

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14728 of 2022

Arising Out of PS. Case No.-247 Year-2021 Thana- BAISI District- Purnia

1. Sonu Kumar Son Of Arun Mandal, R/O Village- Ward No.-05, Motibag Karbala, Loharpatti Kishanganj, P.S.- Kishanganj, District- Kishanganj
2. Saheb Alam @ Sahid @ Md. Sahid, Son Of Jamil Ahmad R/O Village- Loharpatti Road, Ward No.-05 Nawabganj, Kishanganj, P.S.- Kishanganj, District- Kishanganj

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Rajeev Ranjan, Advocate
For the Opposite Party/s	:	Mr. Surendra Prasad Singh, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 05-07-2022 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners seek regular bail in connection with Baisi P.S. Case No. 247 of 2021, giving rise to Special Case No.67 of 2021 lodged under Sections 272, 273, 274, 275, 276 of the Indian Penal Code and 21(b) of the Narcotic Drugs and Psychotropic Substance Act.

The allegation against these petitioners is that they were sitting in pick-up container along with one Sanjay Modak, co-accused. Petitioners are alleged to be the staff, who were sitting on the pick-up when the said Cough Syrup was going from Kishanganj to Gulab Bag Purnea. They were caught red-

handed at police chowki Purnea, Dalkola and from their possession total 140 piece of Codeine syrup were alleged to be recovered.

Learned counsel for the petitioners submits that they are innocent and have committed no offence. He further submits that petitioners are in custody since 30.08.2021 and charge sheet has already been filed in this case. Learned counsel for the petitioners also submits that the recovered material is Codeine Phosphate whereas in the NDPS Codeine was alleged to be the NDPS material. Learned counsel for the petitioners also submits that for the NDPS cases there is compliance of Section 50 of NDPS is necessary which is lacking in the present case. He further submits that petitioner has got no criminal antecedent.

Learned counsel for the State opposes the prayer for bail and submits that codeine and phosphate are two different molecules. The commercial quantity for the Codeine is one kg whereas the small quantity is 10g.

In the present facts and circumstances that compliance of Section 50 of NDPS is not figuring in record of the case, petitioner is in custody since 30.08.2021 having no criminal antecedent and under a peculiar situation when the prosecution has not indicated in the FIR that how much NDPS were

containing in the Cough Syrup, let the petitioners above named, be granted bail on furnishing bail bonds of Rs.50,000/- (Fifty Thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, N.D.P.S. Act, Purnea in connection with Baisi P.S. Case No. 247 of 2021, subject to the following conditions:-

(i) The petitioner shall cooperate in the disposal of trial and make himself available as and when required by the court.

(ii) At the time of furnishing bail bond, the petitioner shall file an affidavit to the effect that he shall not indulge himself in future in the similar type of offence. If it is found so, the prosecution will have liberty to file an application before the court below for cancellation of the bail of the petitioner and the learned court below will take decision in accordance with law.

Accordingly, the bail application stands disposed of.

(Dr. Anshuman, J.)

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