

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26950 of 2016

Arising Out of PS.Case No. -230 Year- 2016 Thana -MADHEPURA District- MADHEPURA

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Sanjiv Kumar @ Sanjeev Kumar @ Sanjeev Jaiswal

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Shamimul Hoda

For the Opposite Party/s : Mr. Sri Jai Narain Thakur

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

5 01-12-2016 Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor for the State.

Petitioner apprehends his arrest in connection with
Madhepura P.S. Case No. 230 of 2016 registered under Section-
420 of the Indian Penal Code.

Near about 1000 bottles of Corex were seized from
a Transport Agency and the aforesaid seized bottles of Corex
belong to the petitioner, who happens to be Proprietor of M/S
Choudhary Drug Agency. The Drug Inspector claimed that the
petitioner violated the provision of Section-26A of Drugs and
Cosmetics Act 1940 (Amended Act of 2008) which is punishable
under Section-28B of the aforesaid Act.

Learned counsel, appearing for the petitioner
submits that u/S 26A of the above-said Act, the Central



Government issued Notification dated 10-03-2016 and the same was published in official gazette but the aforesaid Notification was challenged before Hon'ble Delhi High Court in W.P. (C) 2212 of 2016 and CM No. 9517 of 2016 and the Delhi High Court stayed the aforesaid Notification and subsequently, the aforesaid order of stay remained continued, which is evident from perusal of Annexure-3 to the petition. It is further submitted that in the light of order of Hon'ble Delhi High Court, the Central Government informed all the State concerned to obey the direction of the aforesaid Delhi High Court but even then, the Drug Inspector seized the aforesaid bottles of Corex.

On the other hand, learned Public Prosecutor appearing for the State drew my attention towards an Annexure to the counter affidavit and submits that the State Government has issued an executive order through which, the State Government banned the storage of more than 1000 bottles of Corex and as a matter of fact, the Drug Inspector seized the bottles of Corex under the direction of State Government but the aforesaid order of State Drug Controller appears to be an executive order, which does not have any force of law.

Therefore, considering the above-said facts and circumstances of the case as well as submission of the parties, this



anticipatory bail petition is allowed and it is ordered that the petitioner named above, in the event of his arrest or surrender in the court below within four weeks from the date of receipt/production of copy of this order, shall be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each in connection with Madhepura P.S. Case No. 230 of 2016 to the satisfaction of learned Chief Judicial Magistrate, Madhepura subject to condition as laid down u/S 438(2) of the Code of Criminal Procedure Code.

(Hemant Kumar Srivastava, J)

A.K.V./-

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