing Acute Kidney Injury after consumption of Coldriff Syrup. It is further submitted that multiple cases appeared in cluster form indicating a drug related adverse effect, even then, no intimation was given by the applicant (doctor) to the Drug Department, Competent Authority and Hospital Administration. It is further submitted that parents of the deceased children have stated that Dr. Praveen Soni forced them to purchase the Coldriff cough syrup from his wife's medical store which is situated next to his clinic and even after repeated vomiting in the children, he continued to prescribe them the said cough syrup in a fixed dose compound. It is further submitted that facts and circumstances of the present case is entirely different from the facts in Jacob Mathew (supra) case. Hence, applicant does not deserve grant of regular bail.

5. Learned counsel for objector has submitted that due to the administration of poisonous cough syrup prescribed by the doctor, more than



26 innocent and minor children have been died and others have suffered grievous harm, but police has registered only minor offences under the political pressure. The case should have been registered under Section 103 of BNS which relates to culpable homicide amounting to murder or causing death by an act done with knowledge of its fatal consequences. The Investigating Agency is not fairly investigating the matter. In this case, by notification dated 18.12.2023, the Central Government specifically prohibited the prescription of such cough syrup (FD compound medicine) for children below the age of 4 years, but the applicant prescribed the same which shows gross disregard for public safety. The public authorities have also not done their duties in this case. It is further submitted that in such a grave and sensitive matter, if bail is granted to the applicant, then it would seriously undermine the public confidence. He has placed reliance upon the decisions of the Supreme Court in the cases of *Manoj Kumar Khokhar Vs. State of Rajasthan and another, (2022) AIR (SC) 364*, *Rohit Bishnoi Vs. The State of Rajasthan and another, 2023 LiveLaw (SC) 560* and *X Vs. State of Rajasthan and another, 2024 INSC 909*. It is further submitted that against the applicant, prima facie evidence is strong. Role of the applicant is very serious and the alleged offence affected the public safety and health, therefore, he prayed for rejection of this bail application.

6. I have heard learned counsel for the rival parties and perused the record.

7. Having taken into consideration over all facts and circumstances of the case and looking to the fact that applicant is the Child Specialist Doctor



and he, despite the conversation which took place between the present applicant and senior doctor Shri Praveen Khapekar wherein Dr. Praveen Khapekar informed him that in 1998 at Delhi, due to DEG-contaminated cough syrup, 33 children were died and maybe this time also, there is possibility of same reaction, even then the applicant continued to prescribe the cough syrup, due to which, more than 26 innocent children below the age of 4-5 years have been died and the alleged cough syrup caused harm to the public health in a large scale and the fact that he also received commission for prescribing the aforesaid cough syrup and other co-accused destroyed the evidence regarding cough syrup to save the present applicant (doctor), facts and circumstances of the present case is entirely different from the facts and circumstance of Jacob Mathew's case (supra) because in this case, report has been lodged by a Competent Authority (Block Medical Officer); present applicant has prescribed the fixed dose compound to the children which was banned by the circular issued by the Government on 18.12.2023; the senior doctor Dr. Praveen Khapekar had informed and cautioned the applicant about the incident of 1998, wherein, due to DEG-contaminated cough syrup, 33 children were died and maybe this time also, there is possibility of same reaction, even then the applicant continued to prescribe the alleged cough syrup, hence, this is not a fit case to grant bail to the applicant.

8. Consequently, the present bail application stands **dismissed**.

9. It is made clear that any observations made herein are only for the purpose of deciding the present petition and shall not be construed as an expression on the merits of the case. The learned Trial Court shall proceed



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with the matter uninfluenced by any observations made by this Court and shall decide the case strictly in accordance with law.

(PRAMOD KUMAR AGRAWAL)
JUDGE

Sateesh



1

MCRC-52933-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE PRAMOD KUMAR AGRAWAL

MISC. CRIMINAL CASE No. 52933 of 2025*RAJESH KUMAR SONI**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

*Shri Atulanand Awasthi - Senior Advocate with Shri Roopesh Singh Thakur - Advocate
for applicant.*

*Shri Harpreet Singh Ruprah - Additional Advocate General with Shri C.M. Tiwari -
Government Advocate and Shri Aakash Malpani - Advocate for State.*

Shri K.K. Pandey and Shri Aditya Parashar - Advocates for objector.
.....

Reserved on : 02.02.2026

Pronounced on : 17.02.2026
.....

ORDER

This is the first application filed by the applicant under Section 483 of the BNSS, 2023 for grant of regular bail relating to Crime No.296/2025 registered at Police Station - Parasiya, District Chhindwara (M.P.) for the offences punishable under Sections 105, 276, 238(B) of BNS and Sections 27(A) of Drugs and Cosmetics Act, 1940 (for brevity, "Act of 1940"). Applicant is in detention since 13.10.2025.

2. As per the prosecution story, a complaint was lodged by the Dr. Ankit Sehlaam, Block Medical Officer, Community Health Center Parasiya vide Crime No. 296/2025 for an offence under section 105, 276 of B.N.S.



2023 along with Section 27(A) of Drugs and Cosmetics Act, 1940, which has been reported at Parasiya District Chhindwara, *inter alia* contending that the co-accused Praveen Soni has been posted as Child Specialist in Community Health Center Parasiya District Chhindwara who has prescribed certain dose of cough syrup to the children "patients" because of which some reaction took place in the kidney of those children resulting in kidney failure because of which some children died after being referred to Medical College Hospital Nagpur (Maharashtra) and the said medicine has been supplied by the present applicant as the applicant is the wholesale dealer. On the basis of aforesaid, Police registered the case against the present applicant under the aforesaid Sections.

3. Learned senior counsel for the applicant submits that applicant is innocent and has been falsely implicated in the present case. He is in custody since 13.10.2025. It is further submitted that present applicant is the wholesale dealer at Parasiya, District Chhindwara. His reputation is very good in the society. Applicant is not the manufacturer of the medicine/Coldriff cough syrup. Neither he was the director nor having any role in manufacturing the said cough syrup. Applicant has not manufactured this cough syrup. It is further submitted that for the faults of the others, applicant cannot be prosecuted for this offence because he has not committed this offence. It is further submitted that the alleged cough syrup was manufactured and sold by Sresan Pharmaceuticals Ltd. It is further submitted that when this medicine was prescribed and sold, at that time it was not banned. The alleged medicine was first time banned on 04.10.2025. It is



further submitted that the present applicant had no knowledge that there is adulteration in manufacturing this medicine. Conclusion of trial will take considerable time. Hence, he prayed that the applicant may be granted regular bail.

4. Learned Additional Advocate General for State has submitted that the present applicant is not only the drug stockist and licenced pharmacist but he is the close relative of Dr. Praveen Soni and an active facilitator of this cough syrup (Coldriff). Present applicant is the proprietor and licensee of "New Apna Pharma" which is the wholesale drug stockist. Present applicant was nephew of the main accused Dr. Praveen Soni and his stockist firm was being operated in the residential premises of Dr. Praveen Soni. Thus, New Apna Pharma was not an independent commercial entity but was under the direct influence, control and proximity of co-accused Dr. Praveen Soni. It is further submitted that present applicant purchased total 330 bottles of cough syrup (Coldriff) in July-August, 2025 from Katariya Pharma, Jabalpur, but out of 330 bottles, only 322 bottles were entered in the official stock register and 8 bottles were destroyed by him because his relative/co-accused Dr. Praveen Soni has been made accused in this crime. Thus, the present applicant destroyed the evidence in this case. It is further submitted that the back dated bill of selling 10 bottles of cough syrup in April, 2025 whereas those bottles were manufactured on 05.05.2025 and supply of those bottles took place in the month of July-August, 2025, which establishes the documentary fabrication.

4.1 It is further submitted that in the first round, he sold 135 bottles of



the alleged cough syrup, out of which, 87 bottles were supplied to Apna Medical Store whose proprietor is Smt. Jyoti Soni (co-accused), the wife of Dr. Praveen Soni (co-accused), which was situated adjacent to the clinic of Dr. Praveen Soni. It is further submitted that 87 bottles of Coldriff Cough Syrup were supplied, out of which, 66 bottles of cough syrup were never accounted for any record, therefore, the present applicant with the co-accused destroyed these bottles to protect her uncle Dr. Praveen Soni, who is also one the co-accused in this matter. It is further submitted that this is not ordinary market distribution. It is a pre-planned preferential and doctor-centric supply chain. It is further submitted that death of these minor children were not accidental, but it was the foreseeable outcome of introducing DEG contaminated syrup into the treatment history. In this case, this cough syrup "Coldriff" which contains toxic DEG (Diethylene Glycol) exposure, was the cause of death of more than 26 innocent children who were below the age of 4-5 years. It is further submitted that present applicant destroyed physical evidence, suppressed statutory records and in this case, in the large scale, public harm has been caused. It is further submitted in this case, certain conditions of licences which contained in Rules 65(3), 65(4) of the Drugs and Cosmetics Rules, 1945 and condition of distribution of records, have been violated. It is further submitted that in this case, more than 26 innocent and minor children are died and this cough syrup "Coldriff Syrup" caused harm in the large scale for public health. Hence, applicant does not deserve grant of regular bail.

5. Learned counsel for objector has submitted that due to the



administration of poisonous cough syrup prescribed by the doctor, more than 26 innocent and minor children have been died and others have suffered grievous harm, but police has registered only minor offences under the political pressure. The case should have been registered under Section 103 of BNS which relates to culpable homicide amounting to murder or causing death by an act done with knowledge of its fatal consequences. The Investigating Agency is not fairly investigating the matter. In this case, by notification dated 18.12.2023, the Central Government specifically prohibited the prescription of such cough syrup (FD compound medicine) for children below the age of 4 years, but the applicant supplied the same which shows gross disregard for public safety. The public authorities have also not done their duties in this case. It is further submitted that in such a grave and sensitive matter, if bail is granted to the applicant, then it would seriously undermine the public confidence. He has placed reliance upon the decisions of the Supreme Court in the cases of *Manoj Kumar Khokhar Vs. State of Rajasthan and another, (2022) AIR (SC) 364*, *Rohit Bishnoi Vs. The State of Rajasthan and another, 2023 LiveLaw (SC) 560* and *X Vs. State of Rajasthan and another, 2024 INSC 909*. It is further submitted that against the applicant, prima facie evidence is strong. Role of the applicant is very serious and the alleged offence affected the public safety and health, therefore, he prayed for rejection of this bail application.

6. I have heard learned counsel for the rival parties and perused the record.

7. Having taken into consideration over all facts and circumstances of



the case and looking to the fact that applicant being the wholesale dealer has sold "Coldriff Syrup" and there is manipulation in the bill regarding sale of the alleged cough syrup and made fake bills of the aforesaid cough syrup, he destroyed evidence, more than 26 innocent children below the age of 4-5 years are died and that fact that the alleged cough syrup caused harm to the public health in a large scale, this is not a fit case to grant bail to the applicant.

8. Consequently, the present bail application stands **dismissed**.

9. It is made clear that any observations made herein are only for the purpose of deciding the present petition and shall not be construed as an expression on the merits of the case. The learned Trial Court shall proceed with the matter uninfluenced by any observations made by this Court and shall decide the case strictly in accordance with law.

(PRAMOD KUMAR AGRAWAL)
JUDGE

Sateesh



1

MCRC-52938-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE PRAMOD KUMAR AGRAWAL

MISC. CRIMINAL CASE No. 52938 of 2025*SMT JYOTI SONI**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

Shri Shashank Shekhar - Senior Advocate with Shri Bhoopesh Tiwari - Advocate for applicant.

Shri Harpreet Singh Ruprah - Additional Advocate General with Shri C.M. Tiwari - GA and Shri Aakash Malpani - Advocate for State.

Shri K.K. Pandey and Shri Aditya Parashar - Advocates for objector.
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Reserved on : 02.02.2026

Pronounced on : 17.02.2026
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ORDER

This is the first application filed by the applicant under Section 483 of the BNSS, 2023 for grant of regular bail relating to Crime No.296/2025 registered at Police Station - Parasiya, District Chhindwara (M.P.) for the offences punishable under Sections 105, 276, 238(B) of BNS and Sections 27(A) of Drugs and Cosmetics Act, 1940 (for brevity, "Act of 1940"). Applicant is in detention since 03.11.2025.

2. As per the prosecution story, a complaint was lodged by the Dr. Ankit Sehlaam, Block Medical Officer, Community Health Center Parasiya vide Crime No. 296/2025 for an offence under section 105, 276 of B.N.S.



2023 along with Section 27(A) of Drugs and Cosmetics Act, 1940, which has been reported at Parasiya District Chhindwara, contending *inter alia* that the co-accused Praveen Soni has been posted as Child Specialist in Community Health Center Parasiya District Chhindwara who has prescribed certain dose of cough syrup to the children "patients" because of which some reaction took place in the kidney of those children resulting in kidney failure because of which some children died after being referred to Medical College Hospital Nagpur (Maharashtra) and the said medicine has been sold by the co-accused, who was working in M/s Apna Medical Store owned by the present applicant. On the basis of aforesaid, Police registered the case against the present applicant under the aforesaid Sections.

3. Learned senior counsel for the applicant submits that applicant is lady. She is innocent and has been falsely implicated in the present case. She is in custody since 03.11.2025. It is further submitted that although the applicant (Smt. Jyoti Soni) is the proprietor of M/s Apna Medical Store, but it is being managed by the co-accused Sourabh Jain who was working as Pharmacist in her medical store. It is further submitted that her husband (Dr. Praveen Soni) is posted as Child Specialist in the Community Health Center, Parasiya, District Chhindwara. It is further submitted that her husband (Dr. Praveen Soni) used to prescribe certain medicines to the patients. The medicine/cough syrup which were prescribed in this case, are being sold since 20 years and her husband had no knowledge regarding adulteration of this medicine/cough syrup. It is further submitted that present applicant has no role in manufacturing the alleged cough syrup. Applicant has not



manufactured this cough syrup. It is further submitted that for the faults of others, applicant cannot be prosecuted for this offence because she has not committed this offence. It is further submitted that the alleged cough syrup was manufactured after getting valid licence. Certain formalities are required in manufacturing the cough syrup as per the Drugs Rules, 1945 and that have been complied with and the drug/cough syrup was approved. It is further submitted that the alleged cough syrup was manufactured and sold by Sresan Pharmaceuticals Ltd. It is further submitted that when this medicine was prescribed and sold, at that time it was not banned. The alleged medicine was first time banned on 04.10.2025. It is further submitted that the present applicant had no knowledge that there is adulteration in manufacturing this medicine. Conclusion of trial will take considerable time. Hence, he prayed that the applicant may be granted regular bail.

4. Learned Additional Advocate General for State has submitted that the present applicant is the proprietor of M/s Apna Medical Store and wife of Dr. Praveen Soni who is also one the co-accused in this case. The said medical store is situated adjacent to the clinic of Dr. Praveen Soni, husband of the present applicant. It is further submitted that 87 bottles of Coldriff Cough Syrup were supplied to her medical store, out of which, 66 bottles of cough syrup were never accounted for any record, therefore, the present applicant with the co-accused Sourabh Jain destroyed these bottles to protect her husband Dr. Praveen Soni who is co-accused in this case. It is further submitted that those bottles were dispensed to the children through the prescription of her husband (Dr. Praveen Soni), but no sale bills, no batch



records and no patient traceability exist. It is further submitted that present applicant has destroyed all physical proof of the alleged cough syrup which shows her active concealment and active participation in the alleged crime. In this case, this cough syrup "Coldriff" which contains toxic DEG (Diethylene Glycol) exposure, was the cause of death of more than 26 innocent children who were below the age of 4-5 years. It is further submitted that present applicant destroyed physical evidence, suppressed statutory records and in this case, in the large scale, public harm has been caused. It is further submitted that in this case, certain conditions of licences which contained in Rules 65(3), 65(4) of the Drugs and Cosmetics Rules, 1945 and condition of distribution of records, have been violated.

4.1 It is further submitted by learned AAG that present applicant Jyoti Soni, who is the wife of Dr. Praveen Soni, is the proprietor/owner of M/s. Apna Medical Store. Doctor Praveen Soni prescribed "Nextro-PL" cough syrup, but the said cough syrup was not available in the Apna Medical Store, therefore, the present applicant alongwith co-accused Sourabh Jain used to sell "Coldriff Syrup" without the prescription. Thus, the present applicant consciously substituting the prescribed drug with another formulation of her own choice and such substitution especially in the case of pediatric patients is *per se* illegal, violative of the Act of 1940 and medically impermissible. It is further submitted that when her husband (Dr. Praveen Soni) used to prescribe the alleged cough syrup then she gained profit of Rs.23/- per bottle and her husband (Dr. Praveen Soni) also received 10% commission on each bottle. Hence the present applicant and co-accused received commission and



profit in selling and prescribing the alleged cough syrup. They all were in collusion and every one received commission and income as per his/her respective role. It is further submitted that in this case, more than 26 innocent and minor children are died and this cough syrup "Coldriff Syrup" caused harm in the large scale for public health. Hence, applicant does not deserve grant of regular bail.

5. Learned counsel for objector has submitted that due to the administration of poisonous cough syrup prescribed by the doctor, more than 26 innocent and minor children have been died and others have suffered grievous harm, but police has registered only minor offences under the political pressure. The case should have been registered under Section 103 of BNS which relates to culpable homicide amounting to murder or causing death by an act done with knowledge of its fatal consequences. The Investigating Agency is not fairly investigating the matter. In this case, by notification dated 18.12.2023, the Central Government specifically prohibited the prescription of such cough syrup (FD compound medicine) for children below the age of 4 years, but the applicant prescribed the same which shows gross disregard for public safety. The public authorities have also not done their duties in this case. It is further submitted that in such a grave and sensitive matter, if bail is granted to the applicant, then it would seriously undermine the public confidence. He has placed reliance upon the decisions of the Supreme Court in the cases of *Manoj Kumar Khokhar Vs. State of Rajasthan and another, (2022) AIR (SC) 364*, *Rohit Bishnoi Vs. The State of Rajasthan and another, 2023 LiveLaw (SC) 560* and *X Vs. State of*



Rajasthan and another, 2024 INSC 909. It is further submitted that against the applicant, prima facie evidence is strong. Role of the applicant is very serious and the alleged offence affected the public safety and health, therefore, he prayed for rejection of this bail application.

6. I have heard learned counsel for the rival parties and perused the record.

7. Having taken into consideration over all facts and circumstances of the case and looking to the fact that applicant has also sold "Coldriff Syrup" instead of "Nextro-PL" and there is no bill regarding the sale of alleged cough syrup, she destroyed evidence, more than 26 innocent children below the age of 4-5 years have been died and that fact that the alleged cough syrup caused harm to the public health in a large scale, this is not a fit case to grant bail to the applicant.

8. Consequently, the present bail application stands **dismissed**.

9. It is made clear that any observations made herein are only for the purpose of deciding the present petition and shall not be construed as an expression on the merits of the case. The learned Trial Court shall proceed with the matter uninfluenced by any observations made by this Court and shall decide the case strictly in accordance with law.

(PRAMOD KUMAR AGRAWAL)
JUDGE

Sateesh



1

MCRC-51142-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE PRAMOD KUMAR AGRAWAL

MISC. CRIMINAL CASE No. 51142 of 2025*SOURABH KUMAR JAIN**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

Shri Manish Datt - Senior Advocate with Shri Rohit Sharma - Advocate for applicant.

*Shri Harpreet Singh Ruprah - Additional Advocate General with Shri C.M. Tiwari - GA
and Shri Aakash Malpani - Advocate for State.*

Shri K.K. Pandey and Shri Aditya Parashar - Advocates for objector.
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Reserved on : 02.02.2026

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ORDER

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2. As per the prosecution story, a complaint was lodged by the Dr. Ankit Sehlaam, Block Medical Officer, Community Health Center Parasiya vide Crime No. 296/2025 for an offence under section 105, 276 of B.N.S. 2023 along with Section 27(A) of Drugs and Cosmetics Act, 1940, which



has been reported at Parasiya District Chhindwara, contending *inter alia* that the co-accused Praveen Soni has been posted as Child Specialist in Community Health Center Parasiya District Chhindwara who has prescribed certain dose of cough syrup to the children "patients" because of which some reaction took place in the kidney of those children resulting in kidney failure because of which some children died after being referred to Medical College Hospital Nagpur (Maharashtra) and the said medicine has been sold by the present applicant. On the basis of aforesaid, Police registered the case against the present applicant under the aforesaid Sections.

3. Learned senior counsel for the applicant submits that applicant is innocent and has been falsely implicated in the present case. Applicant is in custody since 13.10.2025. It is further submitted that applicant is the licensed Pharmacist and working in the medical shop which is owned by co-accused Jyoti Soni (wife of Dr. Praveen Soni) and the licence of medical shop was valid up to 31.12.2025. It is further submitted that applicant was working in the said Medical shop as a pharmacist wherein he used to sell the drug (medicine) as prescribed by the Doctor. It is further submitted that the drug (medicine) was manufactured by Sresan Pharmaceuticals Limited, Bangalore Highways, Karnataka and that medicine was approved by the Food and Drugs Authority. It is further submitted that at that time, there was no ban on selling and using the aforesaid medicine by the government authorities. The said medicine was first time banned on 04.10.2025. It is further submitted that present applicant had no knowledge that there is adulteration in manufacturing this medicine. He has sold the alleged cough syrup on the



prescription of competent doctor. It is further submitted that offence under Section 27(A) of Drugs and Cosmetics Act, 1940 is not made out because this medicine was not banned when this it was sold. It is further submitted that other offence punishable under Sections 105, 276 and 238(b) of BNS are also not made out. Conclusion of trial will take considerable time. Hence, he prayed that the applicant may be granted regular bail.

4. Learned Additional Advocate General for State has submitted that the present applicant is the registered Pharmacist at M/s Apna Medical Store. It is further submitted that by law he is a technical custodian and responsible for safe storage, legal dispensing, statutory record keeping and disposal only through Drug Department, but applicant alongwith co-accused Jyoti Soni participated in destroying 66 bottles of cough syrup. The duty of the applicant being the pharmacist, is to protect public safety, but instead thereof, he collaborated in obliterating evidence of adulterated drugs. It is further submitted that in this case, bills regarding sale of medicines are not maintained. In this case, this cough syrup "Coldriff Syrup" which contains toxic DEG (Diethylene Glycol) exposure, was the cause of death of more than 26 innocent children who were below the age of 4-5 years. It is further submitted in this case, certain conditions of licences which contained in Rules 65(3), 65(4) and distribution of records have been violated.

4.1 It is further submitted by learned AAG that applicant was working in the M/s. Apna Medical Store of co-accused Jyoti Soni, who is the wife of Dr. Praveen Soni and is the proprietor/owner of said medical store. Doctor Praveen Soni prescribed "Nextro-PL" cough syrup, but the said cough syrup



was not available in the Apna Medical Store, therefore, the present applicant, who was the Pharmacist in the aforesaid medical store, used to sell "Coldriff Syrup" without the prescription. Thus, the present applicant consciously substituting the prescribed drug with another formulation of his own choice and such substitution especially in the case of pediatric patients is *per se* illegal, violative of the Act of 1940 and medically impermissible. It is further submitted that when Dr. Praveen Soni used to prescribe the alleged cough syrup then he gained profit of Rs.23/- per bottle and Dr. Praveen Soni also received 10% commission on each bottle. Hence the present applicant and co-accused received profit and commission in selling and prescribing the alleged cough syrup. They all were in collusion and every one received profit and commission as per his/her respective role. It is further submitted that in this case, more than 26 innocent and minor children are killed and this cough syrup "Coldriff Syrup" caused harm in the large scale for public health. Hence, applicant does not deserve grant of regular bail.

5. Learned counsel for objector has submitted that due to the administration of poisonous cough syrup prescribed by the doctor, more than 26 innocent and minor children have been died and others have suffered grievous harm, but police has registered only minor offences under the political pressure. The case should have been registered under Section 103 of BNS which relates to culpable homicide amounting to murder or causing death by an act done with knowledge of its fatal consequences. The Investigating Agency is not fairly investigating the matter. In this case, by notification dated 18.12.2023, the Central Government specifically



prohibited the prescription of such cough syrup (FD compound medicine) for children below the age of 4 years, but the applicant prescribed the same which shows gross disregard for public safety. The public authorities have also not done their duties in this case. It is further submitted that in such a grave and sensitive matter, if bail is granted to the applicant, then it would seriously undermine the public confidence. He has placed reliance upon the decisions of the Supreme Court in the cases of *Manoj Kumar Khokhar Vs. State of Rajasthan and another, (2022) AIR (SC) 364*, *Rohit Bishnoi Vs. The State of Rajasthan and another, 2023 LiveLaw (SC) 560* and *X Vs. State of Rajasthan and another, 2024 INSC 909*. It is further submitted that against the applicant, prima facie evidence is strong. Role of the applicant is very serious and the alleged offence affected the public safety and health, therefore, he prayed for rejection of this bail application.

6. I have heard learned counsel for the rival parties and perused the record.

7. Having taken into consideration over all facts and circumstances of the case and looking to the fact that applicant being the Pharmacist has sold "Coldriff Syrup" instead of "Nextro-PL" and there is no bill regarding the sale of alleged cough syrup, he destroyed evidence, more than 26 innocent children below the age of 4-5 years have been died and the fact that the alleged cough syrup caused harm to the public health in a large scale, this is not a fit case to grant bail to the applicant.

8. Consequently, the present bail application stands **dismissed**.

9. It is made clear that any observations made herein are only for the



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MCRC-51142-2025

purpose of deciding the present petition and shall not be construed as an expression on the merits of the case. The learned Trial Court shall proceed with the matter uninfluenced by any observations made by this Court and shall decide the case strictly in accordance with law.

(PRAMOD KUMAR AGRAWAL)
JUDGE

Sateesh



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MCRC-57426-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE PRAMOD KUMAR AGRAWAL

MISC. CRIMINAL CASE No. 57426 of 2025*ANIL KUMAR MISHRA AND OTHERS**Versus**THE STATE OF MADHYA PRADESH*

.....
Appearance:

Shri Manish Datt - Senior Advocate with Shri Rohit Sharma - Advocate for applicants.

Shri C.M. Tiwari - Government Advocate for State.

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Reserved on : 02.02.2026

Pronounced on : 17.02.2026

.....

ORDER

This is the first application filed by the applicants under Section 483 of the BNSS, 2023 for grant of regular bail relating to Crime No.769/2025 registered at Police Station - Kundipura, District Chhindwara (M.P.) for the offences punishable under Sections 105, 276, 238(2), 241 of BNS and Sections 27(A) and 27(D) of Drugs and Cosmetics Act, 1940. Applicants are in detention since 11.11.2025.

2. As per the prosecution story, FIR was lodged on 10-11-2025 on the basis of merg intimation given by Shripal Vishwakarma alleging that on 09-09-2025 he demanded medicines from the Ashirwad Medical Store situated at Ram Mandir Chhindwara for cold and cough to his daughter, namely, Ambika then the said Medical Store provided him Coldrif Syrup, Batch No./SR-13 in absence of any prescription of a registered medical



practitioner/doctor. It is alleged that the said cough syrup was given by the complainant to his daughter for 2-3 days, however, there was no any improvement/cure rather, the same reacted with severe stomach pain and urinal obstruction. As alleged, an 13-09-2025 Ambika was admitted in the Chandangaon Children Hospital, who referred the patient to New Health City, Nagpur with the kidney disorder on 14-09-2025 where in 15-10-2025 after a span of more than one month, Ambika (daughter of the complainant) is alleged to have died at Nagpur Hospital, during course of treatment. It is alleged by the prosecution that the merg investigation revealed that the Coldrim Syrup was given by the present applicants who are the owner and pharmacist of the said medical Store (Ashirwad Medical Store) in absence of any prescription of any registered doctor/physician. In the chemical analysis of the Coldrif Syrup-Batch No.SR-13 alleged provided by the present applicants contained "Diethylene Glycol" to the extent of 37.08%, which has resulted in death of the daughter of the complainant. It is alleged by the prosecution that the said Coldrif Syrup is restricted to be sold without prescription of a medical specialist and as such sale of the said syrup by the present petitioners in absence of any prescription is in violation of sections 18(a)(iv) of the and 27(d) of the Drugs and Cosmetics Act, 1940. On the basis of aforesaid, Police registered the case against the present applicant under the aforesaid Sections.

3. Learned senior counsel for the applicants submits that applicants are innocent. They are innocent and have been falsely implicated in the present case. Applicants are in custody since 11.11.2025. It is further submitted that



applicant No.1 - Anil Kumar Mishra is proprietor of the M/s Ashirvad Medical Store, Chhindwara and applicant No.2 - Ashok Kumar Mishra is the registered Pharmacist and working in the aforesaid medical store. License of said medical shop is valid up to 31.12.2025. Applicant No.2 was the registered Pharmacist wherein he used to sell the drug as prescribed by the doctor. It is further submitted that the drug was manufactured by Sresan Pharmaceuticals Limited, Bangalore Highways, Karnataka and that drug was approved by the Food and Drugs Authority. It is further submitted that there was no ban on selling and using the aforesaid medicine by the government authorities. The said medicine was first time banned on 04.10.2025. It is further submitted that present applicants had no knowledge that there is adulteration in manufacturing the drug. They have only sold the medicine on the prescription of competent doctor. It is further submitted that offence under Section 27(A) of Drugs and Cosmetics Act, 1940 is not made out because this medicine was not banned when this medicine was sold. It is further submitted that other offence punishable under Sections 105, 276 and 238(b) of BNS are also not made out. Conclusion of trial will take considerable time. Hence, he prayed that the applicants may be granted regular bail.

4. Learned counsel for State has submitted that in this case, applicant No.1 - Anil Kumar Mishra is proprietor of the M/s Ashirvad Medical Store, Chhindwara and applicant No.2 - Ashok Kumar Mishra is the registered Pharmacist who was working in the said medical store. It is further submitted that the duties of the present applicants and shop owner is that the medicine



should be sold only on the prescription of the doctor, but in this case, present applicants have sold Coldriff cough syrup without the prescription of doctor for the deceased girl whose age was below 4 years. It is further submitted that by law applicant No.2 is a technical custodian and responsible for safe storage, legal dispensing, statutory record keeping and disposal only through Drug Department, but applicant alongwith co-accused prepared fake bills. The duty of the applicant being the pharmacist, is to protect public safety, but instead thereof, he collaborated in obliterating evidence of adulterated drugs. It is further submitted that in this case, bills regarding sale of medicines are not maintained. In this case, this cough syrup "Coldriff Syrup" which contains toxic DEG (Diethylene Glycol) exposure, was the cause of death of the children who were below the age of 4-5 years. It is further submitted that as per the circular bearing File No.04-01/2022-DC (Misc.-47) issued by Government of India, Directorate General of Health Services Central Drugs Standard Control Organization (FDC Division) on 18.12.2023, the fixed dose compound will not be given to the children below the age of 4 years, even then the present applicants had sold the said cough syrup/medicine to the father of deceased. It is further submitted that fake bills of 24 bottles of cough syrup were prepared by the applicants in the name of Dr. Arvind Jain whereas Dr. Arvind Jain has stated that these medicines/cough syrup were not prescribed by him. Charge-sheet has not been filed yet. It is further submitted that this cough syrup "Coldriff Syrup" has caused harm in the large scale for public health. Hence, applicant does not deserve grant of regular bail.



5. In rebuttal, learned senior counsel for applicants submits that father of deceased has not stated the age of his daughter in his statements. It is further submitted that when this medicine/cough syrup was banned by the Government, then the said medicine/cough syrup was sent back.

6. Having taken into consideration over all facts and circumstances of the case and looking to the fact that applicants sold the medicine/Coldriff cough syrup to children below the age of 4-5 years without the prescription of doctor despite the guidelines issued by Government of India, Directorate General of Health Services Central Drugs Standard Control Organization (FDC Division) on 18.12.2023, due to which one innocent child aged about 4 years has been died and that fact that the alleged cough syrup caused harm to the public health in a large scale and the fact that applicants prepared fake bills of the alleged cough syrup, this is not a fit case to grant bail to the applicant.

7. Consequently, the present bail application stands **dismissed**.

8. It is made clear that any observations made herein are only for the purpose of deciding the present petition and shall not be construed as an expression on the merits of the case. The learned Trial Court shall proceed with the matter uninfluenced by any observations made by this Court and shall decide the case strictly in accordance with law.

(PRAMOD KUMAR AGRAWAL)
JUDGE

Sateesh





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CRR-4646-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE AVANINDRA KUMAR SINGH

ON THE 13th OF FEBRUARY, 2026CRIMINAL REVISION No. 4646 of 2024*AVINASH PANDEY**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

*Shri Arunodaya Singh - Advocate for the applicant.**Shri Pramod Choubey - Government Advocate for the respondent No.1/State.*
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ORDER

Heard on admission.

2. The revision is admitted for final hearing.
3. Learned Government Advocate submits that victim is served.
4. With the consent of learned counsel for the parties, revision is heard finally.
5. This revision is filed being aggrieved of the order dated 28/08/2024 and 03/09/2024 passed by the Special Judge (POCSO Act) Sirmour District Rewa in Special Case No.64/2020 whereby an application filed by the applicant under Section 91 & 233 of Cr.P.C. for calling the defence witnesses was dismissed and the case was fixed for final arguments.
6. Learned counsel for the applicant submits that learned trial Court vide order dated 03/09/2024, which was the second application filed basically for the same purpose under Sections 256 & 94 of BNSS has been dismissed and referred to the order of the Hon'ble Division Bench of this court passed in



Criminal Reference No.06/2022 (In reference vs. Anokhilal) and other connected matter dated 11/09/2023, in which the Hon'ble Division Bench remanded the case for recording the statement. The basic contention of learned trial Court was that why application was not made earlier ? and under Section 293 of Cr.P.C., the report of Forensic Expert is admissible without formal proof.

7. In both the orders, it has been mentioned that this case is under the category of the oldest 100 cases and direction have been made by the Hon'ble High Court to dispose the cases within 6 months, but no specific direction particular in this case has been mentioned in the impugned order, meaning thereby, it was a general direction which is meant to be referred for disposal of the cases specially in the POCSO cases, where the time limit is fixed for disposal.

8. Learned Government Advocate supports the impugned order and prays for dismissal of the revision.

9. Heard learned counsel for the parties and perused the record.

10. Section 293 of Cr.P.C. is reads as under :-

"293. Reports of certain Government scientific experts - (1) Any document purporting to be a report under the hand of a Government scientific expert to whom this section applies, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

(2) The Court may, if it thinks fit, summon and examine any such expert as to the subject-matter of his report.

(3) Where any such expert is summoned by a Court and he is



unable to attend personally, he may unless the Court has expressly directed him to appear personally, depute any responsible officer working with him to attend the Court, if such officer is conversant with the facts of the case and can satisfactorily depose in Court on his behalf.(4) This section applies to the following Government scientific experts, namely; (a) any Chemical Examiner or Assistant Chemical Examiner to Government; (b) the Chief Inspector of Explosives; (c) the Director of the Finger Print Bureau; (d) the Director, Haffkeine Institute, Bombay; (e) the Director or Deputy Director or Assistant Director of a Central Forensic Science Laboratory or a State forensic Science Laboratory; (f) the Serologist to the Government. (g) any other Government scientific Expert specified by notification by the Central Government for this purpose."

11. In Criminal Reference No.06 of 2022 (In Reference vs. Anokhilal), the Hon'ble Division Bench when an objection was raised regarding DNA report, accepted the objection and directed thus :-

"22. Hence, for all these reasons, the application (I.A. No.6640 of 2023) is allowed on the following terms: (i) The Trial Court to summon and examine the expert, namely, Dr. Pankaj Shrivastava, who was the then Scientific Officer Assistant Chemical Examiner, Government of Madhya Pradesh, DNA Fingerprinting Unit, State Forensic Science Laboratory, Sagar (M.P.) and Dr. S.K. Verma, Assistant Chemical Examiner, Regional Forensic Science Laboratory, Indore (M.P.); (ii) (iii) The Trial Court to examine the accused under Section 313 of the CrPC with respect to such additional evidence; The Trial Court, thereafter, to consider the new evidence and material and by



considering the other evidence already on record, pronounce its judgment.

23. Consequently, Criminal Reference (CRRFC No.6 of 2022) is disposed off. Criminal Appeal (CRA No. 11421 of 2022) is allowed. The judgment of conviction dated 29.08.2022 and the order of sentence dated 30.08.2022 passed by the learned Special Judge (POCSO), Khandwa in Sessions Case No.100053 of 2013 are set aside. The matter is 24 remanded to the Trial Court for consideration, as directed hereinabove. The parties to appear before the Trial Court on 25.09.2023. In view of the long passage of time, the Trial Court is directed to complete the exercise within a period of three months, if necessary, then on a day-to-day basis."

12. In the case of *Rahul vs. State of Madhya Pradesh (NCT of Delhi), 2023 (1) SCC 83 (CRA No.611/2022 and two other connected cases)*, the three Hon'ble Judges Bench of the Supreme Court vide judgment dated 07/11/2022 has allowed the appeals and set aside the conviction of the accused, wherein in Paras- 32, 33 & 34 reads as under :-

"32. It is true that PW-23 Dr. B.K. Mohapatra, Senior Scientific Officer (Biology) of CFSL, New Delhi had stepped into the witness box and his report regarding DNA profiling was exhibited as Ex. PW-23/A, however mere exhibiting a document, would not prove its contents. The record shows that all the samples relating to the accused and relating to the deceased were seized by the Investigating Officer on 14.02.2012 and 16.02.2012; and they



were sent to CFSL for examination on 27.02.2012. During this period, they remained in the Malkhana of the Police Station. Under the circumstances, the possibility of tampering with the samples collected also could not be ruled out. Neither the Trial Court nor the High Court has examined the underlying basis of the findings in the DNA reports nor have they examined the fact whether the techniques were reliably applied by the expert. In absence of such evidence on record, all the reports with regard to the DNA profiling become highly vulnerable, more particularly when the collection and sealing of the samples sent for examination were also not free from suspicion.

33. Thus, having regard to the totality of circumstances and the evidence on record, it is difficult to hold that the prosecution had proved the guilt of the accused by adducing cogent and clinching evidence. As per the settled legal position, in order to sustain conviction, the circumstances taken cumulatively should form a chain so complete that there is no escape from the conclusion that within all human probability, the crime was committed by the accused only and none else. The circumstantial evidence must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence. As demonstrated earlier, the evidence with regard to the arrest of the Appellants-accused, their



identification, discoveries and recoveries of the incriminating articles, identity of the Indica Car, the seizures and sealing of the articles and collection of samples, the medical and scientific evidence, the report of DNA profiling, the evidence with regard to the CDRs etc. were not proved by the prosecution by leading, cogent, clinching and clear evidence much less unerringly pointing the guilt of the accused. The prosecution has to bring home the charges levelled against them beyond reasonable doubt, which the prosecution has failed to do in the instant case, resultantly, the Court is left with no alternative but to acquit the accused, though involved in a very heinous crime. It may be true that if the accused involved in the heinous crime go unpunished or are acquitted, a kind of agony and frustration may be caused to the society in general and to the family of the victim in particular, however the law does not permit the Courts to punish the accused on the basis of moral conviction or on suspicion alone. No conviction should be based merely on the apprehension of indictment or condemnation over the decision rendered. Every case has to be decided by the Courts strictly on merits and in accordance with law without being influenced by any kind of outside moral pressures or otherwise.

34. The Court is constrained to make these observations as the Court has noticed many glaring lapses having occurred during the course of the trial. It has been noticed from the record that out of



*the 49 witnesses examined by the prosecution, 10 material witnesses were not cross-examined and many other important witnesses were not adequately cross-examined by the defence counsel. It may be reminded that Section 165 of the Indian Evidence Act confers unbridled powers upon the trial courts to put any question at any stage to the witnesses to elicit the truth. As observed in several decisions, the Judge is not expected to be a passive umpire but is supposed to actively participate in the trial, and to question the witnesses to reach to a correct conclusion. This Court while not accepting the submission that it was improper for the Court to have interjected during the course of cross-examination of the witness, had observed in the case of **State of Rajasthan vs. Ani alias Hanif and Others** thus:-*

"11. We are unable to appreciate the above criticism. Section 165 of the Evidence Act confers vast and unrestricted powers on the trial court to put "any question he pleases, in any form, at any time, of any witness, or of the parties, about any fact relevant or irrelevant" in order to discover relevant facts. The said section was framed by lavishly studding it with the word "any" which could only have been inspired by the legislative intent to confer unbridled power on the trial court to use the power whenever he deems it necessary to elicit truth. Even if any such question crosses into irrelevancy the same would not transgress beyond the contours of powers of the court. This is clear from the words



"relevant or irrelevant" in Section 165. Neither of the parties has any right to raise objection to any such question.

12. Reticence may be good in many circumstances, but a Judge remaining mute during trial is not an ideal situation. A taciturn Judge may be the model caricatured in public mind. But there is nothing wrong in his becoming active or dynamic during trial so that criminal justice being the end could be achieved. Criminal trial should not turn out to be a bout or combat between two rival sides with the Judge performing the role only of a spectator or even an umpire to pronounce finally who won the race. A Judge is expected to actively participate in the trial, elicit necessary materials from witnesses in the appropriate context which he feels necessary for reaching the correct conclusion. There is nothing which inhibits his power to put questions to the witnesses, either during chief examination or cross-examination or even during re-examination to elicit truth. The corollary of it is that if a Judge felt that a witness has committed an error or a slip it is the duty of the Judge to ascertain whether it was so, for, to err is human and the chances of erring may accelerate under stress of nervousness during cross-examination. Criminal justice is not to be founded on erroneous answers spelled out by witnesses during evidence-collecting process. It is a useful exercise for trial Judge to remain active and alert so that errors can be minimised.

13. In this context it is apposite to quote the observations of



Chinnappa Reddy, J. in Ram Chander v. State of Haryana [(1981) 3 SCC 191 : 1981 SCC (Cri) 683 : AIR 1981 SC 1036] : (SCC p. 193, para 2)

"The adversary system of trial being what it is, there is an unfortunate tendency for a Judge presiding over a trial to assume the role of a referee or an umpire and to allow the trial to develop into a contest between the prosecution and the defence with the inevitable distortions flowing from combative and competitive elements entering the trial procedure. If a criminal court is to be an effective instrument in dispensing justice, the presiding Judge must cease to be a spectator and a mere recording machine. He must become a participant in the trial by evincing intelligent active interest by putting questions to witnesses in order to ascertain the truth."

13. Meaning thereby that when accused do not object on the DNA report then DNA report can be accepted as provided under Section 293 of Cr.P.C. but when it is objected and accused wants to examine the expert witness of the prosecution as a defence witness then the application cannot be rejected on technical grounds like; why application was not filed earlier or document can be accepted under Section 293 of Cr.P.C. or the case is old because the Hon'ble Supreme Court or Hon'ble High Court generally when directing the quick disposal of the cases never mean that trial has to be conducted in a hurried manner and not afford proper opportunity to any party because if justice delayed is justice denied but it has to be read conjointly with justice



hurried is justice buried.

14. In view of the aforesaid, the order of learned trial Court cannot be sustained and is hereby set aside. The learned trial Court is directed to call the expert witness and other witnesses, as prayed, in the applications disposed of on 28/08/2024 and 03/09/2024, and record their statements as per law and thereafter to proceed further and decide the case finally.

15. With the aforesaid observation and direction, this revision stands disposed of.

(AVANINDRA KUMAR SINGH)
JUDGE

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