

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No. 27054 of 2021**

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

Lalit Sarraf @ Lalit Kumar Sarraf, aged about 62 years, Male Son of Late Puranmal 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. Nitya Nand Tiwary, APP |

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date : 04-10-2021**

Heard Mr. Madan Mohan, learned counsel for the petitioner and Mr. Nitya Nand Tiwary, 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 offloaded 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 syrup as it was not from inside his



shop. It was submitted that from the tempo outside, cartons were being offloaded and cartons inside the tempo were also found and seized by the police. It was submitted that the other cartons containing other medicines were meant for the shop of the petitioner for which there are valid receipts 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 from the front of his shop only on mere suspicion. It was submitted that the petitioner is also a cancer patient. Further, learned counsel submitted that the alleged *kachcha* 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 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 *kachcha* bill for codeine syrup were in the name of the petitioner's shop and with regard to other medicines, a regular 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 place like Madhepura. It was submitted that the transport owner and the driver have admitted that in the past also, there was delivery of such medicine to the shop of the petitioner. It was submitted that with regard to the ailment of the petitioner, from the order dated 25.02.2021 of the learned Sessions Judge, Madhepura in ABP No. 151 of 2021, by which prayer for bail of the petitioner was rejected, it is clear that the stand taken before the Court below was that the petitioner was suffering from several old age deceases and was under the treatment at AIIMS Hospital, New Delhi whereas in the present petition, which has been affirmed on 08.03.2021, i.e., within two weeks of the order of rejection, a completely new and different stand has been taken with regard to the ailment from which the petitioner is suffering, which is said to be cancer.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of



there being strong indication of the consignment being meant for the shop of the petitioner and materials recovered especially the bills which show that the consignment was from the shop of the petitioner being brought on the tempo to be delivered to the shop of the petitioner and with regard to the codeine, the bills being in the name of the shop of the petitioner but *kachcha* and the amount of codeine bottles being 5000 and also the driver and the owner of the transport company and their records 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 he was only the owner of the tempo and the said tempo was being run as a public carrier and had no knowledge with regard to the nature of the goods booked by the transporter, would not be of any help to the present petitioner.

8. Accordingly, the petition stands dismissed.

**(Ahsanuddin Amanullah, J.)**

P. Kumar

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