

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54988 of 2024

Arising Out of PS. Case No.-189 Year-2023 Thana- DHORAIYA District- Banka

Md. Irfan, Son of Md. Ishque, Resident of village- Tetariya, P.S.- Dhoraiya,
District- Banka

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Praveen Kumar, Advocate

For the Opposite Party/s : Mr.Sanjay Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 31-08-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. In the present case, the petitioner is apprehending his arrest in connection with Dhoraiya P.S. Case No. 189 of 2023 for the offences under Section 30 (a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, a motorcycle was intercepted on receiving information that a person was selling prohibited Dialex DC syrup. The co-accused Md. Danish was apprehended and from the bag tied on the motorcycle, recovery of 300 ml codeine phosphate syrup was made. The petitioner is stated to be the owner of the motorcycle.

4. The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this



case. Nothing incriminating has been recovered from the person/ possession of the petitioner. The petitioner is the owner of the seized motorcycle but he has no concern with the act of co-accused. The learned counsel further submits that recovery is of only 300 ml. codeine phosphate syrup and, for such an amount, no liability could be fastened even upon the co-accused. From the facts of the case, no offence under Section 30 (a) of the Excise Act is made out against the petitioner. The petitioner is having clean antecedent.

5. The learned A.P.P. opposes the submission made on behalf of the petitioner.

6. Having regard to the fact and circumstances and submission made on behalf of the parties and considering the fact that no recovery has been shown from the conscious possession of the petitioner and further considering the possibility of false implication and clean antecedent of the petitioner, let the petitioner above named, in the event of his arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise Court-1, Banka, in connection



with Dhoraiya P.S. Case No. 189 of 2023, subject to the condition laid down under Section 438(2) of the code of Criminal Procedure and other following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the below, if so required by the learned trial court.

V.K.Pandey/-

(Arun Kumar Jha, J)

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