

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24220 of 2020

Arising Out of PS. Case No.-182 Year-2019 Thana- ANDHRAMATH District- Madhubani

1. Mayank Tulsian, aged about 32 years, Male, S/o Sajjan Kumar Tulsian @ Sajjan Kumar Tulsian, Resident of Mohalla- Mirzapur Chowk, Station Road Darbhanga, P.S. and District- Darbhanga.
2. Rahul Jhunjhunwala, aged about 34 years, Male, S/o Sushil Jhunjhunwala, Resident of Mohalla- Deep Apartment, Block- C, Qtr. No.- A Nichu Kumarpur Asansol, P.S. and District- West Burdwan (West Bengal) (In capacity of Partnership Firm) M/S Maa Narayani Industries, H. No.-45/4N, NH- 2 By Pass Road Dighari Near Old Kalyaneswari Mandir Salanpur West Bengal- 713368

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Pawan Kumar Singh, Advocate
For the State	:	Mr.Humayour Ahmad Khan, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 11-01-2021 Heard Mr. N.K. Agrawal, learned senior advocate assisted by Mr. Pawan Kumar Singh, learned counsel for the petitioners and learned A.P.P. for the State.

The petitioners apprehend their arrest in connection with Andhra Math P.S. Case No. 182 of 2019 registered for the offence punishable under Section 420 of the Indian Penal Code as well as Sections 103/104 of the Trade Mark Act-1999 and Sections 63/64/65 of Copy Right Act, 1957.

So far prosecution case is concerned, it is in brief is that one Hemant Singh, son of Sri Naresh Singh, resident of



petitioners village Gayatri Gar, P.S. - Raja Devi, District Kanpur (U.P.) submitted written report before O/C-Cum-S.H.O. of Andharamath P.S. on 04.12.2019 whereby and where under he alleged that he (informant) claimed to be the Manager of M/S Kanha Detergent (Pvt.) Limited manufacturing PUSHPA SOAP BRAND, which is being sold through the Dealer in Bihar. It is further alleged that the informant received secret information that M/S MAA NARAYANI INDUSTRIES, ASANSOL (West Bengal) is selling PUSHPA SOAP duplicating the Branch of the informant's products in the market and upon enquiry, the market and upon enquiry the informant learnt on 04.12.2019 that a loaded truck bearing Registration No.WB37C/9817 is standing at Mahadev Math Chowk. It has been further stated that a sales man was deputed for the Vigilance of the alleged truck and upon information to the police, the alleged truck was brought to the police station. Thereafter, the informant further stated that it has come to light that alleged Soaps were dispatched in the name of M/S KUSHWAHA TRADERS, MACHH PAKAUNI BELA PARIHAR, Sitamahi (Bihar) which was make duplicate of the PUSHPA SOAP owned by the informant products. It is lastly alleged that the Andhra Math P.S. seized the alleged truck bearing Registration No.WB37C/9817 along with one thousand



cartoons each containing 40 pieces of orange colour all purpose fragrant soap and seizure list was prepared on 04.12.2019 at 18:20 O' Clock in connection with Amdhara Math P.S. Case No.182 of 2019.

Learned counsel for the petitioners submits that the petitioners have falsely been implicated in the present case. He further submits that from bare perusal of the seizure list, it is evident that seizure list has not prepared in presence of independent witness rather the informant and his staff made signature up the said seizure who is interested witness. As such seizure list has not prepared in accordance with law under Section 100 of the Code of Criminal Procedure. Learned counsel for the petitioners further submits that the written report of the informant appears to be wholly absurd as the claim products of the provisions under Trade Mark Act and under Copy Right Act none of the provisions of the said act have been violated in the production of the alleged seized soap under the brand of Pushpa Soap.

Learned counsel for the petitioners files supplementary affidavit and registration form, which are enclosed as Annexure-3A. It is mentioned that the PUSHPA TRADE MARK has been opposed and opposition notice was



issued as up-loaded on the website on 28.10.2020. It is clear that the Trade Mark is not registered against the informant.

Learned A.P.P. for the State has opposed the prayer for bail.

In the facts and circumstances of the case, let the above named petitioners be released on bail, in the event of arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned Sri S. Kumar, Judicial Magistrate 1st Class, Jhanjharpur at Madhubani in connection with Andhra Math P.S. Case No. 182 of 2019, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Anjani Kumar Sharan, J)

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