

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.17017 of 2016

Arising Out of PS.Case No. -144 Year- 2016 Thana -ARA NAGAR District- BHOJPUR

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1. Binod Kumar Mishra S/o Late Ramdular Mishra, R/o Mohalla- Mahajan
Toli No.- 1, P.S.- Ara Town, District- Bhojpur

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Nath Sinha

For the Opposite Party/s : Mr. P.K. Chourasiya (App)

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

3 04-05-2016 Heard Mr. Vindhya Keshri Kumar for the petitioner and Mr.

D.K. Sinha, A.A.G.-II who, on request, appeared on behalf of the

State, assisted by Mr. P.K.Chourasia, APP for the State.

Petitioner is facing accusations punishable under sections
467, 468, 420, 274, 275, 276, 120B of the Indian Penal Code and
Sections 26(a), 22(i)(d), 18(a)(b)(c), 27(b)(ii)(d), 28, 28(a) and
30(a)(b)(c) of the Drugs and Cosmetics Act vide Ara Town P.S.
Case No 144 of 2016.

Petitioner claims himself a registered Homeopathic
practitioner. The allegation is that on a search made by the Drug
Inspector, certain homeopathic medicines were found in the clinic
of the petitioner. The medicines included 450 ml of medicines
containing alcohol more than 12 %. The seizure of those medicines
were made and the F.I.R. was lodged alleging that the petitioner

without any licence was dealing with the homeopathic medicines and in contravention of the provisions contained in the Drugs and Cosmetics Act, 1940.

Contention of the petitioner is that by virtue of a registered medical practitioner, he is entitled to have one phial of medicine in the clinic. A matter is pending before the Delhi High Court where the issue with regard to the quantity of medicine and the percentage of alcohol which the petitioner should contain in order to prepare mother tincture etc., is involved. It has also been submitted that amendment in the Drugs and Cosmetics Act making it more stringent was brought in March, 2016 whereas the F.I.R. was lodged on 4.2.2016. The petitioner has no such criminal antecedent.

Considering the above, I direct that in the event of arrest or surrender in the Court below within four weeks, the petitioner abovenamed is directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Ara, Bhojpur in Ara Town P.S. Case No. 144 of 2016 subject to the condition as laid down under Section 438(2) of the Cr.P.C. with the further following conditions:

(i) One of the bailers shall be the own/close family members of the petitioner.

(ii) In case of framing of charge, the petitioner shall appear in person on each and every date fixed in the Court below. In case of default in doing so on two consecutive occasions without any cogent/satisfactory reason, the Trial Court shall have liberty to cancel the bail bond of the petitioner and secure his arrest in accordance with law.

(Kishore Kumar Mandal, J)

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