

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77112 of 2023**

Arising Out of PS. Case No.-11 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Jehanabad

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RAM BILAS SINGH SON OF CHHEDI SINGH RESIDENT OF VILLAGE-
USARI BASAN BIGHA P.S-. KARPI DISTRICT- ARWAL

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Paras Nath, Advocate

For the Opposite Party/s : Mr. Anil Kumar Singh No. 1, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 05-03-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case the petitioner is apprehending his arrest in connection with G.O. Case No. 11 of 2021 registered for the alleged offence under Section 27A of the Drugs and Cosmetic Act, 1940.

3. As per the prosecution case, the petitioner was running a medical shop and selling medicine without a valid licence and cognizance has been taken against him under Section 27A of the Drugs and Cosmetic Act, 1940. Section 27A reads as under :

**“27A. Penalty for manufacture, sale, etc., of
cosmetics in contravention of this Chapter.**

Whoever himself or by any other person on his



behalf manufactures for sale or for distribution, or sells, or stocks or exhibits or offers for sale -

(i) any cosmetic deemed to be spurious under section 17D or adulterated under section 17E shall be punishable with imprisonment for a term which may extend to three years and with fine which shall not be less than fifty thousand rupees or three times to value of the cosmetics confiscated, whichever is more;

(ii) any cosmetic other than a cosmetic referred to in clause (i) in contravention of any provisions of this Chapter or any rule made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to twenty thousand rupees, or with both.”

4. Apparently the maximum punishment under this provision is up to three years with fine.

5. The Hon'ble Apex Court in the case of Mohd. Asfak Alam v. State of Jharkhand, reported in (2023) 8 SCC 632 issued following directions in order to ensure that police officers do not arrest the accused unnecessarily and magistrates do not authorize detention casually and mechanically :

11.1. All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 CrPC;

11.2. All police officers be provided with a



check list containing specified sub-clauses under Section 41(1)(b)(ii);

11.3. The police officer shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

11.4. The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

11.5. The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

11.6. Notice of appearance in terms of Section 41-A CrPC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

11.7. Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction.



11.8. Authorising detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court"

6. Evidently the petitioner should not have any apprehension of arrest at this stage and I do not find the petition could be entertained in the aforesaid facts and circumstances. Hence the anticipatory bail petition of the petitioner is disposed of in the light of the directions of the Hon’ble Apex Court.

(Arun Kumar Jha, J)

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