

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30698 of 2014

Arising Out of PS.Case No. -188 Year- 2014 Thana -SHRIKRISHNAPURI District- PATNA

1. Dhananjay Kumar @ Triloki S/o Sri Shyamdev Singh Resident of vill. -
Sindhwa, P.S. Parasbigaha, Distt. - Jahanabad

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.31930 of 2014

Arising Out of PS.Case No. -188 Year- 2014 Thana -SHRIKRISHNAPURI District- PATNA

1. Vikash Kumar Barnwal S/o Naresh Prasad Barnwal Resident of Mohalla
Barhi, Police Station Hazaribagh, District Hazaribagh, at present Mohalla
Musallahpur Hatt, Police Station Sultanganj, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.33419 of 2014

Arising Out of PS.Case No. -188 Year- 2014 Thana -SHRIKRISHNAPURI District- PATNA

1. Manish Kumar Son of Late Rajeshwar Prasad Singh Resident of
Mohalla-Ashokpuri, Khajpura, P.S.-Rajeev Nagar, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.39712 of 2014

Arising Out of PS.Case No. -188 Year- 2014 Thana -SHRIKRISHNAPURI District- PATNA

1. Surendra Kumar Singh @ Monu Singh Son of Late Sri Raghuveer Singh
Resident of Village and P.S.- baghela, Rajpur, District - Rohtas at present
residing at Mohalla Ashokpuri, Khazpura, P.S.- Rajiv Nagar, District –
Patna

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with
Criminal Miscellaneous No.47237 of 2014

Arising Out of PS.Case No. -188 Year- 2014 Thana -SHRIKRISHNAPURI District- PATNA

1. Dilip Kumar S/o - Late Ram Prasad Sah @ Ram Pd. Sao resident of Mohalla - Postal Park, Road No. - 1, Police Station - Kankarbagh, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.30698 of 2014)

For the Petitioner/s : Mr. Ajay Kumar Thakur, Adv.
Mr. Dudh Nath Singh, Adv.

For the Opposite Party/s : Mr. S.M.Rahman (App)

(In Cr.Misc. No.31930 of 2014)

For the Petitioner/s : Mr. Bindhyachal Singh, Adv.
Mr. Niranjan Kumar, Adv.

For the Opposite Party/s : Mr. Surendra Kumar(App)

(In Cr.Misc. No.33419 of 2014)

For the Petitioner/s : Mr. Naresh Kumar Malhotra, Adv.
Mr. Binod Kumar Sinha, Adv.
Mr. Prakash Kumar, Adv.

For the Opposite Party/s : Mrs. Asha Devi (App)

(In Cr.Misc. No.39712 of 2014)

For the Petitioner/s : Mr. Naresh Kumar Malhotra, Adv.
Mr. Binod Kumar Sinha, Adv.
Mr. Prakash Kumar

For the Opposite Party/s : Mrs. Asha Devi (App)

(In Cr.Misc. No.47237 of 2014)

For the Petitioner/s : Mr. Amrendra Kumar

For the Opposite Party/s : Mr. U.S.P.Singh(App)

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

8 11-02-2015 Heard learned counsel for the respective petitioners
and learned Additional Public Prosecutor for the State.

At the outset, respective counsel for the petitioners
have submitted that in these applications the petitioners are not
challenging the maintainability of the F.I.R. and that question be

left open to be decided in an appropriate application.

In that view of the matter, I have taken up the hearing of the bail petitions.

These five cases for bail filed under sections 439 and 440 of the Code of Criminal Procedure arise out of a common F.I.R. and therefore they have been heard together and are being disposed of by a common order.

The petitioners seek bail in connection with Srikrishnapuri P.S.Case No.188 of 2014 registered for the offences punishable under sections 275, 276, 467, 468, 472, 473 of the Indian Penal Code and section 27(b)(ii) and 27(c) of the Drugs and Cosmetics Act, 1940 (hereinafter referred to as “the Act of 1940”)

The case pertains to illegal trade, storage and sell of medicines without any valid license. It is alleged that the petitioners and others have violated the provisions of Sections 18(a), 18(b) & 18(c) of the Act of 1940, which are punishable under Sections 27(b) (ii) and 27(c) of the Act of 1940. It has further been alleged in the FIR that besides committing offences punishable under the Act of 1940, the petitioners have also committed offences punishable under the penal Code.

It has been submitted on behalf of the petitioners



that the allegations made in the F.I.R. do not disclose ingredients of the offences punishable under sections 275, 276, 467, 468, 472 and 473 of the Indian Penal Code. The allegation is that the petitioners were apprehended on 5th June, 2014 but the F.I.R. was registered on 6th June, 2014 and they were remanded to judicial custody on 7th June, 2014. There is no reasonable explanation for the delay caused in institution of the F.I.R. and production of the accused persons before the Magistrate. It has further been contended that though the medicines in question are alleged to have been recovered and seized from the possession of the petitioners at Boring Road Chauraha but the seizure list was prepared at Srikrishnapuri Police Station. There is no explanation as to why the seizure list was not prepared at the place of seizure. It has further been contended that initially the Bihar Drugs Control Laboratory, where the samples of the seized drugs were sent for test, reported that it had no facility available for testing the samples but subsequently it had reported on 23rd September, 2014 that the samples sent for test conform to the prescribed specification.

Learned counsel for the State has opposed the prayer for bail. He has submitted that the manufacturer of the drugs company has reported that the drugs in question are

spurious. The report of the Bihar Drugs Control Laboratory could not be challenged by the informant before the Central Drugs Control Laboratory till date for one reason or the other. According to him, the petitioners were carrying on trade and business in medicines without having any valid licence.

Be that as it may, having regard to the facts and circumstances of the case, the petitioner Dhananjay Kumar @ Triloki of Cr. Misc. No. 30698 of 2014, petitioner Vikash Kumar Barnwal of Cr.Misc. No. 31930 of 2014, petitioner Manish Kumar of Cr. Misc. No. 33419 of 2014, petitioner Surendra Kumar Singh @ Monu Singh of Cr.Misc. No.39712 of 2014 and petitioner Dilip Kumar of Cr. Misc. No. 47237 of 2014 are directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of Sri Ashutosh Khetan, Judicial Magistrate 1st Class, Patna in connection with Srikrishnapuri P.S.Case No. 188 of 2014.

(Ashwani Kumar Singh, J)

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