

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3854 of 2024

Arising Out of PS. Case No.-180 Year-2023 Thana- GAMAHARIYA District- Madhepura

Birendra Yadav @Birbal Yadav @ Virendra Yadav Son Of Late Raj Deep Yadav @ Chhutahru Yadav Resident of Village-Jogbani, Ward No.-14, P.S.- Gamhariya, District-Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner : Mr. Bambahadur Jha, Advocate

For the State : Mr. Uma Shankar Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

3 04-03-2024 Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner seeks bail in connection with Gamhariya P.S. Case No. 180 of 2023 instituted for the offence under Sections 413 & 414 of the Indian Penal Code and Section 21(c) of the NDPS Act and Section 30(a) of the Bihar Prohibition and Excise Amendment Act, 2018.

3. As per prosecution case, 9 pieces of WISCOF Cough Syrup each containing 100mL, total 900 mL marked Golden Phosphate & Triprolidin Hydrochloride Syrup and several mobile phones were recovered.

4. It has been submitted on behalf of the petitioner that the petitioner is in custody since 29-10-2023. Petitioner has one criminal antecedent, as per disclosure made in paragraph



No. 3 of the bail application.

5. It has been further submitted by the petitioner's counsel that petitioner has been falsely implicated in the present case. Recovered quantity is below the commercial quantity. Learned counsel for the petitioner submits that the recovered article was not sent for the F.S.L. Hence, Section 37 of the NDPS Act is not applicable in the instant case. There is no compliance of Sections 42 & 50 of the NDPS Act.

6. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner.

7. Considering the aforesaid facts and circumstances of the case, period of custody of the petitioner and the fact that recovered quantity comes below the commercial quantity, this Court is inclined to grant bail to the petitioner.

8. Let the petitioner be released on bail, **after framing of the charge, if not already framed**, on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Gamhariya P.S. Case No. 180 of 2023.

(Rudra Prakash Mishra, J)

Raj kishore/-

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