

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57690 of 2022

Arising Out of PS. Case No.-172 Year-2022 Thana- GAMAHARIYA District- Madhepura

1. Vikash Kumar Son of Dinesh Yadav R/V- Dular Ward No. 13, P.S- Gamhariya, Dist- Madhepura
2. Mukesh Kumar Son of Dinesh Yadav R/V- Dular Ward No. 13, P.S- Gamhariya, Dist- Madhepura
3. Dinesh Yadav Son of Kamal Yadav R/V- Dular Ward No. 13, P.S- Gamhariya, Dist- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shiva Shankar Sharma, Advocate
For the Opposite Party/s : Ms. Suman Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 17-11-2022 Heard learned counsel appearing on behalf of the
petitioners 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 petitioners seek bail in connection with
Gamhariya P.S. Case No. 172 of 2022 registered for the offence
under Section 21(c) of the N.D.P.S. Act and under Section 30(a)
of the Bihar Prohibition and Excise Act, 2018.

The accused/petitioners are named in the F.I.R. and is
in custody since 18.08.2022.

The allegation against the petitioners is to be engaged



in illegal trading/manufacturing of illicit liquor, where, there is recovery of 9.6 litres of IMFL/country made liquor from the place of occurrence.

Learned counsel appearing on behalf of the petitioners submitted that the alleged recovery of cough syrup was made from the husk house of one Ganesh Yadav and as petitioners were found running away, mere on that suspicion, they were arrested in present case. It is further submitted that the alleged quantity of contraband i.e., “*codeine*” is less than smaller quantity as prescribed under the law and, as such, the provision of Section 37 of the N.D.P.S. Act is not applicable in present case. While travelling over the argument, learned counsel appearing on behalf of petitioners submitted that the compliance of Section 42 and 50, which is mandatory provision under N.D.P.S. Act is also not complied with. It is further submitted that the recovered cough syrup was manufactured by reputed pharmaceutical company, where petitioners are not involved in any manner and alleged contraband is one of its constituent which is easily available under prescriptions of registered medical practitioner. While concluding the argument, it has been submitted that investigation has been completed, for which, charge-sheet has been submitted, as such, there is no chance of



tampering with the evidence.

Learned APP opposes the prayer of bail.

Considering the facts and circumstances as mentioned above, as recovery of alleged cough syrup was not made from the conscious physical possession of this petitioners, where alleged contraband is less than smaller quantity coupled with the fact that charge-sheet has already been submitted, let the petitioners, above named, are directed to be released on bail in connection with Gamhariya Case No. 172 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge N.D.P.S. Act, Madhepura/concerned court, subject to the conditions as mentioned under Section 437 (3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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