

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 41027 of 2021

Arising Out of PS. Case No.-8 Year-2021 Thana- DHOLBAJJA District- Bhagalpur

1. Shabana Perween, Female, aged about 41 years, Wife of Md. Imtiyaz Alam.
2. Md. Imtiyaz Alam @ Imteyaz Alam, Male, aged about 48 years, Son of Md. Jabbar Hussain.
Both residents of village- Ujani, PS- Naugachia, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P K Shahi, Senior Advocate with Mr. Md. Najmul Hodda, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 16-08-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioners on 03.08.2021, which was allowed.

3. Heard Mr. P K Shahi, learned senior counsel along with Mr. Md. Najmul Hodda, learned counsel for the petitioners and Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioners, who are wife and husband, apprehend arrest in connection with Dholbajja (Kadwa) PS Case No. 08 of



2021 dated 24.01.2021, instituted under Sections 8(c), 22(b) of The Narcotic Drugs and Psychotropic Substances Act, 1985.

5. The allegation against the petitioners, who are wife and husband is that the 16 cartons containing bottles of Wiscof syrup, each of 100 ml., which was seized from the possession of arrested co-accused Abhiram Kumar had been bought from the shop of which petitioner no. 1, who is the licensee and petitioner no. 2 who is the authorized agent of petitioner no. 1, both were present in the shop when such purchase was made.

6. Learned counsel for the petitioners submitted that no allegation is made out from the entire reading of the FIR, as even if it is accepted that the medicines which were seized by the police had been sold by the petitioners, they being the legal distributors, both wholesale and retail, had committed no offence by selling it to any person. It was submitted that the agency of the petitioners has a licence to deal in such drugs and further that the amount which has been seized had been purchased by them from a wholesaler of the said drugs prior to the date on which the medicines were seized. Learned counsel submitted that the petitioners cannot be held responsible for any misuse by any person who had bought the medicines. Further, it was submitted that the two licences of the petitioners' agency, one related to the



godown and the other to the shop, is valid till 2023 and 2025. It was submitted that the petitioners have an unblemished record having no other criminal antecedence. Moreover, from an academic point of view, learned senior counsel submitted that such statement by the arrested co-accused before the police has no value in the eyes of law.

7. Learned APP submitted that the person who has been caught with the drugs has stated he had bought the same from the shop of the petitioners.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the petitioners having licence to deal in drugs, both as wholesalers and as retailers and having purchased the syrups in question from the authorised agency as also having no criminal antecedent, the Court is inclined to allow their prayer for pre-arrest bail.

9. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners 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 learned Sessions Judge, Bhagalpur in Dholbajja (Kadwa) PS Case No. 08 of 2021, subject to the conditions laid down in Section 438(2) of the Code of Criminal



Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioners and (ii) that the petitioners shall co-operate with the Court and police/prosecution. Failure to co-operate shall lead to cancellation of their bail bonds.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners.

11. The petition stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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