

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63990 of 2024

Arising Out of PS. Case No.-76 Year-2024 Thana- R S P.S. District- Araria

Md. Jahid @ Md. Zahid, S/o Nasimuddin, R/o Village- Hridaypur, Ward No 05, P.S- Araria R.S., Distrit- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : M. Kanchan Jha, Advocate
For the Opposite Party/s : Mr. M. K. Nirala, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 22-11-2024 Heard learned Advocate for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner seeks regular bail, who is in custody in connection with Araria R.S. P.S. Case No. 76 of 2024 registered for the offences punishable under Sections 21 and 22 of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as ‘the NDPS Act’).

3. The police on a tip-off illegal trade of codeine containing cough syrup conducted raid, however, noticing the police party, the petitioner tried to flee away after throwing a bag but he was nabbed. On search 14 bottles, each of 100 ml Eskuf Syrup containing codeine were recovered from the bag. On the disclosure made by the apprehended person, 10 bottles of Eskuf Syrup containing codeine were recovered from the



shop of the co-accused.

4. Learned counsel for the petitioner contended that in fact nothing has been recovered from the possession of the petitioner. Moreover, the recovery of 14 bottles each containing 100 ml. with the mixture of codeine, from the bag of the petitioner, even if, taken to be true, it comes to 1.4 litres and, as such, in view of the Notification issued by the Central Government, dated 19.10.2001 it will not come under the commercial quantity. Hence, the rigors provided under Section 37 of the NDPS Act would not be applicable. It is further contended that there is no compliance of the mandatory provision as provided under Section 42 of the NDPS Act. The name of the petitioner has been implicated in this case only on the basis of suspicion. The petitioner has been incarcerated since 15.06.2024, having fair antecedent.

5. On the other hand, learned counsel for the State vehemently opposed the bail application and submitted that the alleged recovery of Eskuf Syrup containing codeine has been made from the bag of the petitioner.

6. Regard being had to the submissions made on behalf of the parties and considering the quantity of recovery of Eskuf Syrup as also in view of the fact that even if the entire



mixtures are taken into consideration, it comes to only 1.4 litres and, as such, below the commercial quantity; coupled with the fair antecedent and the investigating being complete, let the petitioner named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Twenty thousand) with two sureties of the like amount each to the satisfaction of learned Sessions-cum-Special Judge, N.D.P.S. Act, Araria in connection with Araria R.S. P.S. Case No. 76 of 2024, subject to the condition that one of the bailors will be the close relatives 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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