

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1265 of 2022

Arising Out of PS. Case No.-382 Year-2021 Thana- MURLIGANJ District- Madhepura

Vivek Kumar @ Vivek Bansal, Son of Ganesh Yadav Resident of Village-
Anand Vihar, P.S.- Madhepura, District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar Agrawal, Advocate
For the Opposite Party/s : Mrs. Pronoti Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 16-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Murliganj P.S. Case No. 382 of 2021 registered for the alleged offences under Section 21(c) of the N.D.P.S. Act and Section 30(a) of the Bihar Prohibition and Excise Act.

As per prosecution case, on getting secret information about movement of a consignment of corex, vehicle checking was started. The petitioner and co-accused persons were intercepted with the motorcycle they were riding. They were carrying a trolley bag and on search 230 bottles of 100 ml each of Wiscof Cough Syrup (Codeine phosphate Triprolidine



Hydrochloride), total quantity of 23 litres which was recovered.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. He has got no concern with the alleged seizure of Wiscof Cough Syrup. The co-accused was carrying the trolley bag and he took lift on the motorcycle of the petitioner while the petitioner was on the way to his house. Moreover, the recovery of Codeine containing Syrup would not attract the provisions of N.D.P.S. Act and considering this facts, co-accused Satish Kumar has been granted bail by a Co-ordinate Bench vide order dated 04.07.2022 passed in Cr. Misc. No. 5544 of 2022. No quantity of codeine in the cough syrup have been given and if it is taken to be standard quantity, the quantity of codeine will be much less than the commercial quantity. The petitioner is in custody since 28.10.2021 and charge-sheet has already been submitted against him. The petitioner is having clean antecedent.

Learned APP vehemently opposes the submission made on behalf of the petitioner. Learned APP submits that codeine has been notified and its small quantity is 1 kg and recovery of 23 litres of codeine containing drug has been made from this petitioner and the co-accused.



Having regard to the submissions made hereinabove and considering the fact that recovery has been stated to be from joint possession of the petitioner and co-accused and further considering the recovery of cough syrup in which the quantity of codiene is not specified and further considering the period of custody of the petitioner, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of Court of learned Sessions Judge-cum- Special Judge, NDPS Act, Madhepura in connection with Murliganj P.S. Case No. 382 of 2021, subject to the conditions mentioned in Section 437 (3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be Ganesh Kumar, the father of the petitioner, who has sworn the affidavit.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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