

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29624 of 2022

Arising Out of PS. Case No.-49 Year-2018 Thana- MANJHI District- Saran

SURYA PRAKASH YADAV SON OF DAYA RAM YADAV R/O-VILLAGE-
KHUTAHA P.O.- KAIBIR, P.S.- CHOLAPUR, DIST.- VARANASI (U.P.)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jay Prakash Sharma, Advocate

For the Opposite Party/s : Mr. Ramchandra Sahni, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 18-11-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State through the virtual Court proceedings.

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

The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 379, 420
of the Indian Penal Code, Sections 27(b)(ii) and 28 of the Drug
and Cosmetic Act and Sections 8(c) and 22(c) of the NDPS Act.

Learned counsel for the petitioner submits that
petitioner is a person with clean antecedent.

The informant alleges that a truck was seized by the
police in which 24,400 bottles of Phensedyl New Cough Linctus
were found concealed in consignment of onion and potato.
Further, the driver was unable to produce any document
regarding carriage of the same. It is further alleged that



consignment, as disclosed by the driver, was loaded by Trilokinath and Sons, Gorakhpur and was to be delivered to Mohan Aloo Pyaj Company, West Bengal. Further, the seized cough syrup contained 4.880 Kgs. of codeine which is the commercial quantity under the NDPS Act.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. It is further submitted that petitioner is the owner of the truck. It is next submitted that driver had clearly disclosed that it was Trilokinath and Sons, Gorakhpur where the alleged syrup was loaded for its delivery to Mohan Aloo Pyaj Company, West Bengal. It is thus submitted that petitioner was not at all involved in the transaction rather his vehicle was booked by Trilokinath and Sons for sending the consignment and the petitioner was not aware what was the nature of consignment as potato and onion are to be sent to West Bengal which also gets corroborated from the disclosure statement of the driver. Learned counsel further relies on an order dated 25.11.2021 in Bail No. 13555 of 2021 (Ajay Bajpai Vs. State of U.P.) passed by the Hon'ble Allahabad High Court to submit that codeine does not come within the purview of the NDPS Act.

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, 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.10,000/- (Rupees Ten 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 Chapra Manjhi P.S. Case No. 49 of 2018, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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