

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31370 of 2022

Arising Out of PS. Case No.-181 Year-2022 Thana- NATHNAGAR District- Bhagalpur

SAURAV KUMAR @ SOURAV KUMAR SON OF SATYENDRA KUMAR
MISHRA R/O - BHIKHANPUR, GUMTI NO.-12, P.S.- ISHAKCHAK,
DISTRICT- BHAGALPUR

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Praveen Kumar, Adv.

For the Opposite Party/s : Mr. Narendra Kumar Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 09-11-2022 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

Learned counsel for the petitioner is permitted to
make necessary correction in the bail application during course
of the day.

Learned counsel for the petitioner has filed
supplementary affidavit which is kept below.

Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The petitioner seeks bail in connection with
Nathnagar (Lalmatiya) P.S. Case No. 181 of 2022 registered for
the offences punishable under Sections 276, 34 of the Indian
Penal Code and under Sections 18(A), 18(B), 18(1), 27B(ii),



28A, 36(AC) Drugs and Cosmetics Act, 2008 and under Sections 8, 20, 22 N.D.P.S. Act.

As per prosecution case, there is alleged recovery of 120 bottles of prohibited cough syrup, each containing 100 ml from the car in question. The petitioner is apprehended on spot.

Learned counsel for the petitioner submits that petitioner is in custody since 19.03.2022. Petitioner bears no criminal antecedent. Charge-sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that through supplementary affidavit submits that the amount of Codeine in each bottle recovered is 10 mg, while 120 bottles of codeine amounts to 1200 mg which is 1 gram and 200 mg. While the small quantity of codeine as per schedule of NDPS Act is 10 grams while commercial quantity is 1 kg. Thus, the total amount of codeine is much less than small quantity. Petitioner is neither the owner of the seized car in question nor he has got any connection whatsoever with the seized car in question. Learned counsel further submits that co-accused Abhishek Kashyap has already been granted bail vide Cr. Misc. No. 31941 of 2021 by a co-ordinate bench of this Court and the case of present



petitioner stands more or less on similar footing. Nothing has been recovered from the conscious possession of the petitioner. Learned counsel for the petitioner submits that investigating agency has not complied the provision of Drugs and Cosmetic Act or N.D.P.S. Act nor the seizure is in accordance with law and the same is complete violation of Section 100 Cr.P.C.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case as well as period of custody, charge-sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence, keeping in view clean antecedent of the petitioner, principle of parity as co-accused person has already been granted bail by a co-ordinate bench and also taking into consideration the material available on record, let the petitioner above named be released on bail 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, Bhagalpur in connection with Nathnagar (Lalmatiya) P.S. Case No. 181 of 2022, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn



the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(iv) If the petitioner is found involved in similar nature of offences in future, the learned trial court shall be at liberty to cancel his bail bond.

(Alok Kumar Pandey, J)

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