

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61586 of 2022**

Arising Out of PS. Case No.-90 Year-2022 Thana- TATARPUR District- Bhagalpur

Rupesh Kumar Yadav @ Rupesh Yadav Son of Satrugshan Yadav Resident of
Village- Urdu Bazar, P. S.-Tatarpur, District- Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Praveen Kumar, Advocate

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

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

2 02-12-2022 Heard learned counsel appearing on behalf of the

petitioner and learned APP appearing on behalf of the State

through virtual Court proceedings.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Tatarpur
P.S. Case No. 90 of 2020 registered for the offence under
Section 30(a) of the Bihar Prohibition and Excise Act, 2018,
under Sections 18 and 27 of the Drugs and Cosmetics Act and
under Sections 21 and 22 N.D.P.S. Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 01.05.2022.

The allegation against the petitioner is to have in
possession of 68 bottles each of 100 ml. Quantity i.e. Dialex-DC



Dry cough syrup.

Learned counsel appearing on behalf of the petitioner submitted that alleged recovery of cough syrup was made from the house of the petitioner which is jointly occupied by other family members and, as such, it cannot be said that recovery of alleged cough syrup was made from the conscious physical possession of the petitioner. It is further submitted that 10 mg of codeine is permissible composition of 100 ml of cough syrup which is being manufactured by reputed pharmaceutical company, where petitioner has no role and even by taking quantity in totality, it does not go beyond commercial quantity of codeine as prescribed under the Act. It is further submitted that compliance of Sections 42 and 50 of the N.D.P.S. Act was not made in the present case. While concluding the argument, it has been submitted that investigation of this case is complete, for which, charge-sheet has been submitted, as such, there is no chance of tempering with the evidence.

Learned APP, opposes the prayer of bail.

Considering the facts and circumstances as mentioned above, as recovery of alleged cough syrup not appears to be made from the conscious physical possession of the petitioner, where alleged substances are one of the composition of narcotics



appears less than commercial quantity coupled with the fact that charge-sheet has been submitted, let the petitioner, above named, is directed to be released on bail in connection with Tatarpur P.S. Case No. 90 of 2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Addl. Sessions Judge I-cum-Special Judge (Drugs & Cosmetics act), Bhagalpur/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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