

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34462 of 2023

Arising Out of PS. Case No.-40 Year-2023 Thana- SULTANGANJ District- Bhagalpur

Akhilesh Kumar Son of Sri Santosh Sah Resident of Village- Abjuganj, PS-
Sultanganj, District- Bhagalpur Petitioner/s

Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vivekanand Vivek, Advocate

For the Opposite Party/s : Mr.Choubey Jawahar, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 24-06-2023 Heard Mr. Vivekanand Vivek, learned counsel for the

petitioner and the State.

The petitioner is in custody since 18.1.2023 in connection with Sultanganj P.S. Case No. 40 of 2023 for the offence punishable under Sections 22 of NDPS Act and section 27 (B) (ii), 18(A)/18(B)/18©/28/28(D) of Drugs and Cosmetics Act lodged on 18.1.2023 by the informant Anish Bihari..

The brief facts of the case are that on 18.01.2023 upon secret information the informant apprehended the petitioner. On search of the petitioner, total 12 bottles (each bottle containing 100 ml) prohibited codeine rich cough syrup and 10 strips of Nitrazone Tablets were recovered. The recovered prohibited cough syrup and tablet has been seized by preparing seizure list and the petitioner was arrested. The instant FIR as such was registered.

It has been submitted by the learned counsel for the petitioner that recovery/seizure is of 1200 ml cough syrup



containing 120 ml codeine and further 100 tablets of nitrazone that has been recovered/seized which comes to 200 mg and comes below the commercial quantity.

The last submission is that prior to lodging of the present case, he did not had criminal antecedent.

Learned APP opposes the prayer but concedes that recovery/seizure that has been shown in the FIR is below the commercial quantity.

Considering the aforesaid submission put forward by the learned counsel for the petitioner as also that he is in custody since 18.1.2023 (as stated in para-5 of the bail application) and do not have criminal antecedent and the quantity is below commercial one, this Court is inclined to extend him the privilege of bail. If it is found that the petitioner do have criminal antecedent, the bail order shall become infructuous.

Let the petitioner be released on bail on furnishing bail bond of Rs. 20,000/- (Twenty thousand) with two sureties of like amount each to the satisfaction of learned Additional Sessions Judge-1, Bhagalpur/In-charge, Bhagalpur, in connection with Sultanganj P.S. Case No. 40 of 2023 subject to the following conditions:

- (i) one of the bailor should be the family member of



the petitioner who shall provide official document to show his bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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