

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11397 of 2022

Arising Out of PS. Case No.-194 Year-2021 Thana- ISHAKCHAK District- Bhagalpur

Kanhaiya Thakur @KANHAIYA Kumar Thakur Son of Janardhan Thakur @
Jaldhar Thakur @ Jalo Thakur Resident of Bhikhanpur, Gumti No. 2, P.S.
Ishakchak, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha, Adv.

For the Opposite Party/s : Mr. Jagdhar Prasad, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 23-06-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with N.D.P.S.
Case No. 85/2021 arising out of Ishakchak P.S. Case No.
194/2021 lodged under Sections 18 (c), 27 of Drugs and
Cosmetics Act, read with Sections 18 (c), 21, 22 of the N.D.P.S.
Act 1925 and Drugs and Cosmetics Act, 1940 with latest
amendment.

Learned counsel for the petitioner submits that the
alleged FIR is non-jurisdictional due to the reason that filed in
gross violation of Section 50 of the N.D.P.S. Act. He further
submits that the petitioner is neither manufacturer nor seller of
the alleged drugs therefore, Section 27 is not applicable in the
present case at all. He further submits that Section 18 (c) of the



Drugs Act that there is no such Section 18 (c) in the Drugs Act. He further submits that under Section 32 of the Drugs and Cosmetics Act, the competent person who can launch the prosecution is only Inspector, aggrieved person and recognized consumer association or any Gazetted Officer therefore, the offence under Section Drugs Act is not applicable at all.

Learned counsel for the petitioner further submits that in total 40 bottles cough syrup containing 100 ml. each were recovered, but it is no where mentioned that what quantity of codeine is present in 40 ml. He further submits that one bottle of 100 ml. contains only 0.1 ml. of codeine molecule, since there are 4000 ml. were recovered meaning thereby the total recovery of N.D.P.S. when the material is less than 10 gm. which is a quantity much small than the big quantity as per chart of N.D.P.S.

The learned A.P.P. for the State opposes the prayer for bail.

In the facts and circumstances of the case that charge sheet has already been submitted, petitioner is in judicial custody since 12.12.2021 as well as upon considering the legal question i.e. present in Section 32 of the Drugs and Cosmetic Act as well as Section 50 of the N.D.P.S. Act has grossly



neglected by the prosecution, let the petitioner above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-I, Bhagalpur, in connection with Ishakchak P.S. Case No. 194/2021.

(Dr. Anshuman, J)

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