

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11806 of 2023

Arising Out of PS. Case No.-973 Year-2021 Thana- FORBESGANJ District- Araria

1. MUKESH KUMAR @ MUKESH KUMAR GOSWAMI S/o Late Bechan Goshwami @ Uday Chandra R/o Village- Pokhar Basti, Ward no. 15, P.S.- Forbesganj, Distt- Araria.
2. Shanwaz @ Md. Shahnawaz @ Md. Sahanavaj Alam S/o Wazir @ Md. Wajir Alam R/o Village- Dallu Tola, Ward no. 18, P.S.- Forbesganj, Distt- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate Mr. Sudhir Kumar Sinha, Advocate Ms. Diksha Kumari, Advocate
For the Opposite Party/s	:	Md. Sufiyan, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

- 2 02-05-2023
1. At the outset, it is submitted by learned counsel for the petitioners that soft copy of supplementary affidavit with new facts has been filed and permission is required to file its hard copy.
 2. Permission is accorded. Let the said hard copy of the supplementary affidavit be kept on record.
 3. Heard learned senior counsel for the petitioners and the learned APP for the State.
 4. Petitioners seek regular bail in connection with Special Case No.41 of 2021 arising out of Forbesganj P.S. Case No.973 of 2021 dated 27.11.2021 registered for the offence



punishable under Section 21(b) of the N.D.P.S. Act.

5. The main submissions advanced by the learned senior counsel for the petitioners are that admittedly the petitioners were working as employees in the medical shop namely M/s Rose Medico and when the police party raided the said shop one person namely Ramchandra Yadav was arrested with a bottle containing codeine cough syrup and the same is stated to be a prohibited material and the said Ramchandra Yadav revealed to the police party that he purchased the said bottle from the said medical shop from the petitioners, in fact the petitioners were discharging their duties as employees in the light of the directions given by medical shop's owner and they were not aware of any prohibition regarding the selling of the seized medicine and on the date of raid the owner concerned had valid retail license to run the said medical shop so there was no illegality in the act of the petitioners and they were bonafidely discharging their duties and moreover the petitioners have been languishing in jail since 08.12.2022 and against them the investigation has been completed and the seizure list of the alleged contraband was not prepared as per the mandatory provisions of Section 50 of the NDPS Act.

6. Learned APP appearing for the State has opposed



the bail prayer.

7. Considering the above submissions and mainly the facts that the alleged codeine cough syrup kept in bottles are stated to have been sold at a particular medical shop which belongs to another person and as per the above submission the shop owner had valid license to run the said shop at the time of recovery of the alleged prohibited codeine cough syrup and the FIR goes to show that both the petitioners were found as salesmen at the said medical shop when the police raided the shop, in the opinion of this Court a lenient approach can be taken in respect of the petitioners' prayer, let the petitioners be released on bail on furnishing bail bonds of Rs.10,000/-(Ten Thousand) each with two sureties of the like amount each to the satisfaction of the concerned Court in connection with Special Case No.41 of 2021 arising out of Forbesganj P.S. Case No.973 of 2021.

(Shailendra Singh, J)

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