

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 27097 of 2021

Arising Out of PS. Case No.-36 Year-2021 Thana- MADHEPURA District- Madhepura

Vinit Sarraf, aged about 30 years, Male Son of Lalit Kumar Sarraf @ Lalit Sarraf, Resident of Village- Madhepura, Ward No 18 PS- Madhepura and District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Madan Mohan, Advocate
For the State	:	Mr. Ataur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 04-10-2021

Heard Mr. Madan Mohan, learned counsel for the petitioner and Mr. Ataur Rahman, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

2. The petitioner apprehends arrest in connection with Madhepura PS Case No. 36 of 2021 dated 12.01.2021, instituted under Sections 8(C), 21(C), 22(C), 23, 24, 27(A) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and 30 (a) of the Bihar Prohibition and Excise Act, 2016.

3. The allegation against the petitioner and others is that huge quantity of codeine syrup was recovered in front of his shop while being unloaded in cartons from a tempo.



4. Learned counsel for the petitioner submitted that he is the proprietor of Shweta Medical Agency and has no connection with the said recovered codeine as it was not from inside the shop. It was submitted that from the tempo outside, cartons were being unloaded and cartons inside the tempo were also found and seized by the police. It was submitted that the other cartons with regard to other medicines were meant for the shop of the petitioner for which there is a valid receipt also and the petitioner has licence to deal in such medicines. Learned counsel submitted that the petitioner besides having no criminal antecedent cannot be held liable for recovery made in front of his shop merely on suspicion. Further, learned counsel submitted that the alleged *kaccha* bill as has been stated in the FIR has not been recovered showing the name of Shweta Medical Agency. Learned counsel submitted that Deepak Kumar @ Deepak Kumar Sharma, who was the owner of the tempo, has been granted anticipatory bail by a co-ordinate Bench by order dated 13.07.2021 passed in Cr. Misc. No. 27164 of 2021.

5. Learned APP submitted that the recovery was from outside the shop of the petitioner and the driver, who was caught as also the owner of the transport company, have admitted that the entire consignment was meant for the shop of the petitioner.



Further, he submitted that from the documents recovered at the transport office and from the house of the owner and co-accused Kumar Abhishek, it is clear that *kaccha* bill for codeine syrup were in the name of the petitioner's shop and with regard to other medicines, a full-fledged bill was issued. Learned APP submitted that codeine contains psychotropic substance which is banned in the State of Bihar and further that 5000 bottles of such syrup cannot be justified for being kept by the petitioner in his shop, that too, in a town like Madhepura. It was submitted that the transport owner and driver have admitted that in the past also, there was delivery of such medicine to the shop of the petitioner.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of there being direct indication of the consignment being meant for the shop of the petitioner and materials recovered, especially the bills which also show that the consignment was brought to be delivered to the shop of the petitioner and with regard to the codeine, bills in the name of the shop of the petitioner were *kaacha*, and the amount of codeine bottles being 5000 as also the driver and owner of the transport company and their record showing such delivery in past also to the shop of the petitioner, the Court is not inclined to grant pre-arrest bail to him.



7. As far as co-accused Deepak Kumar @ Deepak Kumar Sharma, having been granted anticipatory bail, from the order it transpires that the petitioner being only owner of the tempo and the said tempo being run as a public carrier and he having no knowledge with regard to the nature of the goods booked by the transporter, the said grounds are not available to the present petitioner.

8. Accordingly, the petition stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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