

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36848 of 2022

Arising Out of PS. Case No.-442 Year-2022 Thana- MADHEPURA District- Madhepura

BRAJESH KUMAR S/O BINOD RAMANI @ BINOD RAM Resident of
Village- Mallik Tola, Ward No.- 01, Singeshwar, P.S.- Singheshwar, 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.Nand Kishore Prasad

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 13-10-2022 The present matter has been listed under the
heading “To Be Mentioned” on the basis of motion slip
filed on behalf of the petitioner.

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
Madhepura P.S. Case No. 442 of 2022 registered for the
offences punishable under Sections 21 (a) N.D.P.S. Act and
Section 30(a) of the Bihar Prohibition and Excise Act.

As per prosecution case, there is alleged



recovery of 9.5 liters Wiscof Cough Syrup from the motorcycle in question. Petitioner is apprehended on spot.

Learned counsel for the petitioner submits that petitioner is in custody since 14.05.2022. Learned counsel further submits that the petitioner is innocent and has falsely been implicated in the present case. Nothing has been recovered from the conscious possession or personal possession of the petitioner. Learned counsel further submits that a bottle of 100 ml cough syrup contains only 10mg codeine phosphate and police recovered 95 bottled cough syrup and under such circumstances $10\text{mg} \times 95 \text{ bottles} = 950\text{mg} = 0.95 \text{ gm}$ Codeine phosphate has been recovered whereas 1kg is commercial quantity and thus, alleged recovery is less than commercial quantity. Learned counsel further submits that the informant is not competent authority to make search and seizure as mandatory provision laid down under Section 42 and 43 of the NDPS Act. Learned counsel further submits through supplementary affidavit that petitioner bears one criminal antecedent and in the same the police submitted final report against the petitioner and final form has been submitted on



31.07.2021.

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, argument advanced on behalf of the parties 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. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge NDPS Act, Madhepura in connection with Madhepura P.S. Case No. 442 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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