



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. BAIL APPLICATION No. - 12900 of 2025

Vibhor Rana

.....Applicant(s)

Versus

State Of U.P. Thru. Secy. Home Lko.

.....Opposite
Party(s)

Counsel for Applicant(s) : Priyanshu Shukla, Abhinav Srivastava,
Anuj Dayal

Counsel for Opposite Party(s) : G.A.

Court No. - 15

HON'BLE KARUNESH SINGH PAWAR, J.

Heard Shri Nipun Singh, learned Senior Advocate assisted by Shri Naman Aggarwal, Shri Priyanshu Shukla, Shri Abhinav Srivastava, Shri Anuj Dayal learned counsel for the applicant and learned GA assisted by Shri Alok Tewari, learned AGA for the State.

In the prosecution case, it is alleged that the co-accused established bogus firms under different names and that transactions of these firms were carried out by accused Vibhor Rana and Vishal Rana using the bank IDs and passwords of their associates and employees, thereby facilitating the illegal sale of Phensedyl cough syrup. During the investigation of Maruti Medicos, it was allegedly found that Om Medicos, Abhi Pharma, Ashu Medicos and Vibhor had transactions with G.R. Trading. It is further alleged that Vibhor Rana and Vishal Singh were involved in the illegal smuggling of Phensedyl cough syrup, with the sale and purchase being shown through fake firms, and that the cough syrup was smuggled to various parts of the country, including Bangladesh.

Learned counsel for the applicant submits that the applicant is innocent and has been implicated solely on the basis of the confessional statements of co-accused Bittu Kumar and Sachin Kumar. The applicant has already been arrested, yet no recovery whatsoever has been made from his possession. Except for the aforesaid confessional statements, there is no incriminating material available against the applicant. It is further submitted that the

present case pertains to the alleged sale and purchase of Phensedyl cough syrup, which is claimed to have been misused for intoxication purposes and not for medicinal use. It is also contended that Phensedyl cough syrup is neither a narcotic drug nor a psychotropic substance, and therefore, the provisions of the NDPS Act are not attracted.

It is further submitted that no recovery has been effected from the applicant and that, admittedly, the alleged recovery of Phensedyl cough syrup was made from the possession of co-accused Shailendra Arya, who has already been enlarged on bail vide order dated 26.06.2024 passed in Criminal Misc. Bail Application No. 6919 of 2024. Attention of the Court has also been drawn to the said bail order, wherein the co-accused Shailendra Arya admitted that he was the wholesaler and owner of the truck from which the medicines were recovered. It is further submitted that the said co-accused held a valid wholesale licence under the provisions of the Drugs and Cosmetics Rules.

It is further submitted that since there is no recovery from the applicant, the case of the applicant stands on a better footing than that of co-accused Shailendra Arya, whose bail was granted as far back as 26.06.2024 and which order has not been challenged by the prosecution. It is also submitted that a Division Bench of this Court at Allahabad has quashed the entire proceedings initiated against applicant Vibhor Rana under the provisions of the NDPS Act, holding that Phensedyl cough syrup does not fall within the definition of a narcotic drug and that dealings in the said drug are not governed by the provisions of the NDPS Act. A copy of the order passed in Writ Petition No. 8403 of 2021 has been filed as Annexure-7 to the bail application.

It is further submitted that co-accused Pawan Gupta and Devendra Kumar Vishwakarma have also been granted bail by a Coordinate Bench of this Court, copies of which have been filed collectively as Annexure-6 to the bail application. In another case arising out of Malda, West Bengal, titled Vibhor Rana v. Union of India, the applicant Vibhor Rana was discharged vide order dated 20.03.2025 passed in C.R.R. No. 1620 of 2024, on the ground that no offence under the NDPS Act was made out.

It is also contended that the present case has been wrongly projected as one

involving international smuggling, without there being any recovery of Phensedyl cough syrup from outside the country. Reliance has been placed on the judgment of the Hon'ble Supreme Court in ***Union of India and Others v. Ashok Kumar Sharma and Others, (2021) 12 SCC 674***, particularly paragraph 161, wherein it has been held that where allegations pertain to offences under Chapter IV of the Drugs and Cosmetics Act, registration of an FIR by the police is not warranted unless a separate cognizable offence is made out.

It is further submitted that the applicant's firm is a super distributor of Abbott Healthcare Pvt. Ltd., and that the applicant is a licensed distributor engaged in the distribution of pharmaceutical drugs manufactured by Abbott Healthcare Pvt. Ltd. He holds valid licences under Rule 61(1) and Rule 61(2) of the Drugs and Cosmetics Rules, 1945. It is contended that the prosecution, instead of following the procedure prescribed under the Drugs and Cosmetics Act, has wrongly resorted to lodging an FIR, in clear violation of the law laid down in Ashok Kumar Sharma (supra).

Learned counsel assures the Court that, in the event of grant of bail, the applicant shall not leave Lucknow without prior permission of the Court.

It is further submitted that there is no possibility of the applicant of fleeing away after being released from jail or tampering with the witnesses. In case the applicant is enlarged on bail, he shall not misuse the liberty of bail.

Learned Government Advocate, assisted by Shri Alok Tewari, has vehemently opposed the bail application, contending that the applicant is being prosecuted on the basis of the statements of co-accused Bittu Kumar and Sachin Kumar, who have alleged forgery and smuggling of Phensedyl cough syrup.

Learned Government Advocate has prayed for a short time to file a reply to the bail application.

Perused the record.

Upon due consideration of the bail order granted to co-accused Shailendra Arya, the bail orders passed in favour of other co-accused by the Coordinate Bench of this Court, the judgment of the Hon'ble Supreme Court in Ashok

Kumar Sharma (supra), the judgment in the case of Vibhor Rana (supra), the material available on record, and the fact that the applicant is not named in the FIR and his name has surfaced only in the confessional statements of co-accused Bittu Kumar and Sachin Kumar, coupled with the absence of any recovery from the applicant, who has been in custody since 13.11.2025, and the undertaking given that he shall not leave Lucknow during the period of bail, this Court finds it to be a fit case for granting interim bail to the applicant.

Accordingly, the applicant is enlarged on interim bail.

Let the applicant **Vibhor Rana**, involved in Case Crime No.182 of 2024, under sections 420, 467, 468, 471, 34, 120(B), 201 IPC, Police Station Sushant Golf City, District Lucknow, be released on interim bail in the aforementioned case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of Magistrate/Court concerned, subject to following conditions:-

- (i) the applicant shall not tamper with the prosecution evidence;
- (ii) the applicant shall not pressurize the prosecution witnesses;
- (iii) the applicant shall appear on each and every date fixed by the trial Court.
- (iv) the applicant shall cooperate in the investigation and shall make himself available as and when his required by the investigating officer.***

Any other condition(s) which the trial court/concerned court may deem fit and proper, in the circumstances of the case, may also be imposed.

List on 05.01.2026.

(Karunesh Singh Pawar,J.)

December 18, 2025
R.C.