

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50051 of 2016

Arising Out of PS.Case No. -198 Year- 2016 Thana -PALASI District- ARRARIA

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Dharmanand Yadav son of late Chamru Yadav, resident of village - Palasi,
Police Station – Palasi, District - Araria

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Rana, Advocate

For the Opposite Party/s : Mr. Jai Narain Thakur, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 21-11-2016 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

Petitioner is languishing in judicial custody since
18.09.2016 in connection with Palasi P.S. Case No. 198 of 2016
registered for the offence punishable under Section 414 of the
Indian Penal Code.

The prosecution case is that on 17.09.2016 at about
17:00 hours while the informant along with other police personnel
was on night patrolling, he caught two persons, including the
petitioner, who seeing the patrolling party, were trying to flee
away and recovered 40 bottles each of 100 ML containing
Phosphate Hydrochloride syrup and prepared seizure list.

It has been submitted by the learned counsel for the
petitioner that he is innocent and has falsely been implicated in the



aforesaid case. In fact, he has not committed any offence. He was just the driver of the motorcycle and the bag containing medicines was carried by another co-accused. He further submits that the prosecution by the police is not maintainable under the provisions of the Drugs and Cosmetics Act, 1940 as postulated under Section 32 of the Act. Complaint can be lodged by an Inspector or any gazetted officer of the Central and State Government authorized in writing. He further submits that no complaint case has been filed by the concerned officials under the Drug and Cosmetics Act, as such, the present proceeding is not applicable in the aforesaid case.

However, learned A.P.P. 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 matter relates to recovery of medicine bottles being carried by the co-accused and the petitioner was driving the motorcycle and basis of the allegation is only suspicion as also the present prosecution has not been lodged under Section 32 of the Drugs and Cosmetics Act, 1940, let the petitioner, above named, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of Sri

Raghubansh Narayan, learned Additional Chief Judicial Magistrate-III, Araria in connection with Palasi P.S. Case No. 198 of 2016.

(Nilu Agrawal, J.)

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