

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41418 of 2023

Arising Out of PS. Case No.-17 Year-2022 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Madhubani

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Bhup Narayan Chaudhary @ Bhup Chaudhary @ Bhuwan Chaudhary S/O
Ram Babu Chaudhary R/O Village- Kamlabari P.S Jaynagar Dist Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Union of India, through the Intelligence Officer, Narcotics Control Bureau, Patna, Ministry of Home Affairs, Department of Internal Security, Govt. of India

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar, Advocate
For the Union of India	:	Mr. Awadhesh Kumar Panday, Sr. C.G.C. Mr. Radhika Raman, CGC
For the State	:	Mr. Awadhesh Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

6 13-09-2023 Heard Mr. Vijay Kumar, learned counsel for the petitioner, Mr. Awadhesh Kumar Pandey, learned Senior Central Government Counsel for the Union of India assisted by Mr. Radhika Raman, learned CGC and Mr. Awadhesh Kumar Singh, learned APP for the State.

2. Petitioner seeks bail who is in custody since 15.05.2023 in connection with N.D.P.S. (G.O) Case No. 01 of 2023, G.R. No. 17 of 2022 for the offences punishable under Sections 21(C), 22(C), 25 and 29 of the N.D.P.S. Act.

3. The case relates to recovery of Dialex-DC 225 bottles, Codiwell 190 bottles (Codeine based Cough Syrup) and Nitravet-10 (Nitrazepam) 300 tablets.



4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that from perusal of the F.I.R. it appears that nothing incriminating articles has been recovered either from the conscious possession of the petitioner or from the house of the petitioner and he has been implicated in the present case on the basis of confessional statement of co-accused person namely Ganesh Yadav. He further submits that there is non compliance of Sections 42 and 50 of the NDPS Act and all the recovery has been made from the possession of co-accused person namely Ganesh Yadav. The petitioner is in custody since 15.05.2023.

5. Learned counsel for the Union of India as well as learned APP for the State, on the other hand, vehemently opposed the prayer for bail of the petitioner and submits that the petitioner was the supplier of the contraband and co-accused Ganesh Yadav was carrying Dialer-DC-225 Bottles, Codiwell 190 Bottles (Codeine based Cough Syrup) and Nitravet-10 (Nitrazepam)-300 Tablets sealed in three kartoons which was recovered from the Bike of co-accused person namely Ganesh Yadav and thereafter search-cum-seizure list was prepared on the spot and in compliance of Notice 67 of the NDPS Act, 1985, the voluntary statement of co-accused Ganesh Yadav was recorded on 24.06.2022 in which co-accused admitted his



involvement in illicit trafficking of Codeine based Cough Syrup and Nitrazepam-10 (Nitrazepam) tablet and he also disclosed that the petitioner was also involved in the present crime in question and the petitioner was the supplier of seized contraband which was recovered from the possession of co-accused person.

6. During the analysis of CAF & CDRs, the CAF of Mobile No. 8271523251 used by Bhup Chaudhary @ Bhuban Chaudhary which was found registered in the name of the petitioner and the petitioner had frequent conversation from his mobile number 8271523251 with accused Ganesh Yadav on his mobile number 7479541868 at 65 occasions. It is evidently corroborated the involvement of the petitioner in the present case as a supplier and the FSL report also confirms that the samples and some positive test for the presence of Nitrazepam. He further submits that the recovered contraband is more than the commercial quantity and hence there is embargo under Section 37 of the N.D.P.S. Act.

7. The grant of bail in NDPS cases where the recovery of commercial quantity of narcotic is alleged is circumscribed under Narcotic Drugs and Psychotropic Substance Act, 1985, Section 37 which says that before grant of bail, the Court must have reason to believe that petitioner has not committed the offence and in the event of release he would not commit similar offence.



8. The issue was considered by the Hon'ble Supreme Court in the case of **State of Kerala and Ors. Vs. Rajesh and Ors.** reported in **(2020) 12 SCC, 122** as well as in the case of **Narcotic Control Bureau Vs. Mohit Aggarwal** reported in **AIR 2022 SC 3444** and **Union of India vs. Ajay Kumar Singh @ Pappu** reported in **2023 SCC OnLine SC 3456** dated 28.03.2023.

9. The recovery of huge quantity of *Nitrazepam* recovered would not justify that the petitioner had no knowledge of the narcotic nor there is any material to substantiate that the petitioner would not commit such offence in the event of release.

10. Hence, I am not inclined to enlarge the petitioner on bail in connection with N.D.P.S. (G.O) Case No. 01 of 2023, G.R. No. 17 of 2022, pending in the Court of learned A.D.J. 1st cum Special Judge, Madhubani.

11. Prayer is refused.

(Rajesh Kumar Verma, J)

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