

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4233 of 2023

Arising Out of PS. Case No.-408 Year-2022 Thana- RAXAUL District- East Champaran

Rohit Kumar S/o Durga Sah R/o Village- Mauje, Ward no. 13, P.S.- Raxaul,
Distt- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 17-08-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

3. Petitioner seeks bail who is in custody since 02.11.2022 in connection with NDPS Case No. 76 of 2022 arising out of Raxaul P.S. Case No. 408 of 2022, F.I.R. dated 20.08.2022 for the offences punishable under Section 21(b) of the N.D.P.S. Act.

4. Recovery is of 470 bottles (100 ml each) of banned cough syrup in 6 cartoons from the dickey of the bus.

5. Learned counsel for the petitioner submits that petitioner is innocent and he has falsely been implicated in the



present case. He further submits that it appears from the F.I.R. as well as seizure list that nothing has been recovered from the conscious possession or the house of the petitioner rather the recovery has been made from the bus in question. He further submits that on the basis of the mobile number provided by the conductor of the bus, the petitioner has been implicated in this false and fabricated case. He further submits that altogether 470 bottles (100 ml each) of banned cough syrup in 6 cartoons from the dickey of the bus. He further submits that the petitioner has no concern at all from the alleged recovery of the cough syrup in question. Apart from the aforesaid, the report of the Bihar Drugs Control Laboratory dated 16.05.2023 reveals that the cough syrup recovered was under the prescribed limit and in view of the report of the Bihar Drugs Control Laboratory, no case is made out under the NDPS Act against the petitioner. He further submits that without the report the police have filed the charge sheet against the petitioner. The petitioner is in custody since 02.11.2022.

6. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner and submits that the petitioner carries one criminal antecedent other than the present one but fairly submits on the basis of paragraph



3 of the bail petition that the petitioner is on bail in the said case.

7. Considering the aforesaid facts and circumstances and the fact that the recovered contraband is less than the commercial quantity, 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 5th Additional Sessions Judge, East Champaran at Motihari in connection with NDPS Case No. 76 of 2022 arising out of Raxaul P.S. Case No. 408 of 2022, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court



below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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