

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31823 of 2020

Arising Out of PS. Case No.-305 Year-2020 Thana- RAXAUL District- East Champaran

Ram Ayodhya Prasad, age about 72 years, Male, son of Late Banarasi Sah,
Resident of Mohalla- Machhli Bazar, Ward No. 20, Raxaul, P.S. - Raxaul,
District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Senior Advocate with Mr. Rakesh Kumar Sharma and Mr. Lakshmi Kant Sharma, Advocates
For the State	:	Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 07-12-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Ramakant Sharma, learned senior counsel along with Mr. Rakesh Kumar Sharma and Mr. Lakshmi Kant Sharma, learned counsels for the petitioner and Mr. Ashok Kumar Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner seeks bail in connection with NDPS Case No.29 of 2020 arising out of Raxaul PS Case No.305 of 2020 dated 14.08.2020, instituted under Sections 27, 27(a), 27(b)(ii) of the Drugs and Cosmetics Act, 1940, and 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985



(hereinafter referred to as the 'NDPS Act').

4. The allegation against the petitioner is that he has license for retail of medicines and upon inspection conducted in his shop by the authorities on 14.08.2020, various medicines were found, which were either beyond the prescribed date of expiry or contained Codeine, which is a narcotic substance under the NDPS Act for which license is required and the petitioner does not have that.

5. Learned counsel for the petitioner submitted that he is in the business of retailing medicines since 1980 and there has been no complaint against him. In the present case also, it was submitted that with regard to two syrups, which contained Codeine, the syrups were manufactured by the drug manufacturer and the petitioner had not kept Codeine separately. Further, it was submitted that the said brand of syrups have not been banned by the government so as to indicate that the petitioner had done something which was impermissible. Learned counsel submitted that even under the NDPS Act, certain percentage of Codeine is permissible in combination with other substances for being used for various medicinal purposes and in the seizure list itself, it is written that the quantity/percentage of Codeine was not known and that is why



it was being sent for examination. Learned counsel submitted that with regard to the medicines having already passed the expiry date, it was submitted that it was due to oversight and inadvertence as, normally, such medicines are kept separately for being returned to the Pharmaceutical Company for replacement with fresh product. However, at this juncture, learned counsel submitted that he is taking a categorical stand before the Court that, in future, he shall be extra cautious and shall not deal with any articles which may contain any impermissible ingredients and further, even with regard to the date of expiry, he shall ensure that no medicine is present in his shop after the expiry date. It was also submitted that he would adhere to all the requirements of law while dealing in medicines in terms of the license issued to him and undertakes not to commit any transgression in future. It was submitted that petitioner having no criminal antecedent and being 72 years of age is in custody since 16.08.2020.

6. Learned APP submitted that there has been seizure of expired medicines and medicines containing restricted ingredients in terms of NDPS Act.

7. Considering the facts and circumstances of the case and submissions of learned counsel for the parties, let the



petitioner be released on bail upon furnishing bail bonds of Rs.25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the Sessions Judge/Special Judge, East Champaran, Motihari, in NDPS Case No.29 of 2020 arising out of Raxaul PS Case No.305 of 2020, subject to the conditions (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the case with the Court and prosecution/police. Failure to cooperate shall also lead to cancellation of his bail bonds.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

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