

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36326 of 2019**

Arising Out of PS. Case No.-1850 Year-2016 Thana- PATNA COMPLAINT
CASE District- Patna

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1. MANISH KUMAR Son of Late Tulsi Singh Resident of Phulwari Main Road, Near Phulwari Block, Patna, P.S.-Phulwarisharif, and Shop at Manish Medical Agency, Govindmitra Road, P.S-Pirbahor, Town and District-Patna.
 2. Guddu @ Ashish Kumar Son of Late Tulsi Singh Resident of Phulwari Main Road, Near Phulwari Block, Patna, P.S.-Phulwarisharif, and Shop at Manish Medical Agency, Govindmitra Road, P.S-Pirbahor, Town and District-Patna.

... .. Petitioners

Versus

1. THE STATE OF BIHAR
2. Jagdish Choudhary Son of Late Aklu Choudhary Resident of Magadh Colony, Kurji Sadak at Ashram, P.S.-Digha, Town and District-Patna.

... .. Opposite Parties

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Appearance :

For the Petitioners : Mr. Ram Naresh Ray, Advocate.
For the Opposite Party: Mr. Anish Chandra, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

7 06-09-2019 Heard learned counsel for the petitioners and learned
APP for the State.

2. The petitioners apprehends their arrest for the offences alleged under Sections 406 and 420 of the Indian Penal Code registered in connection with Complaint Case No. 1850(C) of 2016.

3. It is submitted that the petitioners have been falsely implicated on the accusation of having supplied drugs worth Rs. 2,50,000/- to the complainant which were close to their



expiry date, out of which the complainant was able to sell medicines worth Rs. 30,000/- only. It has further been alleged that the remaining unsold medicines worth Rs. 2,20,000/- were returned to the petitioners but the petitioners have not made payment in respect of such unsold medicines. It is submitted that there is no material to corroborate the claim of the complainant that medicines worth Rs. 2,20,000/- were returned to the petitioner. Moreover, the policy of return of goods and refund was clearly informed by the petitioners to the complainant in the credit note. It is therefore submitted that the dispute between the parties is of civil nature relating to business transaction. The petitioners claim clean antecedents.

4. Despite issuance of notice to the opposite party no. 2 it has been treated as valid upon refusal to accept, appearance has not been entered on behalf of the complainant nor is he represented when the matter is called.

5. Be that as it may, in the event of the petitioners' arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioners be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-XII, Patna in connection with Complaint Case No. 1850(C) of 2016, subject to the conditions as laid down under



Section 438 (2) Cr.P.C., and also subject to the following further conditions -

(i) That one of the bailors of each of the petitioners shall be their close relatives other than the petitioners herein.

(ii) That the petitioners shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioners shall cooperate with the investigation, if not already concluded, and make themselves available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(iv) That the petitioners shall remain physically present in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, their bail bonds shall be liable to be cancelled by the learned Court concerned.

(Vikash Jain, J)

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