

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33497 of 2015

Arising Out of PS.Case No. -223 Year- 2014 Thana -PIRBAHOR District- PATNA

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Neeraj Kumar son of Naresh Prasad R/O Naya Tota, Kaiipur, Triloki
Market, P.S.- Kadamkuan, District- Patna.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

For the Petitioner : M/s. Binod Murari Mishra and
Ramakant Singh, Advocates

For the State : Mr. Umesh Lal Verma, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 09-11-2015 Heard learned counsel for the petitioner and the
learned counsel appearing on behalf of the State.

The petitioner is apprehending his arrest in
connection with Special Case No.55 of 2014 arising out Pirbahore
P.S. Case No.223 of 2014 registered for the offences punishable
under Sections 419, 420, 464, 465, 468, 471, 485, 486, 488, 406,
413, 414, 379, 274, 275, 276, 284, 120 of the Indian Penal Code
and Section 27(a), 27(b), 27(c),(iii), 27(d), 28, 28(a), 30(a), 30(b),
30(c), 36 of the Drugs and Cosmetics Act, 2008, Section
71(i),(ii)/10a of the Essential Commodities Act, 1955, and Section
22(b), 23(b), 21(b) of the N.D.P.S. Act and Sections 139, 142, 143
of the Income Tax Act and Section 56(1), 56(4)(b) of the Bihar
Sale Tax Act.

Case diary in the present case was called for earlier, which has since been received.

Learned counsel for the petitioner submits that the initiation of proceeding against this petitioner is misconceived on the provision of law as contained under the Drugs and Cosmetics Act. He further submits that as per Section 32 of the Drugs and Cosmetics Act, which specifically provides that such a proceeding can be initiated only on the basis of a complaint filed by the Drug Inspector, who has been specifically notified for the said purpose. He further submits that in the present case, the Drug Inspector, who was not identified, has filed an F.I.R. and not a complaint case and, therefore, the proceeding as against the petitioner is not tenable. Learned counsel for the petitioner also points out to an order dated 21.9.2015 passed in Cr. Misc. No.17737 of 2015, by which this Court has been pleased to extend the privilege of anticipatory bail to similarly situated petitioner, in however another P.S. case.

Considering the aforementioned facts and circumstances, and on adhering to the aforementioned legal proposition and without going into the merit of the complaint, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks

from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge, Patna in connection with Special Case No.55 of 2014 arising out of Pirbahore P.S. Case No.223 of 2014, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

(Anjana Mishra, J)

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