

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62810 of 2021

Arising Out of PS. Case No.-228 Year-2020 Thana- SINGHESHWAR District- Madhepura

Gopal Kumar aged about 26 years, sex- male Son of Sachendra Yadav @
Suchind Yadav Resident of Village- Lalpur, P.S.- Singheshwar, Distt.-
Madhepura.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. N.K. Agrawal, Sr. Adv. with Mr. Uday Chand Prasad, Adv.
For the State	:	Mr. Ajay Kumar No. 2, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 02-06-2022 Heard learned senior counsel for the petitioner and
learned counsel for the State.

Learned counsel for the petitioner is expected to honour
his undertaking given in the instant case for depositing the
requisite court fee and to remove the defects as pointed out by
office when called upon to do so by the office.

The petitioner seeks bail in *Singheshwar PS Case No.*
228 of 2020, instituted for the offence punishable under
Sections 8(c), 21(c), 22(c), 23, 24, 25, 27(A) and 29 of the
Narcotic Drugs and Psychotropic Substances Act, 1985 (‘NDPS
Act’ for brevity) and Section 30(a) of the Bihar Prohibition and
Excise Act, 2016.

At the very outset, learned senior counsel representing the



petitioner submitted that as per allegation, the syrup has been loaded on the petitioner's vehicle in his absence by the driver and co-driver and the consignment has been distributed to several other persons, all of whom, have been allowed anticipatory bail in Cr. Misc. Nos. 39814 of 2021, 14892 of 2021 and 16310 of 2021. In so far as the petitioner is concerned, there is allegation of loading of seven cartons on his Tata Magic having regard to the provisions of the Drugs and Cosmetics Act, 1940 (for brevity 'Cosmetics Act'), if the maximum permissible limit of 5 mg/10ml for adding codeine to a cough syrup is taken into consideration, at best, the total recovery would be nearly 35 Grams of codeine dissolved in the cough syrup. Referring to Item 28, of the schedule, it is submitted that the quantity of Codeine, though above small quantity; is much below the commercial quantity. The petitioner has no criminal antecedents under the NDPS Act.

Referring to the Seizure List, learned senior counsel submits that there is total recovery of 7 cartons of TRIPROLIDINE HYDROCHLORIDE & CODEINE PHOSPHATE syrup. The driver and co- driver have stated that the *Tata Magic* vehicle, from which, recovery has been made, belongs to the petitioner, leading to his implication in the instant case. There are five criminal antecedents of the petitioner for the offence



under the Indian Penal Code and not under the NDPS Act, as per disclosure made in para 3 of the bail petition.

The learned APP has appeared and is not in a position to dispute the aforesaid submissions regarding seized quantity of codeine.

Considering the quantum of recovery, as also claim based on parity, and the period of custody being from 25.01.2021, this Court, for the purposes of grant of bail, is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail of the petitioner is allowed. Let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/-(Ten thousand) with two sureties of the like amount each to the satisfaction of the learned *Additional Sessions Judge- Indrum- Special Judge, Madhepura*, in connection with *Singheshwar PS Case No. 228 of 2020*, NDPS Case No. 15 of 2020, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each



date and if he fails to do so on two consecutive dates, his bail
bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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