

GAHC010081132022



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : Bail Appln./965/2022**

LORIK RAM  
S/O- DHIM DAJ, C/O- GITANJALI HALOI, PUB BORAGAON, GAROPARA, P.O.  
AND P.S. GORCHUK, GUWAHATI, KAMRUP(M), ASSAM, PIN- 781035.

VERSUS

THE STATE OF ASSAM  
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

**Advocate for the Petitioner : MR. S MITRA**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

**ORDER**

**27.05.2022**

Heard Mr. S. Mitra, learned counsel for the accused petitioner as well as Mr. R.J. Baruah, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely **Lorik Ram** has prayed for grant of bail in connection with **Bazaricherra P.S. Case No.**

**41/2022 u/s 22(C)/25/29** of the N.D.P.S. Act, 1985.

The case diary is placed before the Court.

Mr. S. Mitra, learned counsel for the accused petitioner, contends that the accused is engaged as a truck driver by VRS Logistics Ltd., which is the largest fleet owner of commercial vehicles in India. Mr. Mitra further submits that as per the petitioner's duty sheet and roaster plan assigned by his employer company, he was assigned to drive the truck bearing registration No. AS 01 NC 3916 from the transshipment point of the company at Gorchuk in Guwahati to Agartala. The goods loaded in the said truck consisted of a consignment of 10 cartons of mouth wash which was booked by the consignor namely, 'Shanti Medical Agency, at Varanasi', on 02.02.2022, in favour of one Bikash Dutta at Agartala. According to Mr. Mitra, relying on the original consignment note and invoice, which were forwarded from one transshipment point to another transshipment point by multiple vehicles, the accused petitioner drove the particular truck only from Gorchuk point at Guwahati to Agartala and as such, he, who was merely discharging his duty, had no knowledge about transportation of 10 cartons containing 3000 bottles of codeine phosphate based Escuf Cough Syrup along with other shipment items. Therefore, Mr. Mitra, learned counsel for the accused petitioner, vehemently contends that as the seized cough syrup contained total 6,00000/- mg. or 0.6 k.g or 600 gms. of codeine phosphate, the seized substances were less than the commercial quantity and therefore, the rigors of Section 37(1) of the N.D.P.S. Act are not attracted to his case.

Opposing the bail application, Mr. R.J. Baruah, learned Addl. Public Prosecutor, submits that the seizure of codeine phosphate based cough syrup amounts to commercial quantity under the N.D.P.S. Act and as such, without completion of investigation, the prayer for bail may not be considered favourably.

The FIR reveals the allegation that on 14.02.2022, during a special naka by police in front of Churaibari Watch Post on N.H. 08, recovered and seized 13 numbers of cartons of 4000 Escuf Syrup bottles from a six-wheeler truck bearing registration No. NL 01Q 4178 driven by one Shrimanta Baruah and 10 numbers of boxes of Phensedyl containing 3000 bottles of Phensedyl Cough Syrup from a truck bearing registration No. AS 01 NC 3916 driven by the present petitioner.

It is noticed that the accused has been in judicial custody since 15.02.2022, that is, for 104 days.

A perusal of the case diary, it is revealed that 10 cartons containing 3000 bottles of Phensedyl Cough Syrup were recovered and seized from the truck bearing registration No. AS 01 NC 3916 driven by the accused petitioner. The F.S.L. report shows that sample of Phensedyl Cough Syrup gave positive tests for Codeine (present as Codeine Phosphate) and contained 186.5 ml. per bottle. It further transpires that the accused petitioner is the driver of truck of VRL Logistics and it is his duty to deliver the consignments of various goods loaded by the said company to the consignee as per challan. After thorough investigation, the investigating officer in his note, dated 07.03.2022, noted that the seized cartons bore seal and pack of VRL Logistic Company and loaded for transportation by the company truck driven by the accused petitioner for delivery. It has been further noted that 'narcotic suppliers/peddlers' misused the 'vehicles of VRL Logistics to fulfil their malicious intent', which were just carried by the accused driver. This finding of the investigating officer is, of course, subject to final outcome in investigation. Therefore, this Court is prima facie of the opinion that rigors of Section 37 of the N.D.P.S. Act are not attracted in the peculiar backdrop of facts and circumstances concerning the present accused petitioner.

For the above stated reasons, the accused petitioner, namely **Lorik Ram**, is directed to be released on bail of **Rs. 50,000/- (Rupees Fifty Thousand)** with

2(two) sureties of like amount to the satisfaction of the learned **Special Judge (N.D.P.S. Act), Karimganj** subject to the following conditions-

- i) That the accused/petitioner shall cooperate with the Investigating Officer as and when required;
- ii) That the accused/petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Police Officer or the Court; and
- iii) That the accused/petitioner and his bailors shall produce their Voter Identity Card/Passport/ Permanent Residential Certificate, whatever is available at the time of submission of the bail bonds for satisfaction of the learned Court below regarding their identity and address and then return the same retaining scanned copy thereof on record.

Return the case diary.

This disposes of the bail application.

**JUDGE**

**Comparing Assistant**