

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42533 of 2024

Arising Out of PS. Case No.-41 Year-2024 Thana- MURLIGANJ District- Madhepura

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Balmiki Chourasiya @ Balmiki Kumar, aged about 24 years, Male, Son of Rajeshwar Chourasiya @ Rajo Chourasiya, Resident of Chharrapatti, Ward No.- 16, P.S.- Udakishunganj, District – Madhepura.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Harish Kumar, Advocate

For the Opposite Party : Mr. Parmanand Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 16-07-2024 Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. The petitioner seeks bail in connection with Murliganj P.S. Case No. 41 of 2024 dated 16.02.2024 registered for the offences punishable under Section 21(b) of the N.D.P.S. Act and Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 15.700 litres Codeine Phosphate & Triprolidine Hydrochloride Syrup Wiscof Cough Syrup alongwith motorcycle and two mobiles were recovered from the possession of the petitioner.

4. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has falsely been implicated in this case. It is submitted that no incriminating article has been recovered from his possession. The petitioner has no concern with the alleged recovered Codeine Phosphate & Triprolidine Hydrochloride Syrup Wiscof Cough Syrup. It is further submitted that the petitioner was a passerby and in the meantime, police arrested him. The petitioner has one criminal antecedent in which he is on bail. The petitioner is in custody in this case since 18.02.2024.

5. Learned APP for the State has vehemently opposed the bail petition of the petitioner. The seized contraband is commercial quantity and the petitioner had no any valid authorization for keeping the said contraband. Learned A.P.P. for the State has also placed reliance on the judgment in the case of ***Hira Singh and Anr. Vs. Union of India and Anr, (2020)20 Supreme Court Cases 272*** of Hon'ble Apex Court in which it has been held that "weight of entire materials/mixture along with neutral material is to be considered for ascertainment of whether the quantity is "small quantity" or "commercial quantity".

As per Section 37 of the N.D.P.S. Act, the two conditions are that the Court should be satisfied with:-



- (i) There are reasonable grounds for believing that the accused is not guilty of such offence; and
- (ii) He is not likely to commit any offence while on bail.

If either of these two conditions is not satisfied, the bar operates and the accused cannot be released on bail. The Court is of the opinion that the parameters of bail available under Section 37 of the Act have not satisfied in the facts of the instant case. The Hon'ble Supreme Court in the case of ***Narcotics Control Bureau v. Mohit Aggarwal 2022 SCC OnLine SC 891*** has held that “The length of the period of his custody or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the respondent under Section 37 of the N.D.P.S. Act.”

6. Considering the aforesaid facts and circumstances of the case and the finding substance in the contention of the learned A.P.P. for the State, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Murliganj P.S. Case No. 41 of 2024, pending in the court of learned Additional District and Sessions Judge-V-cum-Special Judge Excise Act-1st, Madhepura.



7. The application stands rejected.

8. The trial court is directed to conclude the trial of
the petitioner at the earliest.

(Chandra Prakash Singh, J)

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