

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26866 of 2016

Arising Out of PS.Case No. -53 Year- 2016 Thana -JOGBANI District- ARRARIA

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Md. Sajjad @ Md. Sajjid son of Md. Kurban, resident of North Maheshwari
Police Station- Jogbani, 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

For the Opposite Party/s : Mr. Dr. Ajeet Kumar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

13/ 21.06.2017

This matter has been listed before this Court
in view of the minutes dated 18.11.2016 of Hon'ble the Acting
Chief Justice.

This matter has been listed for hearing out of
turn on the slip filed by the petitioner.

Heard learned counsels for the petitioner and
Mr. J.N. Thakur for the State.

The petitioner is languishing in custody since
26.04.2016 in a case registered for the offences punishable under
Sections 20 and 22 of the NDPS Act.

The prosecution case is that on 25.04.2016



during course of special checking by S.S.B., a man was intercepted with bag and on suspicion the bag was searched from which 80 bottles of corex cough syrup of 100 ml each, 165 strip of Spasmo Proxivan plus tablets each strip containing eight tablets and 90 strip of Nitrosum 10 tablets each containing ten tablets were recovered. Consequently the petitioner was arrested and seizure list was prepared leading to registration of Jogbani P.S. Case No. 53 of 2016.

It is submitted by learned counsel for the petitioner that the seized medicines were transmitted by Drug Inspector to Government Analyst, i.e., Bihar Drugs Control Laboratory, Agam Kuan, Patna. The report of the analyst suggests that the samples of seized articles are prescription medicines. Hence, it is submitted that even assuming the accusation at best the offence under the Drugs and Cosmetics Act is made out. A statement has been made in paragraph 3 of the petition that the petitioner has no criminal antecedent and the petitioner undertakes to appear regularly during trial.

Learned counsel for the State has filed counter affidavit to that effect that each 100 ml Corex Cough Syrup contains 200 mg of Codeine and as such 80 bottles of Corex Cough Syrup contain 16000 mg (16 Gram) of Codeine. Moreover,



Spasmo Proxy Von Plus tablets and condeine come under the category of narcotic but are included in Schedule H of the Drugs and Cosmetics Rules. However, there is no ban for the sale and purchase of the seized drugs. A supplementary counter affidavit has been filed on behalf of the State wherein it has been stated that the seized medicines were not sent to Forensic Science Laboratory rather after obtaining permission from learned Sessions Judge, Araria the samples were handed over to the Drug Inspector, Araria on 20.05.2016. The Drug Inspector, Araria sent the sample on 15.06.2016 to Government Analyst, i.e., Bihar Drugs and Cosmetic Laboratory, Agam Kuan, Patna and the report of the Analyst suggests that the samples of seized articles are prescription medicines.

Considering the rival submissions of the parties, also considering the nature of seizure, statement made in paragraph 3 that the petitioner has no criminal antecedent and the period of custody, let the above named petitioner, be released on bail on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge –cum- Special Judge, Araria in connection with Special Case No. 13 of 2016 arising out of Jogbani P.S. Case No. 53 of 2016.



The learned trial court will be at liberty to cancel the bail bonds of the petitioner in two eventualities i.e. if he defaults for two consecutive occasions or substantially gets involved in similar nature of offence.

(Dinesh Kumar Singh, J)

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