

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40044 of 2022

Arising Out of PS. Case No.-163 Year-2022 Thana- NATHNAGAR District- Bhagalpur

MD. FAIYAZ @ MD. FAIYAZ KHAN S/O MD. RAUFF Resident of
Mohalla.- Champanagar Hasnabad, P.S.- Nath Nagar, District- Bhaglapur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Indeshwari Prasad Mandal, Advocate
For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 11-10-2022 Heard learned counsel for the petitioner and learned
counsel for the State.

Let the defect(s), if any, as pointed out by the office
be removed within four weeks.

The petitioner is in judicial custody in connection
with Nathnagar (Madhusudanpur) P.S. Case No. 163 of 2022 for
the offences under Sections 18(C), 27(B)(i)(ii) Drug Cosmetic
Act, 1940 and Sections 8(C) and 22(B) of N.D.P.S. Act.

As per the F.I.R, the E-Rikshaw was intercepted when
those occupying it tried to escape. They were chased but the
police could apprehended only one of them, the petitioner
herein. Upon search of the bag from E-Riksahw, total 540



bottles of Dialex Dry Cough Syrup, each bottle containing 100ml were recovered. As no valid document was produced by the petitioner, seizure list prepared, FIR was lodged and he was taken into custody.

Learned counsel for the petitioner submits that he being a E-Rikshaw driver was carrying the passengers little realizing that he is actually carrying the accused persons with banned drugs. It is his further submission that a person who had booked the E-Rikshaw was following the vehicle but upon looking at the police, he also escaped and ultimately it was him who became scapegoat and is in custody since 10.03.2022 despite the fact that he do not have criminal antecedent. He being the only bread earner of the family, his family members are on the verge of starvation.

Learned APP for the State, on the other hand, opposes the prayer for bail.

Taking into account the fact that the petitioner is an E-Rikshaw driver, has already suffered by being in custody since 10.03.2022, charge sheet stands submitted, he do not have criminal antecedent, this Court is inclined to grant him privilege of bail. If however, it is found that he do have criminal antecedent, the bail order shall become infructuous.



Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of Court of learned Additional Sessions Judge-I-cum-Special Judge (Drugs and Cosmetics Act), Bhagalpur in connection with Nathnagar (Madhusudanpur) P.S. Case No. 163 of 2022, subject to the following conditions.

(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his/her bail bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any



criminal offence again failing which the State shall be at liberty
to take steps for cancellation of the bail bonds.

With the aforesaid observations, the bail application is
allowed.

(Rajiv Roy, J)

Jagdish/Neha/-

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