

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.39970 of 2022**

Arising Out of PS. Case No.-115 Year-2022 Thana- MAHISHI District- Saharsa

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Anil Kumar Sah, Son of Late Baijnaht Sah, Resident of Village Baluwaha,  
P.S.- Mahishi and District - Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Diwakar Prasad Singh, Advocate

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

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**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL ORDER**

2      21-09-2022              Learned counsel for the petitioner is permitted to  
  
remove the defect(s), as pointed out by the office, within a  
  
period of four weeks from today.

Heard Mr. Diwakar Prasad Singh, learned counsel for  
the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in  
connection with Mahishi P.S. Case No. 115 of 2022 registered  
for the offence punishable under Section 30(a) Bihar Prohibition  
and Excise Act, 2016.

In course of patrolling, the police on a secret  
information raided the house of the petitioner and found that one  
person was unloading carton from a Pick-Up Van, however, he  
was apprehended by the police party and on search, 50 litres  
cough syrup was recovered from the Pick Up Van and 250 litres



Wiscof Codeine Phosphate & Triprolidine hydrochloride syrup was recovered from the cottage.

Learned counsel appearing on behalf of the petitioner submits that from the F.I.R., it would be evident that the alleged recovery has been made from the Pick-Up Van and from the cottage, which do not belong to the petitioner. He further submits that the petitioner has neither any concern with the Wiscof Codeine Phosphate & Triprolidine hydrochloride syrup nor with the recovered articles and the vehicle. He next submits that from the averments made in the F.I.R., no case under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 is made out against the petitioner and hardly it can be a case of keeping medicines without any valid paper, for which no case has been instituted. He also submits that there is no compliance of Section 100 of the Cr.P.C., apart from the seizure is in defiance of Sections 81 and 82 of the Bihar Prohibition and Excise Act, 2016. He further submits that only because of one past criminal antecedent, the name of the petitioner has been implicated in this case, though the petitioner is in custody since 24.05.2022 and, moreover, after completion of the investigation, charge-sheet has been submitted.

On the other hand, learned APP for the State opposes



the bail application and submits that a huge consignment of the illicit cough syrup has been recovered from the possession of the petitioner.

Regard being had to the submissions made on behalf of the parties and considering the fact that the investigation of the crime is already completed and charge-sheet has been submitted, apart from the fact that there is other infirmities in the preparation of seizure list, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-V-cum In-charge Special Judge, Excise, Saharsa in connection with Mahishi P.S. Case No. 115 of 2022 subject to the condition that one of the bailors will be the close relative 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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