

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70704 of 2021

Arising Out of PS. Case No.-433 Year-2021 Thana- KHAJANCHI HAT District- Purnia

ASHUTOSH KUMAR Son of Late Rajendra Prasad Srivastav @ Rajendra Prasad R/o village - Koratbari, P.S.- K. Hat, District - Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Dr. Bidhu Ranjan, Advocate

For the Opposite Party/s : Mr.Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 29-01-2022 Due to the third wave of COVID-19 Pandemic, the matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading 'For Orders' under the orders of Hon'ble the Chief Justice.

Heard learned counsel for the petitioner and learned APP for the State through virtual mode.

Learned Counsel for the petitioner is directed to remove the defect(s), as pointed out by the office, within a period of four weeks after restoration of normalcy.

The petitioner is apprehending his arrest in connection with K. Hat (Sahayak) P.S. case No.433 of 2021 corresponding to Special case No.36 of 2021 registered under Sections 275, 276/34 of I.P.C. and Sections 30(a) of the Bihar Prohibition and Excise Act, 2016 and Section 20(C) of the N.D.P.S. Act.



The prosecution case, in short, is that 1522 liters cough syrup is recovered.

It has been submitted on behalf of the petitioner that the petitioner has got no criminal antecedent and there is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has falsely been implicated in this case. The name of the petitioner has transpired in this case on disclosure made by co-accused. Except for this, there is no other substantive evidence to suggest the implication of the petitioner in this case. It is alleged that 1522 liters cough syrup is recovered from the transport company. The transport company in question does not belong to the petitioner. The petitioner had no knowledge regarding the alleged incident. Nothing incriminating has been recovered from the conscious possession of the petitioner. There is no compliance of Section 100 Cr.P.C.

On behalf of the State, it is submitted that the petitioner is named in the complaint case/F.I.R.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail application has taken note of the exponential rise in number of covid cases due to outbreak of third wave of Covid-19 pandemic. Further this Court can also not lose sight of the fact



that the condition of jails is not conducive and suitable to the present situation which has arisen due to the sudden rise in covid cases.

Considering the facts and circumstances, the petitioner, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of learned Sessions Judge, Purnea in connection with K. Hat (Sahayak) P.S. case No.433 of 2021 corresponding to Special case No.36 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner shall furnish bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the Court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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