

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20130 of 2022

Arising Out of PS. Case No.-4 Year-2022 Thana- JALALGARH District- Purnia

MD. NIHAL ALAM @ MD. NIHAL S/o Late Master Yunus R/o village-
Kumarhwa, P.O.- Jhawwari, P.S.- Jalalgarh, District- Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nadimul Hasan, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 27-06-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 272 and 273 of the Indian Penal Code read with Sections 20(a) and 22(b) of the N.D.P.S. Act and Section 27(b) of the Drugs and Cosmetics Act.

Learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and the informant alleges that during the course of evening patrolling, he received information that in a medical shop at village Jhawwari Hat, intoxicated medicine Codeine syrup is being sold illegally, accordingly the informant reached the place of occurrence at 8:10 pm and on seeing the police, the shopkeeper of the medical



shop fled away, it is next alleged that in presence of two independent witnesses, the shop was searched and 21 bottles of cough syrup of 100 ml containing banned Codeine phosphate syrup was seized.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, he was not apprehended from the spot as such nothing was recovered from his conscious possession nor any drug was recovered from his shop as is being alleged in the F.I.R. It is next submitted that no offence under the N.D.P.S. Act is made out as allegation is of recovery of 21 bottles of codeine syrup containing Codeine. Learned counsel for the petitioner relies on an order passed by the Hon'ble Allahabad High Court dated 25.11.2021 in Bail No.13555 of 2021 (Ajay Bajpai vs. The State of U.P.) to submit that cough syrup containing Codeine is not a narcotic as such does not come within the purview of N.D.P.S. Act. Learned counsel also relies on an order dated 05.01.2022 in Cr. Misc. No. 45366 of 2021 (Santosh Kumar Vs. the Union of India)

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

Considering the submissions made by the learned counsel for the petitioner and the fact that the petitioner is a



person with clean antecedent, the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Jalalgarh P.S. Case No. 04 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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