

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12132 of 2023

Arising Out of PS. Case No.-28 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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Chandra Singh @ Chandra Bhushan Singh Son Of Rameshwar Singh R/O
Kachchi Ghat, Hajiganj, City Centre Block, Flat No. B-103, Sampatchak,
District- Patna, Bihar

... .. Petitioner/s

Versus

The Union Of India Through The Zonal Director, Narcotics Control Bureau,
Patna Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Singh, Sr. Adv. Mr. Manish Kumar Singh, Adv Mr. Akrity Aishwarya, Adv
For the Opposite Party/s :		Mr. K.N. Singh(A.S.G.)
For the N.C.B.	:	Mrs. Renuka Sharma, Adv Mr. Rajani Kant Singh, Adv Mr. Rakesh Kumar, Adv Mr. Manish Kumar, Adv

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV ORDER

7 01-08-2023 Heard learned Senior Counsel for the petitioner,

learned ASG for the Union of India and learned counsel for the

N.C.B.

2. The petitioner apprehends his arrest in

connection with F.A. No. NCB/PZU/V/28/2021 in Special Case

No. 186(A) of 2021, registered for the offences punishable

under Section 8(C) r/w Section 21(c), 25, 29 and 35 of the

NDPS Act, pending in the Court of learned Sessions Judge/Spl.

Judge, Patna.

3. As per the prosecution case, NCB Patna Zonal



Unit had seized a truck from which cough syrups having commercial name 'Dialex-DC' and 'Eskuf Codeine' total 12296 bottles recovered, where quantity of Eskuf was 7996 bottles which having one of its constituents as codeine, said to be one of the Narcotic Drugs and also a violation of Bihar Prohibition and Excise Act. From reliable sources, it has been disclosed that this truck and contraband materials belongs to the petitioner, who is also the owner of the New Golden Transport company and he used his new Golden Transport Company premises for further distribution in Bihar.

4. Learned Senior Counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case and the petitioner has no criminal antecedent. He submits that from perusal of the record of Special Case No. 186/2021, it shows that at the time of said seizure neither the petitioner nor the associates/staff of the petitioner was present near the truck and the truck was locked, meaning thereby there is no role of the petitioner in the said crime. He further submits that as per the information received by the team of NCB, Patna, they stated that the said truck was coming from Varanasi to Patna for transportation of the consignment of goods and in such consignment, some cartoons of cough syrup were being brought



by the Golden Transport, which is totally wrong because it was booked from Varanasi and transported through "The New Golden Transport" and its owner is Chandra Bhan Singh @ Chandra Kesh Singh. It is further submitted that the petitioner and Chandra Bhan Singh @ Chandra Kesh Singh are engaged in the same nature of business and for this reason, the NCB, Patna team has suspected against the petitioner and illegally dragged the name of the petitioner in the present case without any cogent material available on the record.

5. Learned Senior Counsel for the petitioner further submits that the during the investigation it was found that the truck belongs to Chandra Bhan Singh @ Chandra Kesh Singh and the goods was loaded from the "The New Golden Transport" Varanasi and who is also the owner of the said Transport but the team of NCB illegally mentioned the name of the Transport as "Golden Transport" instead of "The New Golden Transport". He further submits that the petitioner hereinabove was completely shocked at receipt of the notice issued by the respondent as the entire matter revolves around "The New Golden Transport" which is situated in Banaras while the petitioner works on a commission basis as a business agent in "New Golden Transport" whose office is in Kanpur and were



both the businesses separately handled by the different person and assessing the very basic GST certificate of both the companies one can easily make out the difference between the New Golden Transport Company and New Golden Transport Company and its owners.

6. Learned Senior Counsel for the petitioner submits that the entire codeine based article was recovered from the owner of the New Golden Transport Company namely Chandra Bhan Singh @ Chandra Kesh Singh and the petitioner is not at all involved in any transaction of codeine article, its storage, transportation, sale and purchase. He further submits that the statement of the owner of The New Golden Transport i.e. Chandra Kesh Singh @ Chandra Bhan Singh was recorded by the NCB official and he was arrested then and there only. In his confession statement he has stated that he is the owner of The New Golden Transport and also stated that the entire business affairs were managed by him during his statement, he utters not a single word against the owner of “New Golden Transport” i.e. Chandra Bhushan Singh which shows that the petitioner is not involved in the present case.

7. Learned Senior Counsel for the petitioner submits that both cough syrup manufactured by reputed



pharmaceutical company, where petitioner has no role, as per manufacturing activities is concerned. It is also pointed out that one of the cough syrup, namely, Dialex-DC is without "Codeine". While travelling over the argument, learned senior counsel relied upon judgment of "*Ajay Bajpai vs. State of Uttar Pradesh*", where a bail order, as passed in Bail Application No. 13555 of 2021 vide order dated 25.11.2021 by Hon'ble Allahabad High Court held that such case does not falls under N.D.P.S. Act. He also submits that the compliance of Section 42 of the N.D.P.S. Act also not appears to be followed in present case. It is also submitted that ceased cough syrup was manufactured under valid license by reputed pharmaceutical company. While concluding the argument, it has been submitted that investigation has been completed and, as such, there is no chance of tampering with the evidence.

8. Learned ASG for the Union of India and learned counsel for the NCB vehemently oppose the prayer for anticipatory bail by submitting that petitioner is the owner of the truck from which total 12296 bottles of cough syrups recovered having commercial name "Dialex DC" and "Eskuf Codeine" where quantity of Eskuf was 7996 bottles which having one of its constituent as codeine, said to be one of the narcotics drugs



and also a violation of Bihar Prohibition and Excise Act. Learned counsel for the NCB submits that NCB Patna seized the said cough syrups along with other things from the petitioner's truck bearing registration no. UP 78BT 4178. NCB Patna also recovered a Bilti (Receipt) dated 03.11.2022, but the Bilti does not have proper details like from where the said cough syrups were purchased and for whom these were to be delivered. NCB Patna recovered one agreement paper between petitioner and owner of the building in which the New Golden Transport Company was running from the godwon of the said company and also recovered a Bilti dated 22.11.2022 and this Bilti too had not aforesaid proper details.

9. Learned counsel for the NCB further submits that aforesaid articles transported from New Golden Transport Varanasi to New Golden Transport, Pahari, Patna. Furthermore, to say that the owner of New Golden Transport Varanasi namely Chandra Kesh Singh (brother of the petitioner) appeared before the case I.O and tendered his voluntary statement on 28.04.2022, in which he revealed that the owner of New Golden Transport, Patna is the petitioner (Chandra Singh @ Chandra Bhushan Singh) and he is looking the business of New Golden Transport, Patna.



10. He further submits that the driver of the seized truck namely Rajesh Kumar Yadav, Manager of New Golden Transport Patna Jay Prakash Kumar Gupta @ Jay Prakash Gupta and owner of New Golden Transport Varanasi namely Chandra Kesh Singh (brother of petitioner) all three revealed in their voluntary statement that the petitioner is owner of New Golden Transport, Patna and he run the business of said transport at Patna. On CDR analysis, linkages have been established among petitioner, Chandra Kesh Singh (brother of petitioner cum owner of New Golden Transport Varanasi), Jay Prakash Kumar Gupta @Jay Prakash Gupta and driver of seized truck namely Rajesh Kumar Yadav @ Rajesh Yadav.

11. He further submits that after the case I.O issued many notices u/s 67 of NDPS Act, 1985 to the petitioner, but he didn't turned up till date. The GST certificate submitted by petitioner in the bail petition which show jurisdiction state Kanpur, but the petitioner never submitted earlier any document before the I.O. As per agreement papers, voluntary statement of arrested accused persons and recovered one visiting card in the name of petitioner can't deny that the petitioner is the owner of New Golden transport Patna.

12. He relied upon the judgment of the Hon'ble Apex



Court in Cr. Appeal No. 1575 of 2008 {arising out of *SLP (Crl.)No. 2075 of 2007*} dated 03.10.2008 (*Union of India vs Padam Narain Aggrawal etc.*) wherein the Apex Court has been pleased to observe that any protection to suspect can not be said to be legal, valid or in consonance with law.

13. He lastly submits that there is prima facie materials on record to suggest that complicity of petitioner in the alleged case and the seized cough syrup recovered from the petitioner's truck contains codeine based substances which is said to be one of the narcotic drugs and the further investigation is still going on. Thus, it is not a fit case for anticipatory bail so he must not be granted privilege of anticipatory bail.

14. Perused the materials on record and submissions made on behalf of the parties. There has been an increase in number of such cases related to contraband materials or Narcotic Drugs and Psychotropic Substances after the imposition of liquor ban law in the State. The drug menace has attained serious proportion, even the adolescents have not been spared. Each one of us know that menace that is being caused by Narcotic Drugs and Psychotropic Substances. This menace of drugs may enter our houses unknowingly but its effects will be unimaginable. Beside being a law and order problem it has



become a serious invasion in the social structure which needs to be curbed with heavy hand and for such purpose, police needs to have the proper access to the accused, may be by way of custodian interrogation in appropriate cases.

15. Considering the facts and circumstances of case and the nature of the offence, I am not inclined to enlarge petitioner on anticipatory bail. The prayer for anticipatory bail of the petitioner is hereby rejected.

16. However, if the petitioner surrenders before the learned Court below within six weeks from today and seek regular bail, the learned Court below would pass order on the same day in accordance with law without being prejudiced by this order.

(Anjani Kumar Sharan, J)

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