

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26929 of 2020

Arising Out of PS. Case No.-4 Year-2020 Thana- MANSAHI District- Katihar

MD. SALIM S/o Md. Usman Resident of Village-Mansahi, P.S.-Mansahi,
District-Katihar.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Raghvendra Kumar Singh, Advocate
For the Opposite Party/s : Mr.Yogendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 26-02-2021 Heard learned counsel for the petitioner and learned APP
for the State.

The petitioner, in the present case, is seeking pre-arrest bail in connection with Mansahi P.S. Case No. 4/2020 registered for the offences punishable under Sections 419 and 440 of the Indian Penal Code and 103/104 of Indian Trade Mark Act, 1999 and 63/64/65 of the Copy Right Act, 1957.

Learned counsel for the petitioner submits that as per the prosecution story on a secret information that the petitioner is selling duplicate fake Gulab Jal of Dabour Company. A raid was conducted in the market place but it is alleged that the petitioner fled away. On search of his house in presence of the witnesses 885 pieces of fake/duplicate bottles of 50 ml of Dabour India Limited, 156 pieces of fake empty bottles of Dabour India Limited were seized together with 9000 pieces fake rappers Gulab Jal of Dabour Company.

Learned counsel for the petitioner submits that the



petitioner is innocent and has falsely been implicated in this case. It is submitted that the petitioner is a labourer, illiterate person and he works for payment and in that course the employees of the Dabour Company had asked him to paste rapers on small bottles. It is submitted that the seizure list witnesses are not independent witnesses and they have not supported the prosecution case.

Learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioner. A counter affidavit has been filed and in the counter affidavit, Annexure 'A' is an analysis report of the Dabour Company. It is submitted that the said Dabour Company has reported that the sample product is spurious and do not comply with the specification of the standard.

Learned counsel for the petitioner has at this stage submitted that on perusal of Annexure 'A' it would appear that the report is not from an independent government laboratory. It is the informant Company who has given this report and perusal of it would show that the one sample of Dabur Gulabari Premium Rose was submitted to the Company by Ms. Usha Khurana (Legal) on 18.12.2020 pursuant to the F.I.R. No. 04/2020 dated 11.01.2020. It is thus submitted that 11 months after the lodging of the F.I.R. the Company who is in fact the prosecutor is submitting the report. It is not known that which exhibit was sent to the Company and why it was not tested in the Forensic Science Laboratory, Government of Bihar. Learned counsel further submits that pursuant to the direction



of this Court the petitioner has always cooperated by presenting himself before the Investigating Officer.

In paragraph '3' of the supplementary affidavit filed today, it is stated that the Hut from which the recovery has been made does not belong to the petitioner. It is also stated that the petitioner is a simple labourer and he resides with his family in a small hut and has no other premises.

Having regards to the facts and circumstances of the case wherein it is apparent that the seized Gulab Jal were not sent to FSL of the Government and the prosecution is trying to depend upon a report submitted twelve months after lodging of the F.I.R. by the Dabour Company who is the informant of this court, this Court is inclined to grant privilege of anticipatory bail to the petitioner, let the petitioner above-named in the event of his arrest or surrender within a period of four weeks from today in connection with Mansahi P.S. Case No. 04 of 2020 be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Katihar, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person



acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

Rajeev/-

U		T	
---	--	---	--

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

