

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58758 of 2021

Arising Out of PS. Case No.-17 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Madhubani

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DINESH CHAUDHARY S/o Ram Chandra Chaudhary @ Ram Chandra Chaudhri Resident of Village- Ward No.04, Bela, P.S.- Jaynagar, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
 2. The Union of India, through The Commissioner Customs (P), Patna Bihar
- Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Kumar Bharti, Adv.
For the Opposite Party/s	:	Mr.A.G.
For the Custom	:	Mr. Anshuman Singh, Sr. SC

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

7 16-01-2023 Heard the learned counsel for the petitioner and the learned counsel for the Customs.

The petitioner seeks regular bail in connection with G.O. 17 of 2021, registered for the offence punishable under Section 8 of the NDPS Act, 1985.

The officials of the Customs Department, Jainanagar along with the SSB personnel were engaged in checking vehicles, on the alleged date and time of occurrence, when the truck in question had arrived there and was intercepted



by the said officials and upon search, 1800 pcs. of Dialex DC dry cough syrup (100 ml.), containing codeine phosphate, 700 pcs. of Recharge Cough Syrup (100 ml.), 200 pcs. of Diazelab injection (2 ml.), 190 pcs. of Noophin Injection (2 ml.) and 190 pcs. of Phenargan Injection (2ml.) were recovered.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case, he is having a clean antecedent and he is languishing in custody since 27.6.2021. The learned counsel for the petitioner has referred to paragraph no. 7 of the present petition to submit that the vehicle of the petitioner was booked by a dealer, who deals in confectionery items and the petitioner was under the impression that confectionery items had been loaded, however, it has transpired subsequently that some injections and cough syrups had also been loaded on the truck, which was containing codeine phosphate, a narcotic substance. It is further submitted that the quantity of codeine phosphate present in the aforesaid items have not been quantified till date, nonetheless, the same is less



than the commercial quantity, as defined in the schedule notified under the provisions of the NDPS Act, 1985.

Per contra, the learned counsel appearing for the Customs has vehemently opposed the prayer for bail and has submitted that the Customs Department has already filed a complaint case and the petitioner is not disclosing the source of the said narcotic substance.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials on record as also having perused the counter affidavit filed by the Customs Department, this Court finds that it has nowhere been alleged that the cough syrup bottles contain Codeine phosphate more than the permissible limits and moreover, the petitioner is only the transporter and the aforesaid articles do not belong to him, apart from the fact that he is having a clean antecedent and is languishing in custody since more than one and a half years, hence, I deem it fit and proper to direct for release of the petitioner on regular bail.



Accordingly, the above named petitioner is directed to be enlarged 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 Session Judge cum Special Judge, NDPS, District-Madhubani in connection with G.O. 17 of 2021.

It is needless to state that the petitioner shall cooperate with the investigation, if any, as also in the trial to be conducted by the learned trial court, failing which the prosecution shall be free to approach this Court for cancellation of the bail, being granted to the petitioner herein.

(Mohit Kumar Shah, J)

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