

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22566 of 2021

Arising Out of PS. Case No.-342 Year-2020 Thana- RAXAUL District- East Champaran

Rakesh Mahto Son Of Chhotu Mahto Resident Of Village - Kaurihar Chauk
Chhota Pareuwa Raxaul, P.S.- Raxaul, Distt. East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate

For the Opposite Party/s : Mr. Nitya Nand Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

9 28-01-2022 The applicant/accused in Crime No.342 of 2020 registered with Raxaul (O.P. Haraiya) Police Station, giving rise to N.D.P.S. Case No.38 of 2020, for the offences punishable under Sections 27/27(a)/27(b)(ii) of the Drugs and Cosmetics Act as well as Section 22(b) of the N.D.P.S. Act, by this application is seeking his release on bail after filing of the charge sheet and during pendency of the trial.

Heard the learned counsel appearing for the applicant/accused. He argued that even if the prosecution case is accepted as it is then also at the most it can be said that the applicant was found in possession of drugs without license which is punishable for a term of one year to three years as per Section 27(b)(ii) of the Drugs and Cosmetics Act. He further argued that even in the FSL report; it is not mentioned that the



drugs which is cough syrup was containing narcotic substance in commercial quantity.

The learned Additional Public Prosecutor opposed the application by contending that the offence is serious.

I have considered the submissions so advanced and also perused the materials placed before me including the case-diary.

The FIR came to be lodged by the police officer alleging that he intercepted an electric rickshaw in which three persons were found transporting 470 bottles of Wincirex syrup and 520 leafs of Nitravet syrup, each containing ten tablets. The applicant is one of the passengers of that electric rickshaw.

During the course of investigation, the seized substance was sent for chemical analysis. It is found to be containing Codiene along with Chlorpheniramine which is stated to be toxicating and narcotic substances so also antihistamine. The seized substance was also found to be containing a Benzodizepine and Nitrauet, which is a sedative and psychotropic drug and induces sleep. It is not a case of the prosecution that the seized drugs were manufactured without licence. The applicant was found to be transporting the drugs in the form of sleeping tablets and cough syrup. Investigation



of the crime in question is over. The applicant is behind the bar from 11.09.2020.

It is not a case of the prosecution that the narcotic substance in commercial quantity came to be seized from the applicant. Hence, I see no reason to refuse bail to the applicant and, therefore, the order :-

i. The application is allowed.

ii. The applicant/accused in Crime No.342 of 2020 registered with Raxaul (O.P. Haraiya) Police Station, giving rise to N.D.P.S. Case No.38 of 2020, be released on bail on executing P.R. bond of Rs.15,000/- (Rupees Fifteen Thousand) on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicant/accused should cooperate the trial court in expeditious disposal of the trial against him.

(III) The applicant/accused should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.



(IV) The applicant should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the applicant/accused.

(A. M. Badar, J)

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