

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30523 of 2023

Arising Out of PS. Case No.-172 Year-2022 Thana- GAMAHARIYA District- Madhepura

GANESH YADAV SON OF KAMLESHWARI PRASAD YADAV @
KAMAL YADAV RESIDENT OF VILLAGE - DULAR , PS- GAMHARIA,
DISTT- MADHEPURA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shiva Shankar Sharma, Advocate
For the Opposite Party/s : Mr. Arvind Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 11-08-2023 Heard learned counsel appearing on behalf
of the petitioner and learned counsel appearing on behalf of the
State.

2. The petitioner seeks bail in connection with Gamhariya P.S. Case No. 172 of 2022 registered for the offence under Section 21(c) of the N.D.P.S. Act and under Section 30(a) of the Bihar Prohibition and Excise Act, 2018.

3. The accused/petitioner is named in the F.I.R. and is in custody since 23.03.2023.

4. The allegation against the petitioner is to be engaged in illegal trading/manufacturing of illicit liquor, where, there is recovery of 9.6 litres of cough syrups from the place of occurrence.



5. Learned counsel appearing on behalf of the petitioner submitted that the alleged recovery of cough syrup was made from the husk house of one Ganesh Yadav and as petitioner was found running away, mere on that suspicion, he was arrested in present case. It is further submitted that the alleged quantity of contraband i.e., “codeine” is less than smaller quantity and, as such, the provision of Section 37 of the N.D.P.S. Act is not appears applicable in present case. While travelling over the argument, learned counsel appearing on behalf of petitioner submitted that the compliance of Section 42 and 50, which is mandatory provision under N.D.P.S. Act is also not complied with. It is further submitted that the recovered cough syrup was manufactured by reputed pharmaceutical company, where petitioner is not involved in any manner. While concluding the argument, it is submitted that investigation of this case is completed, for which, charge-sheet is submitted, as such, there is no chance of tampering with the evidence.

6. Learned APP opposes the prayer of bail.

7. Considering the facts and circumstances as mentioned above, as recovery of alleged cough syrup was not made from the conscious physical possession of this petitioner, where alleged contraband is less than smaller quantity coupled



with the fact that charge-sheet has already submitted, let the petitioner, above named, is directed to be released on bail in connection with Gamhariya Case No. 172 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge N.D.P.S. Act, Madhepura/concerned court, subject to the conditions as mentioned under Section 437 (3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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