

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65887 of 2022

Arising Out of PS. Case No.-162 Year-2022 Thana- KUCHAIKOTE District- Gopalganj

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HOSIYAR SINGH S/O LATE RAM CHANDRA Resident of village-
Jachouda, P.S.- Gobardhan, District- Mathura, Uttar Pradesh.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhramveer, Advocate

For the Opposite Party/s : Mr. Abhay Kumar Roy, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 13-03-2023 Heard learned counsel appearing on behalf of the

parties.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with
Kuchaikot P.S. Case No. 162 of 2022 registered for the offence
under Sections 27(b)(ii), 27(d) and 28 of the Drugs & Cosmetics
Act, 2008 and under Section 22 of the NDPS Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 14.04.2022.

The allegation against the petitioner is to carry a truck
having consignment of 1520 liters of ESKUF Cough Syrup,
where, one of the constituent is “*Codeine Phosphate*”, which is
the scheduled drug prohibited under NDPS Act.



Learned counsel appearing on behalf of the petitioner submitted that admittedly the petitioner is a driver, carrying alleged cough syrup, where, nothing surfaced/recovered, during course of investigation, which may suggest that this petitioner was under knowledge of carrying illegal consignment of alleged cough syrup, where, one of the constituent is Narcotic drugs. It is submitted that alleged cough syrup is being manufactured by pharmaceutical company, where, "*Codeine*" is one of the permissible and approved constituent and moreover, if there is any violation, the prosecution may be initiated under Drugs and Cosmetics Act, 1940, where, only complaint is to be lodged against this petitioner, not the FIR. It is further submitted that even the total composition of alleged "*Codeine*" be taken into consideration, it would not more than commercial quantity to attract barrier under Section 37 of the NDPS Act. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, appearing on behalf of the State, opposes the prayer of bail.



Considering the facts and circumstances as mentioned above and taking note of the fact as recovery is of cough syrup, where, petitioner is a man of clean antecedent coupled with the fact that charge-sheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Kuchaikot P.S. Case No. 162 of 2022, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District Judge, Gopalganj/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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