

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11353 of 2023

Arising Out of PS. Case No.-1131 Year-2022 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

Sanjeev Kumar, Son of Late Haricharan Sah, R/O Mohalla- R. Bakhala Road,
P.S.- Tilakmanjhi, District- Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Hansraj, Advocate

For the Opposite Party/s : Mr. Tarkeshwar Nath Thakur, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 04-05-2023 Heard Mr. Hansraj, learned counsel appearing on
behalf of the petitioner and the learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Kotwali (Tilkamanjhi) P.S. Case No. 1131 of 2022 registered for the offence punishable under Sections 21 and 22 of the N.D.P.S. Act, and Section 18/27 of the Drugs and Cosmetics Act, 1940.

In course of patrolling duty, the police on a secret information regarding sell of illegal cough syrup and prohibited toxicated tablets conducted raid in the house of the petitioner and in course of search, 13 bottles of codeine rich prohibited cough syrup and 150 strips of Nitrazepam tablets, each strips containing 10 tablets, were recovered.



Learned counsel appearing on behalf of the petitioner submits that the petitioner has no concern with the materials which has been recovered from his *godown* as the petitioner being a transporter, only transports the goods from one place to another. He next submitted that from the FIR, it is evident that there is no compliance of Section 50 of the N.D.P.S. Act and, moreover, the search has not been made in presence of any Magistrate or Gazetted Officer. Further submission has been made that even from the FIR, no case under Section 21/22 of the N.D.P.S. Act is made out and so far the offences punishable under Drugs and Cosmetics Act, 1940 is concerned, the FIR is not maintainable. He lastly submits that the petitioner is in custody since 29.11.2022 and now the investigation of the crime is complete and charge-sheet has been submitted.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the drugs, which has been recovered from the *godown* of the petitioner is prohibited and the petitioner being owner of the *godown*, his complicity cannot be ruled out.

Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner being only a transporter, who used to transport the goods, coupled with



the period of custody and the fair antecedent, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge, Bhagalpur in connection with Kotwali (Tilkamanjhi) P.S. Case No. 1131 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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