

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58215 of 2021

Arising Out of PS. Case No.-191 Year-2021 Thana- MURLIGANJ District- Madhepura

Sonu Kumar Singh, S/o Sushil Singh, R/O Village- Dighi, Ward No. 5, P.S.-
Murliganj, District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vikramdeo Singh, Advocate
		Mr. Bijendra Kumar Singh, Advocate
For the Opposite Party/s	:	Mrs. Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-04-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Muraliganj P.S. Case No. 191 of 2021 (N.D.P.S. Case No. 12 of 2021) for the offences punishable under Sections 21(C) of the N.D.P.S. Act and Section 30(a) of the Bihar Prohibition & Excise (Amendment) Act.

As per prosecution case, it is alleged that the police intercepted this petitioner, who was coming on a motorcycle and on search 40 pieces of bottle, each bottle containing 100 Ml. of Codeine Phosphate & Chloropheniramine Maleate Syrup in a plastic bag, was recovered from the said motorcycle. It is further



alleged that on his discloser 90 pieces and 40 pieces of bottles have also been recovered from the backyard of another co-accused.

It is submitted on behalf of learned counsel for the petitioner that there is no substantive F.I.R. under the Drugs and Cosmetics Act. So far case under the N.D.P.S. Act is concerned, even as per the F.I.R. the petitioner was carrying 40 bottles, each bottle containing 100 ML. of Codeine Phosphate & Chloropheniramine Maleate Syrup, which actually comes to only 4 Gm Codeine Phosphate & Chloropheniramine Maleate, and even the total quantity of 40 bottles contains less than commercial quantity and as such the embargo under Section 37 of the NDPS Act is not attracted in the present case. Learned counsel next submitted that the petitioner is the first offender and is in custody since 04.06.2021 having no criminal antecedent. It is further submitted that even as per the discloser of the petitioner, recovery has not been made from his possession, rather the same has been recovered from the house of other co-accused persons.

On the other hand, learned APP appearing on behalf of State submits that the recovery has been from the conscious possession of this petitioner.

Having considered the submissions of the parties and



taking into account the fact that there is no substantive F.I.R. under the Drugs and Cosmetics Act and the alleged recovery of 40 pieces of bottles, each bottle containing 100 ML., contains less than commercial quantity of Codeine Phosphate & Chloropheniramine Maleate and he is the first offender, let the petitioner, named above, 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 Sessions Judge, Madhepura in connection with Murliganj P.S. Case No. 191 of 2021 (N.D.P.S. Case No. 12 of 2021) subject to the condition that one the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial. (ii) He will remain present on each and every date of trial till disposal of the case. (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial. (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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