

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20396 of 2022

Arising Out of PS. Case No.-16 Year-2022 Thana- SINGHESHWAR District- Madhepura

Rikesh Kumar Son Of Birendra Yadav R/O- Village- Jahat Sabaila, P.S.-
Singheswar, Dist.- Madhepura

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar, Advocate.

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

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 28-09-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

Mr. Ashok Kumar, learned counsel for the petitioner
and Mr. Rajesh Kumar, learned APP for the State are present.

Petitioner seeks regular bail in connection with

Singheshwar P.S. case no. 16 of 2022 registered for the offences

punishable under Sections 8(c), 21(c), 22(c), 23, 24, 25, 27(a),

29 of NDPS Act and Section 30(a) of Bihar Prohibition and

Excise (Amendment) Act.

Allegedly, altogether 50 cartons having more than five

thousand bottles containing codeine mixed cough syrup were

recovered from a bus and a magic vehicle when the said cartons

were being shifted from bus to magic vehicle and the petitioner



is alleged to be the driver of the said bus.

The main submissions advanced by Mr. Ashok Kumar, learned counsel for the petitioner are that the alleged recovery of the contrabands was not made from the conscious possession of the petitioner, in actual the petitioner was performing his duty as a driver of the alleged bus at the time of alleged recovery and he had no knowledge of the alleged seized materials and as per the FIR the alleged contraband was being carried by co-accused persons namely Tarun Singh and Bambam Bhagat who managed to escape after seeing the police party. Further submission is that the petitioner has been languishing in jail since 14.02.2022 and against him there is no material as well as legal evidence to show that he had knowledge of the alleged contraband at the time of recovery of the same.

Mr. Rajesh Kumar, learned APP has opposed the prayer for bail.

Heard both the sides and perused the FIR and case diary of this case. The present case relates to the recovery of more than five thousand bottles each of them contained 100 ml cough syrup of particular company and as per prosecution the liquid material filled in the bottles contained narcotic drug codeine phosphate and the same were smuggled by the accused



persons with an intention to use them for illegal purpose of using the same for intoxicating. The petitioner is stated to be a driver of the alleged bus and the prosecution has not produced any cogent material and evidence to show that the petitioner had knowledge of the codeine phosphate mixed cough syrup kept in several bottles which were being carried in the alleged bus of which he was a driver and the petitioner has got clean antecedent. Considering the above facts and the reports of the drug inspector according to which the alleged recovered contrabands belong to a registered and licensed drug company, in the opinion of this Court, a lenient approach can be taken in respect of petitioner's prayer, let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of concerned Court in connection with Singheshwar P.S. case No. 16 of 2022 on the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.



(2) If the petitioner tampers with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of bail.

(3) One of the bailers shall be a close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

(4) The Court below will verify the criminal antecedent of the petitioner but acceptance of bail bond will not be delayed on account of process of verification of the said criminal antecedent. If any criminal antecedent of the petitioner is found then the Court below shall take serious action against him for cancellation of his bail bond.

(Shailendra Singh, J)

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