

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34043 of 2022

Arising Out of PS. Case No.-293 Year-2021 Thana- SINGHESHWAR District- Madhepura

BAMBAM MUKHIYA S/o Jogan Mukhiya @ Yogan Mukhiya Resident of
Village- Gauripur, Godhiyari Ward No.-07, P.S.- Singeshwar, District-
Madhepura.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Singh

For the Opposite Party/s : Mr.Kalyan Shankar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 28-09-2022 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

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

The petitioner seeks bail in connection with
Singeshwar P.S. Case No. 293/2021 arising out of NDPS
Special Case No. 40/2021 registered for the offences punishable
under Section 30(a) of the Bihar Prohibition and Excise Act,
2018 and Sections 8(C)/21(C)/22(C)/23/24/25/27(a) /29 of the
NDPS Act.

As per prosecution case, there is alleged recovery of
total 154 bottles of codeine mixed cough syrup each 100 ml.
concealed inside folder-of-paddy from the door of petitioner.



Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case. The petitioner is languishing in custody since 28.04.2022 and bears no criminal antecedent. The said cough syrup has not been recovered from the conscious possession of the petitioner. Admittedly, the petitioner resides in a joint family and the alleged recovery has been made from the open door in the road side. As per FIR, it appears that other mandatory provision of NDPS Act has also been violated as there is nothing to indicate that sample was taken on the spot, matter was communicated to higher authority. The informant is not competent authority to make search and seizure as mandatory provision of laid down under Sections 42 and 42 of the NDPS Act. He further submits that there is clear cut violation of mandatory provision of Section 100(4) Cr.P.C. He further submits that moreover alleged recovery was 1.54 mg Codeine phosphate whereas 01 kg is commercial quantity prescribed in notification of the NDPS Act and small quantity is less than 10 mg, however, the alleged recovery is much lesser quantity. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

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, period of custody, argument advanced on behalf of both sides, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence and keeping in view clean antecedent of petitioner and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bonds of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Court of Sessions Judge cum Special Judge, NDPS Act, Madhepura in connection with Singeshwar P.S. Case No. 293/2021 arising out of NDPS Special Case No. 40/2021, 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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