

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50051 of 2022

Arising Out of PS. Case No.-124 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Purnia

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Md. Mustafa, Son of Late Md. Jadish, Resident of Village - Sadhauli, Ward
No.- 8, P.S.- Kasba, Dist.- Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sarveshwar Tiwary, Advocate
For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 13-02-2023 Learned counsel for the petitioner is permitted to

remove the defect(s), as pointed out by the office, if any, within

a period of four weeks from today.

Heard Mr. Sarveshwar Tiwary, learned counsel

appearing on behalf of the petitioner and the learned APP for the

State.

The petitioner seeks regular bail, who is in custody in

connection with Special Case No. 33 of 2022 arising out of

Excise Prohibition Case No. 124 of 2022 registered for the

offence punishable under Section 21 (b) of the N.D.P.S. Act.

The Excise Inspector in course of raid recovered 30

bottles Codeine Phosphate and Chlorpheniramine Maleate

Syrup Wirof Syrup containing 100 ml. from the betel shop of



the petitioner and no valid papers has been produced on demand.

Learned counsel appearing on behalf of the petitioner submits that allegedly the recovery has been made from the betel shop of the petitioner, however, there is no compliance of Sections 42 and 50 of the N.D.P.S. Act, inasmuch, as it has not been alleged and verified that the alleged recovered syrups containing Codeine is below the small quantity or commercial quantity. He next submits that the police surprisingly without obtaining the FSL report has submitted the charge-sheet, which vitiates the entire investigation apart from the fact that the petitioner, having fair antecedent, is in custody since 24.05.2022 and, moreover, the investigation of the crime is complete.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the recovery has been made from the conscious possession of the petitioner.

Regard being had to the submissions made on behalf of the parties and considering the fact that the charge-sheet has been submitted without obtaining the FSL report and there is no compliance of Sections 42 and 50 of the N.D.P.S. Act, apart from other irregularities, coupled with the fair antecedent of the



petitioner, let the petitioner, named above, be released 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 Special Judge N.D.P.S. Act, Purnea in connection with Special Case No. 33 of 2022 arising out of Excise Prohibition Case No. 124 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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