

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19154 of 2022

Arising Out of PS. Case No.-360 Year-2021 Thana- MOHANIYA District- Kaimur (Bhabua)

Tuntun Shekh, Son of Asraful Sheikh, Resident of Village - Dhani Rampur,
Post Office - Shibinagar, P.S.- Sagarpura, District - Murshidabad, State - West
Bengal.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Adv
For the Opposite Party/s : Ms. Pushpa Sinha.1, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

9 25-01-2023 Heard learned counsel for the petitioner and learned APP for
the State.

This Court would expect that the petitioner's counsel would
honour his undertaking in the instant proceedings regarding supply of
requisite court fee etc. within two weeks from the date he is called
upon to do so by the office.

Petitioner seeks bail in connection with Mohania P.S. Case
No. 360 of 2021 registered under Sections 30(a)/41(i) of the Bihar
Prohibition and Excise Act, 2016.

2412 bottles of cough syrup said to be containing "*Codeine*"
has been recovered by the police during routine checking from a
pickup van.

Learned counsel for the petitioner submits that under the
bonafide belief of transporting medicine, the petitioner has given his



professional services. The petitioner had no knowledge that the contents of the pickup van was containing any contraband. He has no antecedents and he is in custody since 24.08.2021. He further submits that recovered material, even as per prosecution case, is a medicine manufactured for consumption under prescription and cannot be said to be a contraband.

Learned APP has opposed the prayer for bail. It is submitted that as per composition, the cough syrup contains “*Codeine*”, and “*Codeine*” is a contraband specified in the Schedule of the Act.

Considering the rival submissions, the nature of material recovered (medicine), period of custody, and clean antecedent of the petitioner, this Court, for the purposes of grant of bail, is inclined to accept the submissions advanced by the petitioner’s counsel. Prayer for bail of the petitioner is allowed.

Let the petitioner above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-2nd-cum-Special Judge, Kaimur at Bhabua, in Mohania P.S. Case No. 360 of 2021, subject to the following conditions:-

(i) That one of the bailors shall be father and the other a local person. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner. Apart from that, this Court would observe that petitioner would be required to ensure his



representation on each and every date, so that the trial is not in any way obstructed or affected.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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