

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9064 of 2016

Arising Out of PS.Case No. -678 Year- 2015 Thana -MUFFASIL District-
WESTCHAMPARAN(BETTIAH)

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Ramesh Kumar, S/o Sri Rabindra Kumar Thakur, Resident of Village -
Chargaha, P.O. - Bettiah, P.S. - Bettiah Muffasil, District - West
Champaran.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate

For the Opposite Party/s : Mr. Narendra Kumar Singh (APP)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 16-05-2016 Heard learned counsel for the petitioner and
learned APP for the State.

Petitioner apprehends arrest in connection with
Bettiah Muffasil P.S. Case No. 678/15 for offences alleged under
Sections 27(b)(ii) and 27(d) of the Drugs and Cosmetics Act,
1940.

The prosecution case, as lodged by the informant,
is that he along with raiding team inspected M/s Muskan Medical
Dolbagh, Bettiah run by the petitioner without valid licence, 192
types of medicines were seized including 67 types of medicines
with label “physician sample-not for sale”.

It has been submitted by the learned counsel for
the petitioner that he has no criminal antecedent and, in fact, he is



a life member of Medicare and Rural Dental Practitioners Welfare Council, Patna being a medical practitioner and the physician samples were incidental to his clinic practice. He further submits that an First Information Report has been registered under the Drugs and Cosmetics Act and the same is wholly misconceived since under Section 32 of the Drugs and Cosmetics Act prosecution can be instituted by the Drug Inspector or any person aggrieved by filing complaint before a competent court and the police has no jurisdiction to register First Information Report and investigate the offence under the Act. He places reliance on a judgment passed by this Court in the case of Hindustan Lever Limited Vs. State of Bihar and others, since reported in 1977(1) BLJ 899 and also a judgment of this Court dated 12.04.2013, passed in Criminal Writ No. 110 of 2013 in the case of M/s Torque Pharmaceuticals Pvt. Ltd. and another Vs. The State of Bihar and others, stating therein, that the police has no jurisdiction to register First Information Report and investigate the offence under the said Act. He also places reliance on an order dated 02.03.2016, passed by this Court in Cr. Misc. No. 8900 of 2016.

However, learned APP for the State submits that the petitioner is named in the First Information Report, hence, opposes the prayer for bail.

Be that as it may, since the proceedings has not been initiated in accordance with the Drugs and Cosmetics Act, let petitioner, above named, in the event of his arrest or surrender before the court below within a period of eight weeks from today, 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 learned Chief Judicial Magistrate, West Champaran at Bettiah, in connection with Bettiah Muffasil P.S. Case No. 678/15, subject to the conditions as laid down under Section 438(2) Cr.P.C.

This order will, however, not prejudice the rights of the concerned prosecuting agency to initiate proper proceedings in accordance with law.

(Nilu Agrawal, J.)

Rajesh/-

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