

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13547 of 2022

Arising Out of PS. Case No.-344 Year-2021 Thana- UDAKISHUNGANJ District-
Madhepura

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Somnath Paddar @ Bittu Poddar S/o- Kamleshwari Poddar R/o Village -
Udakishunganj, P.S. - Udakishunganj, District - Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate
For the Opposite Party/s : Mr. Md. Mushtaque Alam

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 17-08-2022 Heard learned senior counsel appearing on behalf of
the petitioner and learned APP appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with
Udakishunganj P.S. Case No. 344 of 2021 registered for the
offence under Section 21(C) of the N.D.P.S. Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 24.11.2021.

The allegation against the petitioner is to have in
possession of 200 liters of 'Wiscof Syrup', where one of the
constituent is a contraband i.e., 'Codeine'.

Learned senior counsel appearing on behalf of the



petitioner submitted that alleged recovery of cough syrup was made from the back of the house of the petitioner, which is an open place and accessible by general public, as such, it cannot be said that recovery was made from the conscious physical possession of the petitioner. It is also submitted that if the composition of cough syrup is taken into consideration, i.e., 2 gm 'Codeine' per liter of the cough syrup, it is much less than commercial quantity, as mentioned in the schedule of the N.D.P.S. Act. It is submitted that as the quantity of codeine is less than commercial quantity, therefore, provision of Section 37 of the N.D.P.S. Act is not applicable in the present case. It is further submitted that cough syrup is manufactured by a reputed pharmaceutical company, where no role of the petitioner is attributed. While concluding the argument, it is submitted that investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, while opposing the prayer of bail, fairly conceded that the recovery of cough syrup was made from the back of the house of the petitioner, as per seizure list.

Considering the facts and circumstances as mentioned



above, as recovery cannot be said to be made from the conscious physical possession of the petitioner, as per seizure list, where alleged contraband i.e., 'Codeine', which is one of the constituent of the cough syrup, appears to be less than commercial quantity coupled with the fact that chargesheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Udakishunganj P.S. Case No. 344 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II-cum-Special Judge, Madhepura/concerned Court, subject to the following conditions:

“(i) That accused/petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and



exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner, duly supported by the documents.

(iii) That one of the bailors shall be Kamleshwari Poddar, who is the father of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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