

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32043 of 2018

Arising Out of PS.Case No. -264 Year- 2017 Thana -PIRBAHOR District- PATNA

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1. Dheeraj Kumar S/o Naresh Prasad, R/o Naya Tola Baripath Triloki Market, Kajipur, P.S.- Kadamkuan, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ram Shankar Das

For the Opposite Party/s : Mr. Sri Anil Kumar Singh 1

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 24-05-2018 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks bail in Special Case No.75 of 2017 arising out of Pirbahore P.S. Case No.264 of 2017 registered for the offence punishable under Sections 274, 275, 276, 284, 379, 406, 413, 419, 420, 467, 468 and 120 B of the Indian Penal Code and Section 22 and 23 of the NDPS Act.

The prosecution case in brief is that Sachida Nand Prasad, Drug Inspector, on 21.04.2017 conducted raid on the premises of petitioner and during the course of raid, expired drugs and spurious drugs along with narcotic drugs, restamped and relabeled expired drugs were recovered and accordingly, seizure list was prepared. It has been further alleged that during raid papers



related to Narcotic Drugs & Psychotropic Substance were also found from the premises. On the basis of written report of the Drug Inspector case has been registered against the petitioner and other co-accused. It has been submitted on behalf of the petitioner that the petitioner is proprietor of New Vexin House, where petitioner was running the whole sale business of drug and is a valid licensee and he has also got license of drug specified in form 20F as well as 20G to sell, store or distribute by wholesale under rule. The license of the petitioner is valid till 04.01.2021, and he is proprietor of whole sale business of drugs under the Drugs Act and rules framed thereunder. Genuine invoices were produced at the time of search and seizure but the same was not taken heed by the raiding party.

It has further been submitted that under the Drug and Cosmetics Act, police is not empowered to register FIR for conducting any investigation and submitting charge-sheet. Initiation of whole proceeding is void ab initio and illegal. It has been further submitted that co-accused has been granted bail by a coordinate Bench of this Court vide order dated 19.08.2017 passed in Criminal Miscellaneous No.37205 of 2017. Charge-sheet has already been submitted and cognizance of the offence has also been taken. Petitioner is in custody since 27.04.2018.



It is further submitted that yet another similarly situated co-accused has also been granted bail by this Court by an order dated 01.02.2018 passed in Cr. Misc.No.709 of 2018.

Having regard to the facts and circumstances of the case, the petitioner, above named, is directed to be released on bail on furnishing bail bonds of Rs.10,000/- (rupees Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-Ist, Patna-cum-Special Judge-POCSO, Patna in connection with Pirbahore P.S. Case No.264 of 2017.

(Mohit Kumar Shah, J)

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