

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50559 of 2023

Arising Out of PS. Case No.-503 Year-2023 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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DILIP KUMAR BUDHIYA SON OF ASHOK KUMAR BUDHIYA
RESIDENT OF VILLAGE- JAIN MANDIR, MARWARI TOLA LANE, P.S-
KOTWALI, DISTRICT-BHAGALPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Syed Masleh Uddin Ashraf, Adv.

For the Opposite Party/s : Mr. Dr. Ajeet Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

- 2 10-08-2023 1. Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.
2. Petitioner, who is in custody since 03.06.2023 seeks
bail, in connection with Kotwali P.S. Case No. 503/2023, dated
02.06.2023, for the offences punishable under Sections 21, 22 of
the NDPS Act and Sections 18©, 27 of the Drugs and Cosmetics
Act.
3. According to prosecution case, the petitioner was
apprehended with mobile phones and 2 bottles (100 ml each) of
Dialex-DC Syrup (Codeine) kept in a polythene bag.
4. Learned counsel for the petitioner submits that the
petitioner has falsely been implicated in the present case. He
further submits that from perusal of the F.I.R. as well as seizure



list, it appears that 2 bottles (100 ml each) of Dialex-DC Syrup (Codeine) have been recovered from conscious possession of the petitioner and one breakable screen touch mobile have been recovered from the possession of the petitioner. He further submits that cough syrup in question does not come under the purview of N.D.P.S. Act and it has been decided by the Hon'ble Allahabad High Court in Bail No. 13555/2021 (Ajay Bajpai vs. State of U.P.) that codeine does not come within the purview of N.D.P.S. Act and the petitioner is in custody since 03.06.2023.

5. Learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioner on the ground that the petitioner has carried four criminal antecedent other than the present one but fairly submits on the basis of para-3 of the bail petition that the petitioner is on bail in all the four cases.

6. Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-1st, Bhagalpur in connection with Kotwali P.S. Case No. 503/2023, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be



properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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