

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47653 of 2021

Arising Out of PS. Case No.-152 Year-2021 Thana- FORBESGANJ District- Araria

Chandeshwar Mandal, Son of Late Lalchand Mandal, Resident of Village-
Sangram Tola, Ward No. 9, P.S.- Forbesganj, District - Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Advocate Mr. Raju Kumar, Advocate Mrs. Preety Kunwar, Advocate
For the Opposite Party/s	:	Mr. Bharat Bhushan, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 16-06-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. N. K. Agrawal, learned senior counsel appearing on behalf of the petitioner and the learned APP for the State.

The petitioner is apprehending his arrest in connection with Forbesganj P.S. Case No. 152 of 2021 for the offences punishable under Section 420 of the Indian Penal Code, Sections 103/104 of Indian Trade Mark Act, 1999 read with Sections 63, 65 of the Copy Right Act.

As per prosecution case, it is alleged that the informant, being Investigator of Wire Corp Science Ltd., got an information that some persons are indulged in producing



duplicate NATIVO products in contravention of Copy Right Act and Trade Mark Act. On the help of police personnel, a raid was conducted and 613 packets of 100gms of NATIVO Vyor Co. and other materials including the chemical powders were said to have been recovered.

At the outset, learned senior counsel for the petitioner submits at the bar, on instruction of his client, that as per his information till date the process under Sections 82/83 of the Cr.P.C. have not been issued.

It is submitted by the learned senior counsel appearing on behalf of the petitioner that prima facie from the averments made in the F.I.R. it is evident that hardly it can be a case of infringement of provisions of Copy Right Act and Indian Trade Mark Act, but the police in order to make the offence graver Section 420 of the Indian Penal Code has been added. It is further submitted that the name of the petitioner has been disclosed by co-accused Sanjay Kumar Mandal, who was found present at the place of raid. It is also submitted that though the materials, which are said to be duplicate, have been seized and sent for verification, but till date no verification report has come during the course of investigation. It is also submitted that this petitioner is admittedly a business man and he has already



suffered a lot on account of seizure of his shop for more than one year. It is lastly submitted that he is ready to give undertaking that the petitioner will fully cooperate in the investigation and he will not indulge in tampering with the evidence or intimidating the witnesses.

On the other hand, learned APP for the State opposes the bail application and submits that there is specific allegation against this petitioner that he was found indulged in manufacturing of duplicate items, but he fairly conceded that prima facie only the case under Copy Right Act and Indian Trade Mark Act is made out.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that even if the allegation is taken at their face value, hardly it can be a case under the Copy Right Act and Indian Trade Mark Act and no case under Section 420 of the Indian Penal Code is made out, apart from the fact that no verification report has been brought on record and further the undertaking given by the petitioner, let the petitioner named above, be released on bail, in the event of his arrest or surrender before the court below within eight weeks from today, 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 Chief Judicial Magistrate, Araria in connection with Forbesganj P.S. Case No. 152 of 2021 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure with the following conditions:

(i) One of the bailors shall be the close relatives of the petitioner.

(ii) The petitioner will cooperate in the investigation as well as in conclusion of the trial.

(iii) He will not try to tamper with the evidence or intimidate the witnesses in course of investigation or during the course of trial.

(Harish Kumar, J)

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