

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48163 of 2021

Arising Out of PS. Case No.-225 Year-2020 Thana- JAKKANPUR District- Patna

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Ramesh Kumar Sinha @ Ramesh Kumar S/o Late Suraj Kumar Sinha
Resident of- MIG, Bhoothnath Road, P.S.- Patrkarnagar, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Surya Swetabh, Advocate

For the Opposite Party/s : Mr. Anand Mohan Prasad Mehta APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 16-06-2022 Let the defects, if any, be removed within four weeks
from today.

Heard Mr. Surya Swetabh, learned counsel for the
petitioner as well as Mr. Anand Mohan Prasad Mehta learned
Additional Public Prosecutor for the State.

The petitioner apprehends his arrest in connection
with Jakkanpur P.S.Case No. 225 of 2020 registered for the
offences punishable under Sections 420 of the Indian Penal
Code and section 28/28A and 27 D of the Drugs and Cosmetics
Act.

As per prosecution case, it is alleged that two persons
namely, Santosh Kumar and Sonu Kumar were arrested by the
police along with seized blood bags. It is alleged that blood bags
were seized under Form 16. It is stated that due to small



quantity of blood, the same could not be sent for analysis. It is further alleged that the co-accused, who were arrested by the police also disclosed that the petitioner and one Swaran Kumar are also involved in the illegal trade of sale and purchase of blood.

At the outset, learned counsel for the petitioner submits at the bar 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 counsel for the petitioner that the name of the petitioner has been disclosed by co-accused Santosh Kumar, who was arrested by the police but no incriminating material has been recovered which suggest the complicity of the petitioner in the present crime. It is further submitted that from bare perusal of the FIR, it is evident that still the investigation is required with regard to the complicity of the petitioner. It is next submitted that the Special Bench of the Hon,ble Court in the case of **Bablu vs. State of Bihar (Sp. Bench) 2021 (3) PLJR 220** held that the police has no power to institute and investigate the offences under Chapter-III, Chapter-IV, Chapter-IVA of the Drugs and Cosmetics Act 1940 and as such in view of the aforesaid pronouncement the present FIR is not maintainable. It is next submitted that this petitioner is a



person of clean antecedent and he is working as nursing staff in Rainbow Hospital.

On the other hand, learned APP for the State opposes the bail application of the petitioners and submits that the name of the petitioner has been disclosed by co-accused, which shows the complicity of the petitioner in the present crime.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that proper investigation is still required against the petitioner in as much as there is no other material except the statement of co-accused apart from the Judgment rendered by the Special Bench of this Hon'ble Court, let the petitioner above named, 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. 20,000/- (Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, 1st Patna in connection with Jakkanpur P.S.Case No. 225 of 2020 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 should 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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