

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41591 of 2024

Arising Out of PS. Case No.-16 Year-2023 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Patna

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1. Ganesh Pal S/o Kashi Ram R/o. Village Mahuahar, PS Bihani (Pihani), Distt. Hardoi, Uttar Pradesh
 2. Pravesh Yadav S/o Jitendra Kumar R/o vill - Nipaniya, P.S. - Bihani (Pihani), Distt. - U.P

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Union of India, Through its Zonal Director, Narcotics Control Bureau, Patna, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anupam Prabhat Shrivastava
For the Opposite Party/s	:	Mr. Nawal Kishore Prasad, APP
For the U.O.I.(NCB)	:	Mr. Bindhyalchal Rai, Sr. Panel Counsel

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 25-09-2024 Heard Learned Counsel for the petitioners, Learned Additional Public Prosecutor for the State and Learned Counsel for the Union of India.

2. The petitioners seek regular bail in connection with NCB Case No. PZU/V/16/2023, NDPS GR Case No.107 of 2023, lodged on 30.12.2023, under Sections 21(C)/25/29 of the N.D.P.S. Act.

3. As per the prosecution, total five thousand bottles each containing 100 ml of Phensedyl cough syrup containing codeine phosphate has been the subject matter of the recovery.

4. Learned Counsel for the petitioner submits that



petitioners are innocent and have committed no offence. Counsel submits that the petitioners are in custody since 30.12.2023 having no criminal antecedent. He submits that the petitioners are driver and cleaner of the truck which was hired only for transporting the goods in such truck. Counsel submits that the petitioners have no knowledge about the articles kept inside the alleged container. Hence, since the petitioners were completely unaware about the fact that the truck is loaded with illegal codeine based cough syrup, therefore, they are innocent.

5. Learned Counsel for the N.C.B. submits that a counter affidavit has been filed. It has been specifically pleaded in the said counter affidavit that the seized contraband material is 5000 bottles X 100 ml of codeine based cough syrup equivalent to approximate 500 liter of cough syrup and the FSL report has been annexed as Annexure-R/5. The report indicates that each 5 ml of two samples containing 10 mg of Codeine phosphate. Counsel submits that cough syrup always produced by the companies in ml not in gram. Counsel for the NCB submits that report of FSL indicates that each 500 ml contains 10 mg of codeine phosphate which is an N.D.P.S. material under the N.D.P.S. Act. Counsel submits that upon calculation the total material has been found 10 Kg in 5000 bottles which is much



more than commercial quantity as the commercial quantity is 1 kg.

6. Learned Counsel for the State opposes the prayer for bail and submits that 5000 x 100 ml cough syrup contains 10 kg codeine phosphate as per FSL report.

7. In the present facts and circumstances, this Court is not inclined to grant bail to the petitioners. Hence, the prayer for bail of the petitioners is hereby refused.

(Dr. Anshuman, J.)

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