

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54192 of 2022

Arising Out of PS. Case No.-28 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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Sonu Kumar Barnawal@Deepak Son Of Sri Om Prakash Barnawal Resident
At Mohalla- G-10, Vijay Nagar, P.S. Patrakar Nagar, District- Patna.
Permanent Address- Resident Of Bansi Mill Lane, Beside Railway Hospital
Karbigahiya, P.S. Jakkanpur, District- Patna And Resident Of Village- Cherki
Bazar Beladih, P.S.- Cherki, Bodhgaya, District- Gaya

... .. Petitioner/s

Versus

The Union of India Through Narcotics Control Bureau, Patna Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 49715 of 2022

Arising Out of PS. Case No.-28 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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Chandrakesh Singh Son of Rameshwar Singh Resident of village - Bimoura,
Mahesh Khera, Lalganj, Raebareli, Uttar Pradesh - 229201, Presently resident
at J-12/19, B-2, Jagatganj, Near Gulati Transport, Kamkatora, Varanasi, Uttar
Pradesh

... .. Petitioner/s

Versus

The Union of India through the Intelligence Officer, Narcotics Control
Bureau, Patna, Karpoori Thakur Sadan, CGO Complex, D and G Block
Ashiyana Digha Road, District - Patna, Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 51679 of 2022

Arising Out of PS. Case No.-28 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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Rajesh Kumar Yadav @ Rajesh Kumar S/o Chhliram Yadav R/o village-
Dhamaval, P.S.- Shahpur, District- Bhojpur, Bihar

... .. Petitioner/s

Versus

Union of India through its Investigating Officer Narcotics Control Bureau,
Patna Bihar

... .. Opposite Party/s

with



CRIMINAL MISCELLANEOUS No. 53483 of 2022

Arising Out of PS. Case No.-28 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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Jay Prakash Gupta @ Jay Prakash Kumar Gupta Son of Suresh Prasad R/O
Village- Sampatchak Bairiya, P.S.- Gopalpur, District- Patna. Permanent
Address- Mohana, Daldali Bazar, P.S.- Kotwali, District- Patna

... .. Petitioner/s

Versus

The Union of India Through The Director, Narcotic Control Bureau, Patna
Zonal Unit, Patna Patna, Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 54192 of 2022)

For the Petitioner/s : Mr. N.K. Agarwal, Senior Advocate
Mr. Amresh Kumar Sinha, Advocate
Mr. Kumar Rajdeep, Advocate

For the Opposite Party/s : Mr. Additional Solicitor General

For Union of India : Mr. Manoj Kumar Singh, C.G.C.

(In CRIMINAL MISCELLANEOUS No. 49715 of 2022)

For the Petitioner/s : Mr. Pankaj Kumar Jha
Mr. Abhijeet Gautam, Advocate
Mr. Vijay Kishore Bharti, Advocate

For the Opposite Party/s : Mr. K.N. Singh, (A.S.G)

For the Union of India : Mr. Manoj Kumar Singh, C.G.C.

(In CRIMINAL MISCELLANEOUS No. 51679 of 2022)

For the Petitioner/s : Ms. Nivedita Nirvikar, Senior Advocate
Ms. Richa, Advocate

For the Opposite Party/s : Mr. K.N. Singh, (A.D.S.G)

For the Union of India : Mr. Manoj Kumar Singh, C.G.C.

(In CRIMINAL MISCELLANEOUS No. 53483 of 2022)

For the Petitioner/s : Mr. Manish Kumar No2

For the Opposite Party/s : Mr. Additional Solicitor General

For Union of India : Ms. Poonam Kumari Singh, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 13-12-2022

Cr. Misc. No. 54192 of 2022

Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.



The petitioner seeks bail in connection with NCB/PZU/V/28 of 2021 registered for the offence under Section 8(c) read with Sections 21(c), 25, 29 and 35 of the Narcotics drugs and Psychotropic Substances Act (N.D.P.S. Act).

The accused/petitioner is in custody since 28.05.2022.

The allegation against the petitioner, who is the manager of New Golden Transport Company, is to book a truck loaded with cough syrup, having commercial name “**Dialex-DC**” and “**Eskuf Codeine**” total of 12,297 bottles, where quantity of “**Eskuf**” was 7996 bottles, having one of its constituent as “**Codeine**”, said to be one of the narcotic drugs and also in violation of Bihar Prohibition and Excise Act.

Learned Senior counsel, Mr. N.K. Agarwal appearing on behalf of the petitioner submitted that admittedly, petitioner is the manager of New Golden Transport Company, where the loaded truck was found outside go-down, which was booked by Varanasi office. It is submitted that facts and circumstances loudly speak on its face, that petitioner was not under knowledge, as regard to consignment of alleged cough syrup. It is submitted that both cough syrup manufactured by reputed pharmaceutical company, where petitioner has no role, as per



manufacturing activities is concerned. It is also pointed out that one of the cough syrup, namely, Dialex-DC is without “**Codeine**”. While travelling over the argument, learned senior counsel relied upon report of “**Ajay Bajpai vs. State of Uttar Pradesh**”, where a bail order, as passed in Bail Application No. 13555 of 2021 vide order dated 25.11.2021 by Hon'ble Allahabad High Court held that such case does not falls under N.D.P.S. Act. It is also submitted that the compliance of Section 42 of the N.D.P.S. Act also not appears to be followed in present case. It is also submitted that ceased cough syrup was manufactured under valid license by reputed pharmaceutical company. While concluding the argument, it has been submitted that investigation has been completed and, as such, there is no chance of tampering with the evidence.

Learned APP duly assisted by learned counsel, Mr. Manoj Kumar Singh appearing on behalf of the C.G.C., while opposing the prayer of bail submitted that petitioner failed to submit the relevant documents on demand.

Considering the facts and circumstances as mentioned above, as petitioner is the manager of New Golden Transport Company, where admittedly, the truck containing cough syrup having “**Codeine**” was booked from Varanasi, found standing



outside go-down, let the petitioner, above named, is directed to be released on bail in connection with NCB/PZU/V/28 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, (N.D.P.S. Act), Patna-cum-Additional District and Session Judge-XXVI, Patna/concerned court, subject to the following conditions:

“(i) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(ii) That one of the bailors shall be deponent of the present bail petition.”

Cr. Misc. No. 51679 of 2022

Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with NCB Case No. 28 of 2021 registered for the offence under Section 8(c) read with Sections 21(c), 25 and 29 of the Narcotics drugs



and Psychotropic Substances Act (N.D.P.S. Act).

The accused/petitioner is in custody since 11.01.2022.

The allegation against the petitioner, who is the driver on monthly basis working under transport company named “New Golden Transport Company”, is to involve in trafficking of the seized cough syrup, having commercial name “**Dialex-DC**” and “**Eskuf Codeine**” total of 12,297 bottles, where quantity of “**Eskuf**” was 7996 bottles, having one of its constituent as “**Codeine**”, said to be one of the narcotic drugs and also in violation of Bihar Prohibition and Excise Act.

Learned Senior counsel, Ms. Nivedita Nirvikar appearing on behalf of the petitioner submitted that admittedly, petitioner is the driver on monthly basis working under transport company named “New Golden Transport Company”, where the loaded truck was found outside go-down, which was booked by Varanasi office. It is submitted that facts and circumstances loudly speak on its face that petitioner was not under knowledge, as regard to consignment of alleged cough syrup. It is submitted that both cough syrup manufactured by reputed pharmaceutical company, where petitioner has no role, as per manufacturing activities is concerned. It is also pointed out that one of the cough syrup, namely, Dialex-DC is without



“**Codeine**”. While travelling over the argument, learned senior counsel relied upon report of “**Ajay Bajpai vs. State of Uttar Pradesh**”, where a bail order, as passed in Bail Application No. 13555 of 2021 vide order dated 25.11.2021 by Hon'ble Allahabad High Court held that such case does not falls under N.D.P.S. Act. It is also submitted that the compliance of Section 42 of the N.D.P.S. Act also not appears to be followed in present case. It is also submitted that ceased cough syrup was manufactured under valid license by reputed pharmaceutical company. While concluding the argument, it has been submitted that investigation has been completed and, as such, there is no chance of tampering with the evidence.

Learned APP duly assisted by learned counsel, Mr. Manoj Kumar Singh appearing on behalf of the C.G.C., while opposing the prayer of bail submitted that petitioner failed to submit the relevant documents on demand.

Considering the facts and circumstances as mentioned above, as petitioner is the driver on monthly basis working under transport company named “New Golden Transport Company”, where admittedly, the truck containing cough syrup having “**Codeine**” was booked from Varanasi, found standing outside go-down, let the petitioner, above named, is directed to



be released on bail in connection with NCB Case No. 28 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Court of Chief Judicial Magistrate, Patna/concerned court, subject to the following conditions:

“(i) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(ii) That one of the bailors shall be deponent of the present bail petition.”

Cr. Misc. No. 49715 of 2022

Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with NCB Case No. 28 of 2021 registered for the offence under Section 8(c) read with Sections 21(c), 25, 29 and 35 of the Narcotics drugs and Psychotropic Substances Act (N.D.P.S. Act).



The accused/petitioner is in custody since 29.04.2022.

The allegation against the petitioner, who is the owner of the go-down of New Golden Transport Company, is to book a truck loaded with cough syrup, having commercial name “**Dialex-DC**” and “**Eskuf Codeine**” total of 12,297 bottles, where quantity of “**Eskuf**” was 7996 bottles, having one of its constituent as “**Codeine**”, said to be one of the narcotic drugs and also in violation of Bihar Prohibition and Excise Act.

Learned counsel appearing on behalf of the petitioner submitted that admittedly, petitioner is the owner of the go-down of New Golden Transport Company at Varanasi, where the loaded truck was found outside go-down, which was booked him. It is submitted that facts and circumstances loudly speak on its face that petitioner was not under knowledge, as regard to consignment of alleged cough syrup. It is submitted that both cough syrup manufactured by reputed pharmaceutical company, where petitioner has no role, as per manufacturing activities is concerned. It is also pointed out that one of the cough syrup, namely, Dialex-DC is without “**Codeine**”. While travelling over the argument, learned senior counsel relied upon report of “**Ajay Bajpai vs. State of Uttar Pradesh**”, where a bail order, as passed in Bail Application No. 13555 of 2021 vide order



dated 25.11.2021 by Hon'ble Allahabad High Court held that such case does not falls under N.D.P.S. Act. It is also submitted that the compliance of Section 42 of the N.D.P.S. Act also not appears to be followed in present case. It is also submitted that ceased cough syrup was manufactured under valid license by reputed pharmaceutical company. While concluding the argument, it has been submitted that investigation has been completed and, as such, there is no chance of tampering with the evidence.

Learned APP duly assisted by learned counsel, Mr. Manoj Kumar Singh appearing on behalf of the C.G.C., while opposing the prayer of bail submitted that petitioner failed to submit the relevant documents on demand.

Considering the facts and circumstances as mentioned above, as petitioner is the owner of the go-down of New Golden Transport Company, where admittedly, the truck containing cough syrup having “**Codeine**” was booked by petitioner at Varanasi, found standing outside go-down, let the petitioner, above named, is directed to be released on bail in connection with NCB Case No. 28 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District



and Sessions Judge-XXVI, Patna/concerned court, subject to the following conditions:

“(i) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(ii) That one of the bailors shall be deponent of the present bail petition.”

Cr. Misc. No. 53483 of 2022

Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with NCB Case No. 28 of 2021 registered for the offence under Section 8(c) read with Sections 21(c), 25, 29 and 35 of the Narcotics drugs and Psychotropic Substances Act (N.D.P.S. Act).

The accused/petitioner is in custody since 20.05.2022.

The allegation against the petitioner, who is the manager of New Golden Transport Company, is to book a truck



loaded with cough syrup, having commercial name “**Dialex-DC**” and “**Eskuf Codeine**” total of 12,297 bottles, where quantity of “**Eskuf**” was 7996 bottles, having one of its constituent as “**Codeine**”, said to be one of the narcotic drugs and also in violation of Bihar Prohibition and Excise Act.

Learned counsel appearing on behalf of the petitioner submitted that admittedly, petitioner is the manager of New Golden Transport Company, where the loaded truck was found outside go-down, which was booked by Varanasi office. It is submitted that facts and circumstances loudly speak nothing suggest on its face that petitioner was not under knowledge, as regard to consignment of alleged cough syrup. It is submitted that both cough syrup manufactured by reputed pharmaceutical company, where petitioner has no role, as per manufacturing activities is concerned. It is also pointed out that one of the cough syrup, namely, Dialex-DC is without “**Codeine**”. While travelling over the argument, learned senior counsel relied upon report of “**Ajay Bajpai vs. State of Uttar Pradesh**”, where a bail order, as passed in Bail Application No. 13555 of 2021 vide order dated 25.11.2021 by Hon'ble Allahabad High Court held that such case does not falls under N.D.P.S. Act. It is also submitted that the compliance of Section 42 of the N.D.P.S. Act



also not appears to be followed in present case. It is also submitted that ceased cough syrup was manufactured under valid license by reputed pharmaceutical company. While concluding the argument, it has been submitted that investigation has been completed and, as such, there is no chance of tampering with the evidence.

Learned APP duly assisted by learned counsel, Ms. Poonam Kumari Singh appearing on behalf of the C.G.C., while opposing the prayer of bail submitted that petitioner failed to submit the relevant documents on demand.

Considering the facts and circumstances as mentioned above, as petitioner is the manager of New Golden Transport Company, where admittedly, the truck containing cough syrup having “**Codeine**” was booked from Varanasi, found standing outside go-down, let the petitioner, above named, is directed to be released on bail in connection with NCB Case No. 28 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-XXVI, Patna/concerned court, subject to the following conditions:

“(i) Accused/Petitioner shall cooperate
in the trial and shall be physically present on each



and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(ii) That one of the bailors shall be deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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