

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.28706 of 2017**

Arising Out of PS.Case No. -309 Year- 2017 Thana -ARARIA District- ARRARIA

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1. Alok Jain Son of Sri Vinay Kumar Nahta Resident of Mahabir Nagar,  
Ward No. 17, P.S. Araria, Distt- Araria, Proprietor "Jain Medical  
Agency".

.... .... Petitioner/s

Versus

1. The State of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Diwakar Upadhyaya, Advocate

For the Opposite Party/s : Mr. Arun Kumar Singh -5, APP

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**  
**ORAL ORDER**

2      14-07-2017                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

The petitioner is apprehending his arrest in a case  
registered for the offences punishable under Sections 272/273/34  
of the Indian Penal Code and Sections 30/36/38/47 of the Bihar  
Prohibition and Excise Act, 2016.

According to F.I.R. from Sunrise Transport  
Corporation trucks were recovered which were carrying Medicines  
containing codeine. The transporter informed that the drug was of  
the petitioner, who is whole seller of drugs.

Allegation is that storage and sale of codeine without  
licence is offence which the petitioner is said to have committed.

Submission of learned counsel for the petitioner is



that the petitioner is holder of licence for sale of drugs since 15.04.2009 and the licence is valid up to 14.04.2019 vide copy of licence at page-23 of the brief. As per government notification dated 19<sup>th</sup> of October, 2016, the codeine etc. is to be sold on the prescription of Registered Medical Practicener only, and the sale and storage is permissible under a valid licence. In the circumstances, submission is that no offence is made out because no allegation is that the same was being sold without prescription of registered medical practicener and the same was on a valid licence.

Next submission is that there is reference of criminal antecedent of the petitioner in the past. In that case the petitioner had already been allowed anticipatory bail by a coordinate Bench of this Court in Cr. Misc. No. 36758 of 2016 for the reason that the provisions alleged were already declared ultra vires by Delhi High Court.

After hearing the parties and considering the aforesaid facts, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs.20,000/- (Twenty Thousand) with two sureties of the like amount each to the



satisfaction of learned Special Judge (Excise)-cum-Additional District and Sessions Judge-II, Araria/Successor Court in connection with Araria Police Station Case No.309 of 2017, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure. With further condition that petitioner shall fully cooperate with the investigation and trial of the case, failing which the Court-below shall be at liberty to take steps for cancellation of the bail-bonds of the petitioner in this case.

**(Birendra Kumar, J)**

Mkr./-

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