

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23981 of 2020

Arising Out of PS. Case No.-64 Year-2020 Thana- PALASI District- Araria

MD. ISMAIL Son of Md. Gayasuddin @ Gaisul Resident of Village- Dehti
Ward No. 09, P.S.- Palasi, District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Rana

For the Opposite Party/s : Mr.Ashok Kumar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 09-10-2020

The present petition has been taken up for consideration through the mode of Video Conferencing in view of the prevailing situation on account of COVID-19 Pandemic.

Heard the learned counsel for the petitioner and Sri Ashok Kumar, the learned A.P.P. for the State.

This is an application for grant of anticipatory bail in connection with Palasi PS case no. 64 of 2020 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as 'Act, 2016').

The allegation is regarding recovery of 10 pieces of codeine compound cough syrup from the motorcycle of the petitioner herein, however the petitioner is stated to have fled away.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case and is having a clean antecedent. It is further submitted



that the petitioner has got no complicity in the matter.

Having regard to the facts and circumstances of the case and considering the submissions made by the learned counsel for the petitioner, this Court is of the opinion that it cannot be said that no *prima facie* case is made out as against the petitioner herein, inasmuch as the codeine compound cough syrup (10 pieces) are stated to have been recovered from the motorcycle of the petitioner, thus the bar under Section 76(2) of the Act, 2016 shall come into play, consequently the present petition is not maintainable, thus the same is dismissed. However, it is directed that in case, the petitioner surrenders before the learned court of 2nd Additional Sessions-cum-Special Judge, Araria in connection with Palasi PS case no. 64 of 2020 within a period of four weeks from today, the learned court below shall consider and decide the bail petition of the petitioner on the very same day specially taking into account the fact that meager quantity of codeine compound cough syrup has been recovered, thus a sympathetic view may be taken.

(Mohit Kumar Shah, J)

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