

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64127 of 2024

Arising Out of PS. Case No.-77 Year-2023 Thana- RATANPUR District- Supaul

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Mantu Yadav @ Mantu Kumar Yadav, Son of Domi Yadav, Resident of
Village- Samda, Ward No. 5, P.S. -Ratanpura and District- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Patla Kumari, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 26-10-2024 Heard Ms. Patla Kumari, learned Advocate appearing

on behalf of the petitioner and the learned Additional Public

Prosecutor for the State.

2. The application for grant of bail to the petitioner who is in custody in connection with N.D.P.S. Case No. 65 of 2023 arising out of Ratanpura P.S. Case No. 77 of 2023 registered for the offence punishable under Section 21(b) of the N.D.P.S. Act, 1985.

3. The police in course of patrolling on a confidential information with respect to petitioner's involvement in trade of codeine cough syrup, raided the house of the petitioner, however, having seen the police party, the petitioner succeeded in fleeing away with a bag. The police in course of search of the house, recovered 50 bottles of 'Wiscof' syrup, containing



codeine, seizure list has been prepared accordingly.

4. Learned Advocate appearing on behalf of the petitioner drawing the attention of this Court to the FIR and the seizure list contended that with the narrations made therein clearly suggest that the alleged recovery has been made from a house roofed with tin sheets and in fact, it was an abandoned house from where the recovery has been made. There is complete denial of the recovery from the house of the petitioner. So far the recovered syrup containing Codeine Phosphate & Tripolidine Hydrochloride is concerned, the same has not been sent to the forensic science laboratory or any medical lab for its proper verification; despite the charge-sheet has been submitted. It is further contended that even if the allegation take to be true, the quantity of the codeine found in the cough syrup does not fall within the commercial quantity and, as such, the rigours provided under Section 37 of the N.D.P.S. Act would not be applicable. The petitioner bears fair antecedent and he undertakes that he will fully co-operate in the proceeding of the Court. Now the petitioner has been incarcerated since 22.02.2024 and the charge-sheet has been submitted.

5. On the other hand, learned Additional Public Prosecutor for the State vehemently opposes the bail application



and submits that the alleged recovered cough syrup containing codeine is a prohibited substance, falling under the schedule of the N.D.P.S. Act. The entire cough syrup containing in 50 bottles comes to 5 liters, which is a commercial quantity.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged recovery has been made from an abandoned house, coupled with the fact that the investigation of the crime is complete and the charge-sheet has been submitted but without there being any F.S.L. report and the petitioner having fair antecedent, let the petitioner, named above, 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 Additional Sessions Judge-II-cum Special Judge, N.D.P.S. Supaul in connection with N.D.P.S. Case No. 65 of 2023 arising out of Ratanpur P.S. Case No. 77 of 2023, 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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