

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49307 of 2024

Arising Out of PS. Case No.-70 Year-2024 Thana- BELA District- Sitamarhi

Md. Alam S/O Md. Hiyas R/O Village- Samsi Ward No.-6, P.S- Samsi, Distt.-
Mohtari (NEPAL).

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mahendra Thakur
Mr.Sanjay Kumar
For the Opposite Party/s : Mr.Kumar Veerendra Narayan

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 21-09-2024 Heard learned Advocate for the petitioner and learned
Additional Public Prosecutor for the State.

2. This is an application for grant of bail to the
petitioner, who is in custody in connection with Bela P.S. Case
No. 70 of 2024, registered for the offences punishable under
Section 21(b) of the NDPS Act.

3. The police, on a confidential information,
apprehended the petitioner and one co-accused person who are
coming on a motorcycle. On search, total 196 bottles of cough
syrup of different brands containing codeine have been
recovered. It is also alleged that from the possession of the
petitioner 2000 Nepali currency has also been recovered.

4. There is total denial of the recovery from the



possession of the petitioner.

5. Learned Advocate for the petitioner contended that the recovered cough syrup belongs to the person who succeeded in fleeing away but only because the fact that the petitioner was apprehended by the police personnel during the course of checking, his name has been implicated in this case showing recovery of cough syrup. The allegation even if it is taken to be true and in view of the notification No. 826(E) dated 14.11.1985 and S.O. 40(E) dated 29.01.1993 issued by the Central Government as also the decision of the Division Bench of the learned Allahabad High Court in the case of ***Vibhor Rana v. Union of India & Anr.*** (Criminal Misc. Writ Petition No. 8403 of 2021 along with its analogous case), decided on 24.12.2021, no offence is made out. Learned Advocate further contended that there are serious infirmities in the search and seizure, inasmuch as even the copy of the seizure list has not been handed over to the petitioner which also smacks mala fide. It is lastly contended that be that as it may, now the petitioner has been incarcerated since 31.03.2024 and after completion of the investigation charge sheet has been submitted but without there being any FSL report. The petitioner has absolutely fair antecedent.



6. On the other hand, learned APP for the State opposed the bail application and submitted that the huge quantity of cough syrup has been recovered from the possession of the petitioner.

7. Regard being had to the submissions made on behalf of the parties and considering the notification issued by the Central Government as also the judgment rendered by the learned Allahabad High Court in *Vibhor Rana (supra)*, let the petitioner, abovenamed, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge NDPS Act, Sitamarhi in connection with Bela P.S. Case No. 70 of 2024, subject to the condition that one of the bailors shall be the own/close family members 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.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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