

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26687 of 2022

Arising Out of PS. Case No.-35 Year-2022 Thana- BEGUSARAI TOWN District- Begusarai

Sunny Kumar @ Sanny Kumar, Son of Binod Sah Resident of Village - Bagha Ward No. 25, P.S. - Town (Lohiyanagar O.P.), District - Begusarai, at present, Resident of Village Vishwanath Nagar Begusarai, P.S. Town, District - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Braj Bhushan Poddar, Advocate

For the Opposite Party/s : Mrs.Pronoti Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 27-07-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Begusarai Town P.S. Case No. 35 of 2022 registered for the alleged offences under Section 275 of the Indian Penal Code, Section 30 (a) of Bihar Prohibition of Excise Act and Sections 27 (b) (ii), 27 (d), 28 of the Drugs and Cosmetics Act, 1940.

As per the prosecution case, the police received information about the petitioner illegally selling cough syrup



and the house of the petitioner was raided and 94.800 liters of WisCOF cough syrup was recovered.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The petitioner has nothing to do with the place from where the cough syrup was recovered. The petitioner was tenant in the premises three years ago and the police did not take pains to establish who is the present occupant of that place. The petitioner has filed an application before the learned court below stating this fact to ascertain the present occupant of house from where the recovery has been made. The cough syrup was sent for its chemical examination and the report of Bihar Drugs Control Laboratory is on record which shows that sample of cough syrup is of standard quality, so there would be no application of provisions of Indian Penal Code or Excise Act in this case as the same would be governed only under Drugs and Cosmetics Act. The charge sheet has been submitted in this case and the petitioner is in custody since 19.02.2022.

Learned APP opposes the prayer for bail submitting that large quantity of cough syrup has been recovered from the house of the petitioner, which was stored to be used as intoxicant and the provisions of Excise Act would be applicable



in such cases. The petitioner is having criminal antecedent.

Having regard to the submissions made hereinabove and considering the fact that the place of recovery could not said to be definitely connected to this petitioner and further considering the fact that the charge sheet has been submitted in this case and the petitioner is in custody since 19.02.2022, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Excise Judge-1st, Begusarai in connection with Begusarai Town (Lohiyanagar OP) P.S. Case No.35 of 2022, subject to the following conditions :

- (i) The bail bond of the petitioner will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be a close relative of the petitioner.
- (iii) The petitioner will remain present on each and every date fixed by the court below.
- (iv) The petitioner will not commit similar type of offences in future.
- (v) In case of absence for three consecutive



dates or in violation of the terms of the bail,
the bail bond of the petitioner will be liable to
be cancelled by the court concerned.

(Arun Kumar Jha, J)

V.K.Pandey/-

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