

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81906 of 2024

Arising Out of PS. Case No.-217 Year-2024 Thana- BELA District- Sitamarhi

Kaushal Prasad Gupta @ Kaushal Kumar Gupta S/O Late Badri Prasad Gupta
Resident of Village- Machchapakauni, P.S- Bela, Distt.- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.

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

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

4 24-02-2025 Heard learned counsel for the petitioner and learned
APP for the State. Perused the case diary.

2. The petitioner seeks bail in connection with Bela
P.S. Case No. 217 of 2024 instituted for the offences under
Section 21(C) of N.D.P.S. Act.

3. As per prosecution case, the police has recovered
total 240 bottles of 100 ML of Exiplon New, 125 bottles of 100
ML of Godedyl-T, 240 bottles of 100 ML of Exiplon New, 120
bottles of 100 ML of Onerex and 110 pieces of needles of each
piece of 01 ML of Tazowin were from from the possession of
the petitioner.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and he has been falsely implicated in the
present case with false and frivolous allegations and due to
suspicion. He further submits that nothing incriminating has



been recovered from the conscious/physical possession of the petitioner. He further submits that as per prosecution case, Tezzowin injection has also been recovered which is used as pain killer and, thus, does not come under the purview of N.D.P.S. Act. The other syrup namely Exiplon is also used as a pain killer. The petitioner has two criminal antecedents and, in both of them, he is on bail and is languishing in judicial custody since 14.09.2024 without any rhymes or reason. From perusal of the counter affidavit filed by the State, it appears that total 72.5 gram of Codine has been found in total 725 bottles containing 100 Ml cough syrup which is below the commercial quantity and, hence, Section 37 of the N.D.P.S. Act is not attracted in the present case. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act. There is also non-compliance of Section 103 of the B.N.S.S.

5. Pursuant to the direction of this Court, the State has filed counter affidavit and, in Para-9 of the same, it has been stated that total 725 bottles containing 100 Ml cough syrup have been seized and after calculating the quantity of Codine, the same is 72.5 gram. The offence alleged is serious in nature and, hence, the petitioner does not deserve bail.

6. Having considered the rival submissions of the



learned counsel for the parties and taking into account the aforesaid seized quantity of contraband is more than small quantity but less than the commercial quantity, the period of custody of the petitioner, let the petitioner, abovenamed, be released on bail, *after framing of 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 Bela P.S. Case No. 217 of 2024, subject to the following conditions;

- (i) One of the bailor(s) shall be the own/close family members of the petitioner.
- (ii) The petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(Rudra Prakash Mishra, J)

rishi/-

U		T	
---	--	---	--

