

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75531 of 2019

Arising Out of PS. Case No.-21 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Purnia

MD. SARWAR ALAM Son of Late Md. Alauddin Resident of Village -
Gaiyari, Ward No. 6, P.S. and District - Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Praveen Kumar Agrawal
For the Opposite Party/s : Mr.Mritunjay Kumar Nirala

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 09-12-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner who is in custody since 06.09.2019 has
filed the instant application for grant of bail in connection with
Special Case No. 21 of 2019 (District- Araria) registered for the
offence punishable under sections 27(b)(ii), 27(2) and 28 of the
Drugs and Cosmetic Act, section 21(B) of the N.D.P.S. Act and
section 30(a) of the Bihar Prohibition & Excise Act.

As per the allegation in the FIR, in course of search
of the vehicle, the petitioner who was driving the Maruti Suzuki
car was arrested and from the said vehicle the articles mentioned
in the seizure list as contained in Annexure-1 was recovered. It



transpires that about 111.400 litres of Codeine Phosphate and Chlorphe Niramine Maleate Syrup written as ESKUF which is schedule H drug was recovered and as such the case was registered under the different sections of the Drugs and Cosmetic Act, N.D.P.S. Act and Bihar Prohibition and Excise Act.

It is submitted by learned counsel for the petitioner that the petitioner has no criminal antecedent and he is not the owner of the alleged seized car nor of the seized bottles containing cough syrup. He was only the driver of the car and was driving the car for earning his livelihood. It was submitted by the petitioner that he is in custody since 6.9.2019.

The application for bail was opposed by learned APP for the State who submits that from reading of section 21(b) of the NDPS Act together with the relevant notification and the seized articles it would transpire that the quantity of codeine seized was much more than the small quantity which is only 10 grams.

Having heard learned counsel for the parties and taking into consideration the fact that the quantity of codeine seized is more than the small quantity, this Court is not inclined to grant bail to the petitioner and as such the petitioner's



application for bail is rejected.

However, taking into consideration the fact that the petitioner has no criminal antecedent if so advised the petitioner may renew his prayer for bail after completing one year of custody.

(Partha Sarthy, J)

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