

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.24425 of 2022**

Arising Out of PS. Case No.-226 Year-2022 Thana- MADHEPURA District- Madhepura

TUSHAR KUMAR Son of Ramchandra Yadav Resident of Village - Itahari,  
Ward no.2, P.s.- Sngheshwar , Distt.- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Shailendra Kumar Singh, Advocate  
For the Opposite Party/s : Mr.Lakshmi Kant Sharma, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA**  
**ORAL ORDER**

2      22-07-2022                      Heard learned counsel appearing on behalf of the  
  
petitioner and learned counsel appearing on behalf of the State  
  
through virtual Court proceedings.

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

The petitioner seeks bail in connection with  
Mahdepura P.S. Case No. 226 of 2022 registered for the offence  
under Section 21(a) of N.D.P.S. Act and Section 30(a) of the  
Bihar Prohibition and Excise Act, 2018.

The accused/petitioner is named in the F.I.R. and is in  
custody since 09.03.2022.

The allegation against the petitioner is to be engaged  
in illegal trade of illicit liquor, where, there is recovery of 9.800  
litres of cough syrup from the bag kept on motorcycle bearing



registration no. BR-43M-6025.

Learned counsel appearing on behalf of the petitioner submitted that alleged recovery was made from the motorcycle which was jointly occupied by other co-accused persons, and such it cannot be said to be recovered from conscious physical possession of the petitioner. It is further submitted that total recovery of 9.8 litres of cough syrup, where one of the substance is “Codeine”, is a prepared medicines by the pharmaceuticals company, where petitioner apparently have no participation. It is also submitted that petitioner is a man of clean antecedent. It is further submitted that seizure list is disputed for the reason, as provision of Section 100(4) of Cr.P.C. was not complied with as same was supported by only police personnel. It is further submitted that the composition of “Codeine” which is alleged to be contraband, if taken into consideration per bottle, it would not be more than commercial quantity rather it is appear small quantity for which the punishment is not more than six(6) month. While concluding the argument, it has been submitted that investigation has been completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, fairly



conceded the fact that alleged motorcycle was jointly occupied.

Considering the facts and circumstances as mentioned above, as the alleged recovery of corex syrup where one of the composition is 'Codeine' is not recovered from the conscious physical possession of the petitioner, having disputed seizure list coupled with the fact that charge-sheet has been submitted, let the petitioner, above named, is directed to be released on bail in connection with Mahdepura P.S. Case No. 226 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge, N.D.P.S. Act, Madhepura/concerned court, subject to the following conditions:

*“(i) That 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) 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 Abhimanyu Kumar, who is the full brother of the petitioner and deponent of the present bail petition.”*

**(Chandra Shekhar Jha, J)**

R.S.Sen/-

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